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U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

7–25–08 Friday
Vol. 73 No. 144 July 25, 2008

Pages 43347–43604

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

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

SMALL BUSINESS ADMINISTRATION

2 CFR Part 2700

RIN 3245–AF76

Amendments to the Definition of the Nonprocurement Suspension and Debarment Officials

AGENCY: U.S. Small Business Administration.

ACTION: Direct final rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is making two technical changes to the regulations pertaining to grants and agreements. SBA is amending the definitions for the debarring official and the suspending official for nonprocurement debarment and suspension actions for programs other than the financial assistance programs. Currently the debarring official and the suspending official for all programs other than financial assistance is the Director of the Office of Business Operations. This rule will change the debarring official and suspending official to the Associate General Counsel for Procurement Law. SBA is also amending its regulations to change the title of the Agency's Office of Lender Oversight to the Office of Credit Risk Management.

DATES: This rule is effective September 8, 2008, without further action, unless SBA receives a significant adverse comment by August 25, 2008. If SBA receives any significant adverse comments, the Agency will publish a timely withdrawal of this rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN: 3245–AF76, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting documents.
- *Mail, for paper, disk, or CD–ROM submissions:* Lara Hudson, Office of General Counsel, 409 Third Street, SW., Washington, DC 20416.
- *Hand Delivery/Courier:* Lara Hudson, Office of General Counsel, 409 Third Street, SW., Washington, DC 20416.

SBA will post all comments on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov,* please submit the information to Lara Hudson, Office of General Counsel, 409 Third Street, SW., Washington, DC 20416, or send an e-mail to *lara.hudson@sba.gov,* and highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make its final determination of whether it will publish the information or not.

FOR FURTHER INFORMATION CONTACT: Lara Hudson, Attorney Advisor, Office of General Counsel, U.S. Small Business Administration, 409 Third St., SW., Washington, DC 20416, telephone 202–619–0563 and e-mail: *lara.hudson@sba.gov.*

SUPPLEMENTARY INFORMATION: On September 18, 2007 SBA moved the regulations pertaining to nonprocurement debarment and suspension from title 13 of the Code of Federal Regulations (CFR) to title 2 of the CFR. 72 FR 39727. The regulations state that the debarring official and the suspending official for non procurement financial assistance programs is the Director of the Office of Lender Oversight. The regulations also state that the debarring official and suspending official for all other non procurement programs is the Director of the Office of Business Operations. SBA is amending its regulations to reflect the new title of the Agency's Office of Lender Oversight. That office is now known as the Office of Credit Risk Management. No changes are made to the responsibilities, reporting relationships, or other regulatory duties of that office.

SBA is also amending the designation for the debarring and suspending official for all other nonprocurement programs from the Director of the Office of Business Operations to the Associate General Counsel for Procurement Law. The purpose for this change is to conform SBA's debarring and suspending official to those commonly used across the Federal Government. The substance of SBA's nonprocurement debarment and suspension regulations are unchanged.

Consideration of Comments

This is a direct final rule and SBA will review all comments. SBA believes that this rule is routine and non-controversial, and SBA anticipates no significant adverse comments to this rulemaking. If SBA receives any significant adverse comments, it will publish a timely withdrawal of this direct final rule.

Compliance With Executive Orders 12866, 12988, 13132 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866.

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

The final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, for the purposes of Executive Order 13132, Federalism, SBA determines that this final rule has no federalism implications warranting preparation of a federalism assessment.

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

SBA certifies that this proposed rule would not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule contains amendments to SBA's rules concerning certification, continued eligibility, and contracting under the 8(a) BD program. Any economic impact would be minimal and would not affect a significant number of small entities. It is not likely to have an

annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

List of Subjects in 2 CFR Part 2700

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, SBA amends 2 CFR Part 2700 as follows:

PART 2700—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 1. The authority citation for part 2700 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989, 1986 Comp., p. 235); 15 U.S.C. 634(b)(6).

§§ 2700.137, 2700.930, and 2700.1010 [Amended]

■ 2. In 2 CFR Part 2700 remove the words ''Office of Lender Oversight'' and add in their place the words ''Office of Credit Risk Management'' in the following places:

■ a. Section 2700.137.
■ b. Section 2700.930.
■ c. Section 2700.1010.

§§ 2700.930 and 2700.1010 [Amended]

■ 3. In addition to the amendments set forth above, in 2 CFR Part 2700 remove the words ''Director of the Office of Business Operations'' and add in its place the words ''Associate General Counsel for Procurement Law'' in the following places:

■ a. Section 2700.137.
■ b. Section 2700.930.
■ c. Section 2700.1010.

Jovita Carranza,

Acting Administrator.

[FR Doc. E8–16902 Filed 7–24–08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0330; Airspace Docket No. 08–AWP–4]

Amendment of Class E Airspace; Salyer Farms, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will amend Class E airspace at Salyer Farms, CA. The El Rico Airport mentioned in the published description has been abandoned, making it necessary to realign the Class E Airspace area at Salyer Farms Airport. This action also makes a minor correction by removing the Salyer Farms RBN in the airport description.

DATES: *Effective Date*: 0901 UTC, September 25, 2008. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Area, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On April 23, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend controlled airspace at Salyer Farms, CA, (73 FR 21857). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Also, subsequent to publication, it was noted that the decommissioned Salyer Farms RBN was not removed from the airport description. This rule will make the correction.

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 part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace area at Salyer Farms, CA. El Rico Airport has been abandoned, and the Salyer Farms RBN decommissioned, making it necessary to realign the airspace area at Salyer Farms Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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 rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAAs authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of 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 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 amends controlled airspace at Salyer Farms Airport, Salyer Farms, CA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—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 Federal Aviation Administration 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.

* * * * *

AWP CA E5 Salyer Farms, CA [Amended]

Salyer Farms Airport, CA
(Lat. 36°05′20″ N., long. 119°32′33″ W.)
Salyer Farms NDB

(Lat. 36°03′58″ N., long. 119°32′14″ W.)

That airspace extending upward from 700 feet above the surface within 6.6-mile radius of Salyer Farms Airport and within 2 miles each side of the 149 bearing from the Salyer Farms NDB, extending from the 6.6-mile radius to 7 miles southeast of the Salyer Farms NDB.

* * * * *

Issued in Seattle, Washington, on July 14, 2008 .

Kevin Nolan,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. E8–16966 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0447; Airspace Docket No. 08–AAL–8]

Establishment of Class E Airspace; Eek, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Eek, AK to provide adequate controlled airspace to contain aircraft executing Standard Instrument Approach Procedures (SIAPs) and Obstacle Departure Procedures (ODPs). Two SIAPs and a textual ODP are being developed for the Eek Airport at Eek Alaska. This action establishes Class E airspace upward from 700 feet (ft.) above the surface at the Eek Airport, Eek, AK.

DATES: *Effective Date:* 0901 UTC, September 25, 2008. The Director of the **Federal Register** approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Thursday, May 29, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace upward from 700 ft. above the surface at Eek, AK (73 FR 30822). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing instrument procedures for the Eek Airport. Class E controlled airspace extending upward from 700 ft. above the surface in the Eek Airport area is established by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points,* signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at the Eek Airport, Alaska. This Class E airspace is established to accommodate aircraft executing instrument procedures, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Eek Airport, Eek, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of 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 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Eek Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Eek, AK [New]

Eek, Eek Airport, AK

(Lat. 60°13′07″ N., long. 162°01′25″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Eek Airport, AK.

* * * * *

Issued in Anchorage, AK, on July 17, 2008.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–16974 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0456; Airspace Docket No. 08–AAL–15]

Revision of Class E Airspace; Prospect Creek, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Prospect Creek, AK, to provide adequate controlled airspace to contain aircraft executing Special Instrument Approach Procedures (IAPs) and Special Obstacle Departure Procedures (ODPs). Three Special IAPs are being developed for the Prospect Creek Airport. Addtionally, two Special IAPs and a Special ODP are being amended. This action revises existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Prospect Creek Airport, Prospect Creek, AK.

DATES: *Effective Date:* 0901 UTC, September 25, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

History

On Thursday, May 29, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at Prospect Creek, AK (73 FR 30824). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing instrument procedures for the Prospect Creek Airport. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Prospect Creek Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Prospect Creek Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing new and amended instrument procedures, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Prospect Creek Airport, Prospect Creek, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of 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 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Prospect Creek Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Prospect Creek, AK [Revised]

Prospect Creek, Prospect Creek Airport, AK
(Lat. 66°48′50″ N., long. 150°38′37″ W.)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Prospect Creek Airport, AK, and extending 2 miles either side of a line from 66°55′50″ N. 150°32′43″ W. to 67°02′47″ N. 150°34′16″ W. extending beyond the 11-mile radius, and 4.5 miles east and 4 miles west of the 214° bearing from the Prospect Creek Airport, AK, extending from the 11-mile radius to 13 miles southwest of the Prospect Creek Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 72-mile radius of the Prospect Creek Airport, AK.

* * * * *

Issued in Anchorage, AK, on July 17, 2008.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–16961 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0457; Airspace Docket No. 08–AAL–16]

Revision of Class E Airspace; Red Dog, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Red Dog, AK, to provide adequate controlled airspace to contain aircraft executing Special Instrument Approach Procedures (IAPs) and Special Obstacle Departure Procedures (ODPs). A Special IAP and a Special Obstacle Departure Procedure (ODP) are being developed for the Red Dog Airport. Additionally, a Special IAP is being amended. This action revises existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Red Dog Airport, Red Dog, AK.

DATES: *Effective Date:* 0901 UTC, September 25, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

History

On Thursday, May 29, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at Red Dog, AK (73 FR 30829). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing instrument procedures for the Red Dog Airport. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Red Dog Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Red Dog Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing new and amended instrument procedures, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Red Dog Airport, Red Dog, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of 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 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Red Dog Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Red Dog, AK [Revised]

Red Dog, Red Dog Airport, AK
(Lat. 68°01′56″ N., long. 162°54′14″ W.)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Red Dog Airport, AK, and within 2 miles either side of the 219° bearing from the Red Dog Airport, AK, extending from the 11-mile radius to 14.5 miles southwest of the Red Dog Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 72.5-mile radius of the Red Dog Airport, AK.

* * * * *

Issued in Anchorage, AK, on July 17, 2008.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–16962 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0448; Airspace Docket No. 08–AAL–9]

Revision of Class E Airspace; Gulkana, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Gulkana, AK to provide adequate controlled airspace to contain aircraft executing Standard Instrument Approach Procedures (SIAPs). Two SIAPs are being amended for the Gulkana Airport. This action revises existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Gulkana Airport, Gulkana, AK. The present Class E2 Surface Area is not being amended.

DATES: *Effective Date:* 0901 UTC, September 25, 2008. The Director of the **Federal Register** approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Thursday May 29, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at Gulkana, AK (73 FR 30828). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing instrument procedures for the Gulkana Airport. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Gulkana Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Gulkana Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing amended instrument procedures, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Gulkana Airport, Gulkana, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of 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 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Gulkana Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Gulkana, AK [Revised]

Gulkana, Gulkana Airport, AK
(Lat. 62°09′18″ N., long. 145°27′16″ W.)

Gulkana VOR/DME, AK
(Lat. 62°09′14″ N., long. 145°26′50″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Gulkana Airport, AK, and within 4 miles either side of the 178° radial of the Gulkana VOR/DME, AK, extending from the 6.5-mile radius to 12.5 miles south of the Gulkana Airport, AK, and within 4 miles either side of the 351° radial of the Gulkana VOR/DME, AK, extending from the 6.5-mile radius to 12.5 miles north of the Gulkana Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 67-mile radius of the Gulkana Airport, AK.

* * * * *

Issued in Anchorage, AK, on July 17, 2008.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–16968 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0451; Airspace Docket No. 08–AAL–10]

Revision of Class E Airspace; Kake, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Kake, AK to provide adequate controlled airspace to contain aircraft executing public and private (Special) Instrument Approach and Departure Procedures. A Standard Instrument Approach Procedure (SIAP) and Standard Instrument Departure (SID) procedure are being developed for the Kake Airport. Additionally, a Special Area Navigation (RNAV) SID and two SIAPs are being amended. This action revises existing Class E airspace upward from 700 feet (ft.) above the surface at Kake Airport, Kake, AK.

DATES: *Effective Date:* 0901 UTC, September 25, 2008. The Director of the **Federal Register** approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Thursday May 29, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface at Kake, AK (73 FR 30825). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing instrument procedures for the Kake Airport. Class E controlled airspace extending upward from 700 ft. above the surface in the Kake Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points*, signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Kake Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing new and amended instrument procedures, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Kake Airport, Kake, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of 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 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Kake Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Kake, AK [Revised]

Kake, Kake Airport, AK
(Lat. 56°57′41″ N., long. 133°54′37″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of the Kake Airport, AK.

* * * * *

Issued in Anchorage, AK, on July 17, 2008.

Anthony M. Wylie

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–16970 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0452; Airspace Docket No. 08–AAL–11]

Revision of Class E Airspace; Kivalina, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Kivalina, AK, to provide

adequate controlled airspace to contain aircraft executing Standard Instrument Approach Procedures (SIAPs) and Obstacle Departure Procedures (ODPs). Two SIAPs are being amended for the Kivalina Airport. Additionally, one textual ODP is being developed. This action revises existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Kivalina Airport, Kivalina, AK.

DATES: *Effective Date:* 0901 UTC, September 25, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *ary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Thursday May 29, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at Kivalina, AK (73 FR 30827). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing instrument procedures for the Kivalina Airport. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Kivalina Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9R, *Airspace Designations and Reporting Points,* signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Kivalina Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing new and amended instrument procedures, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Kivalina Airport, Kivalina, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of 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 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Kivalina Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 Federal Aviation Administration 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Kivalina, AK [Revised]

Kivalina, Kivalina Airport, AK
(Lat. 67°44′10″ N., long. 164°33′49″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Kivalina Airport, AK, and 3.9 miles either side of the 317° bearing from the Kivalina Airport, AK, extending from the 6.5-mile radius to 11.1 miles northwest of the Kivalina Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Kivalina Airport, AK.

* * * * *

Issued in Anchorage, AK, on July 17, 2008.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E8–16977 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN: 3084–AA98

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the ''Commission'' or ''FTC'') is amending its Telemarketing Sales Rule (''TSR'') by updating the fees charged to entities accessing the National Do Not Call Registry (''the Registry'') so that they conform to the fee structure specified in the recently enacted Do-Not-Call Registry Fee Extension Act of 2007.

DATES: *Effective Date:* This amendment will become effective on October 1, 2008.

ADDRESSES: Requests for copies of this document should be sent to: Public Reference Branch, Federal Trade Commission, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Copies of this document are also available on the Internet at the Commission's Web site: *http://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Kelly A. Horne, (202) 326–3031, Division of Planning & Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To comply with the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. 110–188, 122 Stat. 635) (''Act''), the Commission is revising the Final Amended Fee Rule in the following manner: The revised rule decreases the annual fee for access to the Registry for each area code of data to $54 per area code, or $27 per area code of data during the second six months of an entity's annual subscription period. The maximum amount that would be charged to any single entity for accessing area codes of data is decreased to $14,850. The revised rule retains the provisions regarding free access to the first five area codes of data by all entities, as well as free access by ''exempt'' organizations. As required by the Act, it expands the definition of ''exempt'' organizations to include any person permitted to access, but not required to access, the do-not-call registry, not only under the TSR, the Federal Communication Commission's do-not-call rules found at 47 CFR 64.1200, or any other Federal law, but also under *any other Federal regulation.*

Additionally, in accordance with the Act, beginning after fiscal year 2009, the dollar amounts charged shall be increased by an amount equal to the amounts specified in the Final Amended Fee Rule, whichever fee is applicable, multiplied by the percentage (if any) by which the average of the monthly consumer price index (for all urban consumers published by the Department of Labor) (''CPI'') for the most recently ended 12-month period ending on June 30 exceeds the CPI for the 12-month period ending June 30, 2008. Any increase shall be rounded to the nearest dollar. There shall be no increase in the dollar amounts if the change in the CPI is less than 1 percent. The adjustments to the applicable fees, if any, shall be published in the **Federal Register** no later than September 1 of each year.

Administrative Procedure Act; Regulatory Flexibility Act; Paperwork Reduction Act

The revisions to the Fee Rule are technical in nature and merely incorporate statutory changes to the TSR. These statutory changes have been adopted without change or interpretation at this time, making public comment unnecessary. Therefore, the Commission has determined that the notice and comment requirements of the Administrative Procedure Act do not apply. *See* 5 U.S.C. 553(b). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603, 604.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, the Office of Management and Budget (''OMB'') approved the information collection requirements in the Amended TSR and assigned the following existing OMB Control Number: 3084–0097. The amendments outlined in this Final Rule pertain only to the fee provision (sec. 310.8) of the Amended TSR and will not establish or alter any recordkeeping, reporting, or third-party disclosure requirements elsewhere in the Amended TSR.

■ Accordingly, the Federal Trade Commission amends part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108; 15 U.S.C. 6151–6155.

■ 2. Revise §§ 310.8(c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is $54 for each area code of data accessed, up to a maximum of $14,850; *provided,* however, that there shall be no charge to any person for accessing the first five area codes of data, and *provided further,* that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing area codes of data in the National Do Not Call Registry if the person is permitted to access, but is not required to access, the National Do Not Call Registry under this Rule, 47 CFR 64.1200, or any other Federal regulation or law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) Each person who pays, either directly or through another person, the annual fee set forth in § 310.8(c), each person excepted under § 310.8(c) from paying the annual fee, and each person excepted from paying an annual fee under § 310.4(b)(1)(iii)(B), will be provided a unique account number that will allow that person to access the registry data for the selected area codes at any time for the twelve month period beginning on the first day of the month in which the person paid the fee (''the annual period''). To obtain access to additional area codes of data during the first six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $54 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $27 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E8–17064 Filed 7–24–08; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–299F]

RIN 1117–AB12

Control of a Chemical Precursor Used in the Illicit Manufacture of Fentanyl as a List I Chemical

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) is finalizing the

Interim Rule with Request for Comment published in the **Federal Register** on April 23, 2007. The Interim Rule controlled the chemical N-phenethyl-4-piperidone (NPP) as a List I chemical under the Controlled Substances Act. Clandestine laboratories are using this chemical to illicitly manufacture the schedule II controlled substance fentanyl. No comments to the Interim Rule were received. This Final Rule finalizes the regulations without change.

DATES: *Effective Date:* July 25, 2008.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152 at (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Background

On April 23, 2007 (72 FR 20039), the Drug Enforcement Administration (DEA) published an Interim Rule with Request for Comment which established regulations controlling the chemical N-phenethyl-4-piperidone (NPP) as a List I chemical under the Controlled Substances Act (CSA). This action was taken because DEA was extremely concerned with the increase in the illicit manufacture and distribution of fentanyl, which resulted in more than 1,000 confirmed or suspected fentanyl-related overdoses and fentanyl-related deaths across the country.

Fentanyl is a schedule II controlled substance. Fentanyl and analogues of fentanyl are the most potent opioids available for human and veterinary use. Fentanyl produces opioid effects that are indistinguishable from morphine or heroin. However, fentanyl has a greater potency and a shorter duration of action. Fentanyl is approximately 50 to 100 times more potent than morphine and 30 to 50 times more potent than heroin depending on the physiological or behavioral endpoints being measured, the route of administration, and other factors.

The legitimate medical use of fentanyl is for anesthesia and analgesia, but fentanyl's euphoric effects are highly sought after by narcotic addicts. Fentanyl can serve as a direct pharmacological substitute for heroin in opioid dependent individuals. However, fentanyl is a very dangerous substitute for heroin because the amount that produces a euphoric effect also induces respiratory depression. Furthermore, due to fentanyl's increased potency over heroin, illicit drug dealers have trouble adjusting (''cutting'') pure fentanyl into proper dosage concentrations. As a result, drug abusers have difficulty determining how much to take to get their ''high'' and sometimes mistakenly take a lethal quantity of the fentanyl. Unfortunately, only a slight excess in the amount of fentanyl taken can be, and is often, lethal because the resulting level of respiratory depression is sufficient to cause the user to stop breathing.

In April 2006, DEA issued an officer safety alert regarding the special precautions that must be observed when handling and processing suspected fentanyl. DEA is concerned with the unusual health hazards posed to law enforcement officers and forensic chemists from exposure to high purity fentanyl during law enforcement operations. Since high purity fentanyl can be fatal if sub-milligram quantities are accidentally swallowed, inhaled, or absorbed through the skin, the potential for lethal fentanyl exposure to law enforcement officers and chemists exists during raids of fentanyl clandestine laboratories, during seizures of drug exhibits, and during subsequent testing of pure fentanyl in the forensic laboratories.

Illicit Manufacture of Fentanyl

As discussed extensively in the Interim Rule with Request for Comment, DEA determined from the forensic testing of seized illicit fentanyl that the chemical NPP was being used to illicitly manufacture fentanyl. Since 2000, four of the five domestic fentanyl clandestine laboratories seized by law enforcement have used NPP as starting material to manufacture the illicit fentanyl. From these four domestic clandestine laboratories, about 800 grams equivalent of pure fentanyl were seized. Furthermore, enough of the unused NPP precursor chemical was also seized to make an additional 5,000 grams of pure fentanyl. Therefore, from the amount of illicit fentanyl and precursor chemicals found at these four domestic fentanyl laboratories, the laboratories could have potentially generated a total of 5,800 grams of illicit fentanyl. Since fentanyl is potent in sub-milligram quantities, the subsequent ''cutting'' of 5,800 grams of illicit fentanyl would be sufficient to make about 46 million fentanyl doses.

Three of the domestic fentanyl clandestine laboratories seized by law enforcement are known to have obtained the NPP precursor chemical from domestic suppliers. The Interim Rule made the purchase of NPP from domestic or international suppliers a regulated transaction. In this way, DEA will be informed of the sale of NPP and can take appropriate action, if necessary. Thus, DEA regulated the chemical NPP as a List I chemical under the CSA (21 U.S.C. 801 *et seq.*). Furthermore, under 21 U.S.C § 811(e) of the CSA, DEA also intends to control ANPP as a schedule II immediate precursor to fentanyl under a separate rulemaking.

Illicit Fentanyl-Related Deaths

The distribution of illicit fentanyl or illicit fentanyl combined with heroin or cocaine has resulted in an outbreak of more than 1,000 confirmed or suspected fentanyl-related overdoses and fentanyl-related deaths across the country according to the Centers for Disease Control and Prevention (CDC) and local medical examiners. DEA terms fentanyl-related deaths ''suspected'' until confirmed through the completion of an autopsy, a positive toxicological testing result for fentanyl in the blood, and the reporting of the death to the DEA. As discussed in the Interim Rule with Request for Comment, from the information and data collected, there is strong indication that the fentanyl in these confirmed and suspected fentanyl-related deaths is illicitly manufactured rather than diverted from legal pharmaceutical manufacturers. The current forensic data suggests that most of these fentanyl-related deaths are from fentanyl illicitly manufactured using NPP.

Availability of the Precursor Chemical

DEA determined that the precursor chemical, NPP, is readily available from commercial chemical suppliers. DEA identified at least 62 suppliers of NPP, of which 14 are located domestically and 48 are located internationally in Germany, India, and China. Since 2000, law enforcement has evidence to support that the NPP precursor chemical was obtained from domestic suppliers for three domestic fentanyl clandestine laboratories. Further, a fentanyl clandestine laboratory in Mexico is believed to have obtained the NPP precursor chemical from an international supplier. Law enforcement identified four separate chemical suppliers that have distributed NPP to illicit fentanyl clandestine laboratories.

Regulation of NPP as a List I Chemical

Based on the above, on April 23, 2007, DEA published an Interim Rule with Request for Comment (72 FR 20039) controlling NPP as a List I chemical. That rule made the domestic sale of NPP a regulated transaction. That rule also made the importation of NPP from an international supplier a regulated transaction. Documenting the domestic sale and importation of NPP is needed by law enforcement to identify

the domestic diversion of NPP for the illicit manufacture of fentanyl in the United States. Finally, that rule specified that chemical mixtures containing NPP were not exempt from regulatory requirements at any concentration, unless an application for exemption of a chemical mixture is submitted by a NPP manufacturer and the application is reviewed and accepted by DEA under 21 CFR 1310.13.

Comments Received

DEA did not receive any comments to its Interim Rule with Request for Comment (72 FR 20039, April 23, 2007) controlling NPP as a List I chemical and regulating all chemical mixtures containing NPP. Therefore, DEA is hereby finalizing that Interim Final Rule without change.

Regulatory Certifications

Administrative Procedure Act (5 U.S.C. 553)

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (5 U.S.C. 553), including making the rule effective upon the date of publication. DEA finds good cause to make this rule effective upon publication, as this Final Rule merely confirms existing regulatory requirements implemented as part of the Interim Rule with Request for Comment published April 23, 2007, at 72 FR 20039.

Regulatory Flexibility Act and Small Business Concerns

The Acting Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)).

Some of the firms DEA identified as potentially handling NPP are small entities. The highest cost that the rule would impose on these firms is less than $2,500 for registration. The smallest firm (1 to 4 employees) in the organic chemical sector has annual revenues of about $1.1 million. For those not already registered with DEA, the cost of registration represents 0.2 percent of annual revenues, which does not constitute a significant economic impact. DEA did not receive any comments to its Interim Rule controlling NPP as a List I chemical. Therefore, the Acting Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Acting Administrator certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). It has been determined that this is ''not a significant regulatory action.'' Therefore, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Paperwork Reduction Act

With publication of the Interim Final Rule controlling NPP as a List I chemical (72 FR 20039), persons handling NPP became subject to CSA List I regulatory requirements. Any person who manufactures, distributes, imports, or exports NPP must register with DEA. As discussed in the Interim Rule, DEA has identified 14 domestic chemical companies who would be required to register with DEA if they continued to handle NPP. Persons wishing to register with DEA to handle List I chemicals must do so using DEA Form 510, Application for Registration under Domestic Chemical Diversion Control Act of 1993, and persons wishing to renew their registration must do so using DEA Form 510a, Renewal Application for Registration under Domestic Chemical Diversion Control Act of 1993 [OMB control # 1117–0031]. With publication of the Interim Rule, DEA received approval from the Office of Management and Budget to revise this information collection as discussed above.

Persons importing, exporting, and conducting international transactions involving NPP must comply with regulatory requirements regarding the notification of DEA of pending transactions. As DEA had no information on which to estimate how many of the 14 identified firms import, export, or conduct international transactions with NPP, DEA estimated that all identified firms conduct such transactions. DEA estimated that each firm will conduct five import transactions and two export transactions annually. DEA did not identify any firms serving as United States brokers conducting international transactions involving NPP. Therefore, DEA did not estimate any international transactions involving NPP. Persons importing, exporting, and conducting international transactions involving List I chemicals report those transactions to DEA on DEA Form 486, Import/Export Declaration for List I and List II chemicals [OMB control # 1117–0023]. With publication of the Interim Rule, DEA received approval from the Office of Management and Budget to revise this information collection as discussed above.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1310

Drug traffic control, Exports, Imports, List I and List II chemicals, Reporting and recordkeeping requirements.

Adoption as Final Rule

■ The Interim Rule amending part 1310 of Title 21, of the Code of Federal Regulations, which published in the **Federal Register** on April 23, 2007 at 72 FR 20039, is hereby adopted as a Final Rule without change.

Dated: July 17, 2008.

Michele M. Leonhart,

Acting Administrator.

[FR Doc. E8–17034 Filed 7–24–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2008–0392]

RIN 1625–AA08

Special Local Regulations for Marine Events; Patapsco River, Inner Harbor, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the ''Pride of Baltimore Recycled Regatta'', a marine event to be held August 2, 2008 on the waters of the Patapsco River, Inner Harbor, Baltimore, MD. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Baltimore Inner Harbor during the event.

DATES: This rule is effective from 2:30 p.m. to 9:30 p.m. on August 2, 2008.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0392 and are available online at *http://www.regulations.gov.* This material is also available for inspection or copying at two locations: the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Fifth Coast Guard District office, 431 Crawford Street, Portsmouth, VA 23704 between 10 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Inspections and Investigations Branch, at (757) 398–6204. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 2, 2008, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Patapsco River, Inner Harbor, Baltimore, MD in the **Federal Register** (73 FR 31394). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to public interest, because immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. However advance notification will be made to users of the Patapsco River, Baltimore Inner Harbor, via marine information broadcasts, Local Notice to Mariners, commercial radio stations and local area newspapers.

Background and Purpose

On August 2, 2008, Pride of Baltimore, Inc. will sponsor ''Pride of Baltimore Recycled Regatta'' at the Inner Harbor in Baltimore, MD. The event will consist of approximately 30 boats built from recycled materials attempting to traverse a designated course that extends over the water immediately adjacent to the southwest corner of the promenade surrounding the Baltimore Inner Harbor. The regulated area originates at the southwest corner of the Inner Harbor adjacent to the Maryland Science Center and extends outward over the water within an approximately 150 yard arc. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Patapsco River, Inner Harbor, Baltimore, MD.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

Although this regulation will prevent traffic from transiting a portion of the Baltimore Inner Harbor during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic may be able to transit the regulated area at slow speed when event activity is halted, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This temporary rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the effected portion of the Baltimore Inner Harbor during the event.

Although this regulation prevents traffic from transiting a small segment of the Baltimore Inner Harbor during the event, this rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This temporary rule would be in effect for only a limited period. Vessel traffic may be able to transit the regulated area when event activity is halted, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h.), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(h.), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 100

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

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

PART 100—REGATTAS AND MARINE PARADES

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

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.T05–0392 to read as follows:

§ 100.T05–0392 Patapsco River, Inner Harbor, Baltimore, MD.

(a) *Definitions:* The following definitions apply to this section:

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore to act on his behalf.

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

(3) *Participant* includes all vessels participating in the Pride of Baltimore Recycled Regatta under the auspices of a Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) *Regulated area* includes the waters of the Patapsco River, Baltimore, MD, Inner Harbor within the immediate vicinity of the southwest corner of the harbor adjacent to the Maryland Science Center. The area is bounded on the south and west by the shoreline promenade, bounded on the north by a line drawn along latitude 39°16′58″ North and bounded on the east by a line drawn along longitude 076°36′36.5″ West. All coordinates reference Datum NAD 1983.

(b) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

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

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

(ii) Proceed as directed by any Official Patrol.

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

(c) *Effective period.* This section will be enforced from 2:30 p.m. to 9:30 p.m. on August 2, 2008.

Dated: July 15, 2008.

Fred M. Rosa, Jr.,

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

[FR Doc. E8–17055 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0109; FRL–8694–8]

Determination of Attainment for the Ozone National Ambient Air Quality Standards for Nonattainment Areas in Delaware, District of Columbia, Maryland, Pennsylvania, and Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has determined that two severe 1-hour ozone nonattainment areas, Philadelphia-Wilmington-Trenton, and the Metropolitan Washington, DC, attained the 1-hour ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date of November 15, 2005. EPA has also determined that these areas are not subject to the imposition of the penalty fees under section 185 of the Clean Air Act (CAA). These determinations of attainment are not a redesignation to attainment for these severe areas for which air quality monitoring data indicates attainment of the standard. EPA is issuing this final action to fulfill obligations to make such determinations under the CAA.

DATES: *Effective Date:* This final rule is effective on August 25, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2008–0109. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or by e-mail at *cripps.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

I. Background

On April 28, 2008, (73 FR 22896), EPA published a notice of proposed rulemaking (NPR) for these actions. The NPR proposed to determine that two severe 1-hour ozone nonattainment areas, Philadelphia-Wilmington-Trenton, and Metropolitan Washington, DC, attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005, and, proposed to find that these areas are not subject to the imposition of the penalty fees under section 185 of the CAA. These proposals were based on three years of complete, quality-assured ambient air quality monitoring data for 2003 through 2005 ozone seasons. These proposed determinations of attainment were not a redesignation to attainment for these severe areas for which air quality monitoring data indicates attainment of the standard.

We received two letters supporting the proposed actions and received no adverse public comments on the NPR. The background for this action, the requirements of section 185 of the CAA, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

The geographic boundaries of each nonattainment area affected by this action can be found in the NPR (73 FR 22896 at 22896–22897, April 28, 2008). *See also*, the tables entitled ''Ozone (1-Hour Standard)'' in the following sections of 40 CFR part 81: §§ 81.308, 81.309, 81.321, 81.339 and 81.347 for Delaware, the District of Columbia, Maryland, Pennsylvania, and Virginia, respectively. Note that for each State the codification of these determinations in 40 CFR part 52 the name of the 1-hour severe ozone nonattainment area used is the name of that area as it appears in the table entitled ''Ozone (1-Hour Standard)'' in 40 CFR part 81 for that State.

II. Final Action

A. Philadelphia Area

Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton, severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that this area is not subject to the imposition of the section 185 penalty fees.

B. Washington Area

Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Metropolitan Washington, DC, severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that this area is not subject to the imposition of the section 185 penalty fees.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001)). This final action determines that two areas have attained a previously-established NAAQS based on an objective review of measured air quality data and imposes no additional requirements. Accordingly, the Administrator certifies that these final

rules 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 these rules do not impose any additional enforceable duties, they do 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). These final rules also do not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because these final actions determine that each of two areas has attained a Federal standard, and do not alter the relationship or the distribution of power and responsibilities established in the CAA. In addition, these rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. These final rules also are not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because they are not economically significant.

These rules do not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. These final rules do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 23, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 that determines that the Philadelphia-Wilmington-Trenton and Metropolitan Washington, DC, severe zone nonattainment areas attained the 1-hour ozone NAAQS and are not required to impose section 185 penalty fees 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, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: July 8, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

PART 52—[AMENDED]

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

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

Subpart I—Delaware

■ 2. Section 52.426 is amended by adding paragraph (f) to read as follows:

§ 52.426 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(f) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

Subpart J—District of Columbia

■ 3. Section 52.476 is amended by adding paragraph (d) to read as follows:

§ 52.476 Control strategy: Ozone.

* * * * *

(d) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Washington severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Washington severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

Subpart V—Maryland

■ 4. Section 52.1076 is amended by adding paragraphs (o) and (p) to read as follows:

§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(o) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Washington, DC severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Washington, DC severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

(p) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable

attainment date of November 15, 2005. EPA also has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

Subpart NN—Pennsylvania

■ 5. Section 52.2037 is amended by adding paragraph (n) to read as follows:

§ 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(n) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

Subpart VV—Virginia

■ 6. Section 52.2428 is amended by adding paragraph (e) to read as follows:

§ 52.2428 Control Strategy: Carbon monoxide and ozone.

* * * * *

(e) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Washington, DC severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Washington, DC severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

[FR Doc. E8–16475 Filed 7–24–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070917520–8831–03]

RIN 0648–AW06

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule that implements Amendment 89 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) to establish Bering Sea habitat conservation measures. Amendment 89 prohibits nonpelagic trawling in certain waters of the Bering Sea subarea to protect bottom habitat from the potential adverse effects of nonpelagic trawling. Amendment 89 also establishes the Northern Bering Sea Research Area for studying the impacts of nonpelagic trawling on bottom habitat. This rule is necessary to protect portions of the Bering Sea subarea bottom habitat from the potential effects of nonpelagic trawling and to provide the opportunity to further study the effects of nonpelagic trawling on bottom habitat. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Effective August 25, 2008.

ADDRESSES: Copies of the FMP amendment, maps of the Bering Sea subarea nonpelagic trawl closure areas and Northern Bering Sea Research Area, and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) for this action may be obtained from NMFS Alaska Region, P. O. Box 21668, Juneau, AK 99802, or from the Alaska Region NMFS website at *http://www.alaskafisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Bering Sea and Aleutian Islands Management Area (BSAI) groundfish fisheries are managed under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMP appear at 50 CFR parts 679 and 680. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Background

In June 2007, the Council recommended closing areas in the Bering Sea subarea to nonpelagic trawling as a precautionary measure to prevent the potential adverse effects of nonpelagic trawling on portions of bottom habitat. These areas are (1) the Bering Sea Habitat Conservation Area (BSHCA); (2) the St. Lawrence Island Habitat Conservation Area; (3) the St. Matthew Island Habitat Conservation Area; (4) the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area; and (5) the Northern Bering Sea Research Area (NBSRA). These closed areas include locations that have not been previously fished with nonpelagic trawl gear, nearshore bottom habitat areas that support subsistence marine resources, blue king crab habitat, and a research area for further study of the potential impacts of nonpelagic trawling on bottom habitat. The closed areas that extend into State of Alaska waters apply to federally permitted vessels operating in State of Alaska waters.

Detailed background information for each of the closed areas is in the preamble to the proposed rule (73 FR 12357, March 7, 2008). The Council submitted Amendment 89 for review by the Secretary of Commerce, and a notice of availability of the amendment was published in the **Federal Register** on February 27, 2008 (73 FR 10415), with comments on the amendment invited through April 28, 2008. The comments on the proposed rule were invited through April 21, 2008. The FMP was approved by the Secretary of Commerce on May 19, 2008.

Regulatory Amendments

This final rule adds definitions to § 679.2 and new coordinate tables and figures for the areas closed to nonpelagic trawling and the research area. The definitions for the BSHCA; NBSRA; and Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area refer to Tables 42, 43, and 44, and Figures 16, 17, and 21 to part 679, respectively, because of the complexity of the area boundaries. The definitions for the St. Lawrence Island Habitat Conservation Area and St. Matthew Island Habitat Conservation Area refer to Tables 45 and 46 to part 679 for the area boundaries; no figures are necessary due to the simple shapes of these closures.

This final rule also adds § 679.22(a)(16) through (20) to close the BSHCA; St. Matthew Island Habitat Conservation Area; St. Lawrence Island Habitat Conservation Area; Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area; and NBSRA to nonpelagic trawling.

Comments and Responses

NMFS received eight comments from individuals, the Council, and groups on the notice of availability for Amendment 89 (73 FR 10415, February 27, 2008). NMFS received 6,266

comments from individuals, the Council, and organizations on the proposed rule (73 FR 12357, March 7, 2008). The majority of comments on the proposed rule were form letters in support of the action. A large number of those comments came from individuals located outside the United States. No changes were made in the final rule from the proposed rule. The following summarizes and responds to the 19 unique comments received on the notice of availability for the FMP amendment and the proposed rule.

Comment 1: Fishing quotas are too high and allow marine life to starve and to be decimated. People in the higher economic classes should reduce their consumption of fish to allow the seas to restock, and their bounty to rebound.

Any fishing activity that competes for prey with sensitive, endangered, or threatened species, or adversely modifies habitat that supports these species should be prohibited. All trawling should be prohibited because it decimates the sea floor for 50 years, is environmentally destructive, and is an unsustainable practice for short term profits. All nonpelagic trawling in the Bering Sea should be prohibited because not doing so inadequately protects unique benthic species and habitats and the sensitive, threatened, and endangered species that depend on such habitat and that are increasingly imperiled in the Bering Sea ecosystem. The proposed rule is grandfathering nonpelagic trawling in all areas where such activity has already occurred. The impacts in the current fishing locations should be considered the baseline for protection of the Bering Sea, not the ceiling. There are other fishing methods less invasive than nonpelagic trawling that achieve higher productivity and protect our oceans, making sure we will not overfish our resources. No one needs trawling.

Response: Fishing quotas are based on the best available science to allow for sustainable harvest of target species and in consideration of potential impacts on the marine ecosystem. For the Alaska groundfish fisheries, no information indicates that any target species are being overfished or that marine life is starved or decimated due to groundfish fishing activities.

Trawling can have various effects on bottom habitat depending on the type of trawl gear and the bottom features where fishing occurs. Trawl gear can be either pelagic, which is used primarily in the water column or nonpelagic, which is used on the bottom. Recovery times for a trawled area can vary depending on the type of bottom habitat and organisms impacted. More information about the impacts of trawling on bottom habitat is available in the EA/RIR/FRFA for this action (see **ADDRESSES**) and in the Environmental Impact Statement for Essential Fish Habitat Identification and Conservation in Alaska, available from the NMFS Alaska Region website at *http://www.fakr.noaa.gov/habitat/seis/efheis.htm.*

Nonpelagic trawling is the most effective method for harvesting certain groundfish species in the Bering Sea. These species include flatfish and other species which occur on or near the ocean bottom. A complete ban on the use of trawl gear throughout the Bering Sea is not supported by the best scientific information available. Selective restrictions on the use of nonpelagic trawl gear where impacts are most likely to be a concern are more appropriate. The Council and NMFS have implemented restrictions on nonpelagic trawling to reduce the potential impact of nonpelagic trawl gear on certain bottom habitat in the Aleutian Islands subarea and in the Gulf of Alaska (71 FR 36694, June 28, 2006) and numerous nonpelagic trawl closures are already in effect for the Bering Sea, which are further described in the EA/RIR/FRFA (see **ADDRESSES**). This final rule implements restrictions on nonpelagic trawl gear to protect certain bottom habitats in the Bering Sea subarea, taking into consideration protection of habitat that supports sensitive, endangered, and threatened species.

Comment 2: We support protecting the northern Bering Sea bottom habitat from the destructive effects of nonpelagic trawling. The Bering Sea habitat conservation measures would allow for the management of the fisheries in a sustainable manner, provide for research on the potential effects of nonpelagic trawling on bottom habitat, account for the socioeconomic effects on fishery participants, and include consideration of subsistence resource users. Religious and cultural heritage combine to compel our protection of our natural resources. The world depends on healthy oceans which are necessary for our life and well-being. The Bering Sea bottom habitat is part of the marine ecosystem that supports marine mammals, seabirds, and invertebrates, which include important subsistence and commercial resources. It is important to prevent bottom trawling from expanding into areas that have not been previously bottom trawled, especially in consideration of potential changes from global warming.

The changing global climate and increasing world population make it important to address environmental threats that can be controlled, such as habitat destruction. Bottom trawling is the most destructive form of fishing on bottom habitat. Preservation of delicate bottom habitat ecosystems is vital for the long-term survival of the fishing industry and for species dependent on the marine resources supported by bottom habitat. Grey whales, spectacled eiders, Pacific walruses, snow crabs, and other species depend on the bottom habitat protected by this action. Protection of the highly productive Bering Sea habitat may provide a buffer for other high latitude marine environments that are under stress. This action is a significant investment in a more stable and hopeful future for our children and grandchildren of the world. It sets a good example for our children to care for the planet and sends a message that adults care about preserving the marine environment for our children. This action is precautionary and the right thing to do.

Response: NMFS notes the commenter's support.

Comment 3: The Council submitted comments and recommends that the preamble to the final rule describe the Council's intent regarding future actions for nonpelagic trawl management in the Bering Sea. The Council intends future adjustment to the NBSRA boundary with the implementation of a modified gear requirement for the flatfish trawl fishery that would minimize potential impacts on bottom habitat. This potential future adjustment would open a portion of the NBSRA to nonpelagic trawling. The adjustment to the NBSRA boundary to open this area is shown in Figure 1.

BILLING CODE 3510–22–S

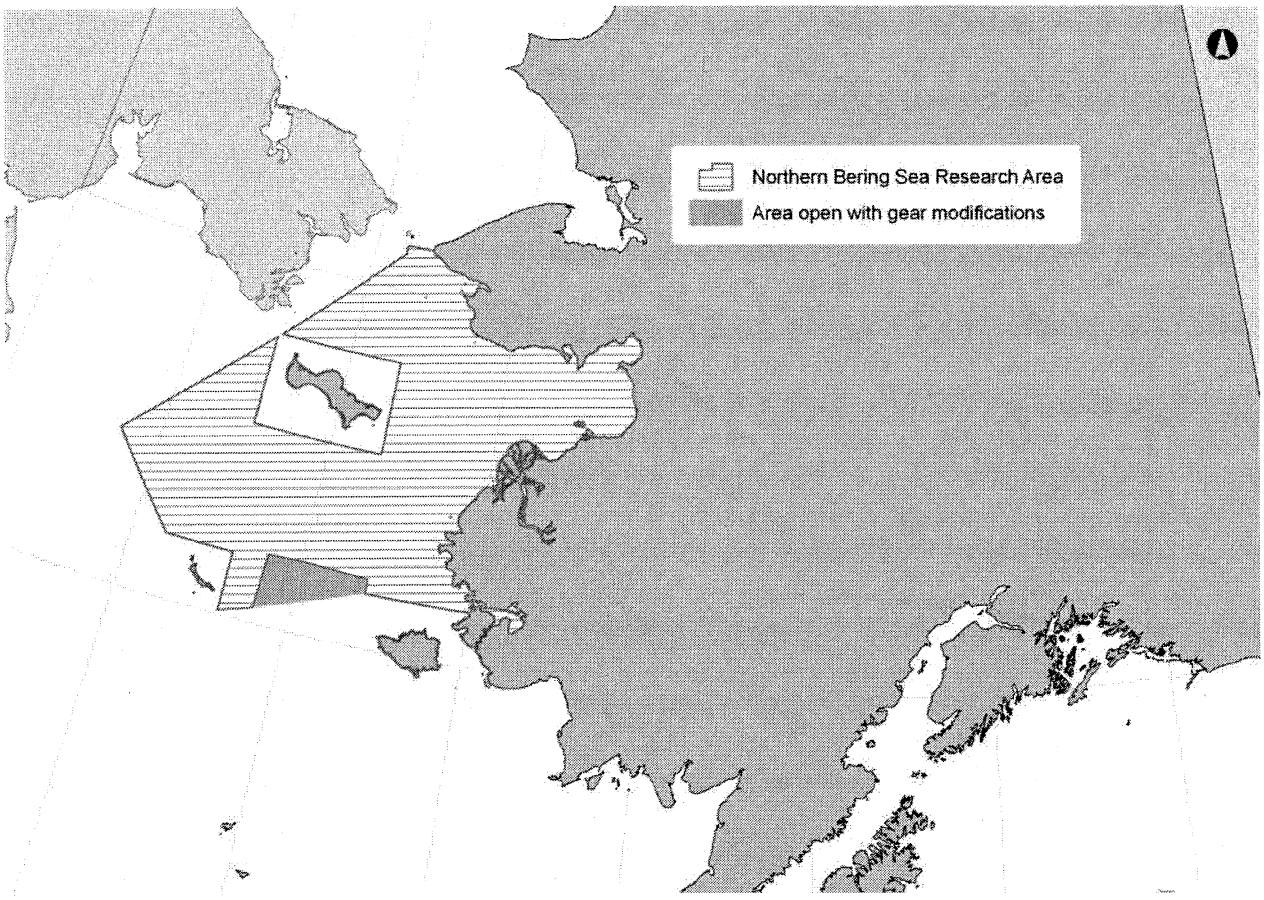

Figure 1. Council Recommended Open Area of the Northern Bering Sea Research Area with Implementation of Gear Modification Requirements

Because the area to be opened with flatfish trawl gear modification requirements may contain high concentrations of yellowfin sole and low concentrations of other bycatch species, the flatfish industry has identified this area as important to its fishery. In June 2008, the Council received a report on the progress of developing modified gear for flatfish fishing that will reduce the potential impacts on bottom habitat. Analysis supporting the gear modification requirement and adjustment to the NBSRA will supplement the existing EA/RIR/FRFA for the Bering Sea Habitat conservation measures (see **ADDRESSES**).

Response: Any potential changes in the gear requirements for the flatfish fishery would require analysis of the potential environmental and socioeconomic impacts of the action. NMFS will work with the Council to ensure the appropriate information is available to inform the Council's final recommendation on gear modification. If the Council recommends a modified gear requirement for the flatfish fishery and the adjustment to the NBSRA shown in Figure 1, NMFS will include these recommendations in future proposed rulemaking for this action. The supporting analysis for this potential future action would include information from the EA/RIR/FRFA for this final rule and any relevant new information to inform the decision making.

Comment 4: To protect local communities' resources, we support permanent closure of the area considered for opening in connection with the implementation of modified gear for the flatfish fishery (Figure 1).

Response: This final rule implements the closure of the NBSRA which includes the area considered for opening with the potential future implementation of modified gear for the flatfish fishery (Figure 1). The Council has expressed its intent to open this area to commercial fishing with implementation of a modified gear requirement (Comment 3).

Any concerns about opening this area should be expressed to the Council while the modified gear requirement recommendation is being developed. The Council received a report on modified gear research at its June 2008 meeting (73 FR 26964, May 12, 2008).

The Council recommended that staff develop an analysis of a gear modification requirement, including consideration of opening the area identified in Figure 1. The gear modification requirement and any proposed adjustments to the NBSRA boundary will require analysis and rulemaking to implement, including the public process provided by the Council in developing its recommendations to NMFS.

Comment 5: The NBSRA is to be closed to commercial nonpelagic trawling only during the development and implementation of the research plan to study the nonpelagic trawling effects on bottom habitat. The intent is to develop an adaptively managed commercial nonpelagic trawl fishery in the area based on information from the nonpelagic trawling effects research.

Response: This final rule closes the NBSRA to nonpelagic trawl fishing unless conducted under an exempted fishing permit (EFP). Before issuance, an EFP application for nonpelagic trawling in the NBSRA must meet the requirements of the research plan adopted by the Council. When the Council has received enough information from the research and EFP data, it may develop an adaptive management plan and propose regulatory amendments that would allow commercial nonpelagic trawling in the NBSRA. Any changes to the fishing restrictions in the NBSRA would require proposed and final rulemaking, and supporting analysis.

Comment 6: In June 2007, The Council recommended review schedules for a boundary closure and research plan. The Council recommended that in four years after the Council's Bering Sea Habitat conservation measures recommendation (June 2007), the southern boundary of the NBSRA be reviewed by the Council for possible adjustments based on a report by the fishing industry and Alaska Village Council Presidents workgroup. The Council also recommended at that time that the research plan identifying effects of nonpelagic trawl gear on bottom habitat be completed. The Council would review the plan within 24 months of implementation of this final rule. Based on public comments received in April 2008, the Council recommends changing the schedules for the Council's review of the NBSRA boundary and the research plan to June 2011.

Response: NMFS supports the Council's recommended changes to the review schedules for the NBSRA boundary and the research plan.

Comment 7: The development of the research plan for the NBSRA should include tribal and other stakeholder input to address protection of species and subsistence resources that depend on bottom habitat. Any research in the NBSRA conducted with bottom trawl gear would be only for the testing of protections for bottom habitat. These tests would be conducted in a manner that would minimize damage to bottom habitat.

Response: NMFS agrees that input from all stakeholders is important in the development of the NBSRA research plan. The development of the plan will proceed through the Council decision process. That process provides advance public notice and opportunity to provide testimony before decisions are made. The research plan will be developed by the Alaska Fisheries Science Center through the Council process. The actual process for developing the plan is yet to be determined, but public involvement will be an important component.

The Council recommended that the plan investigate the effects of nonpelagic trawling on bottom habitat and consider and identify protection measures for bottom habitat. Research data can inform the further development and testing of protection measures. Some habitat damage would be necessary to understand effects, but damage would be limited to the extent needed for scientifically valid results.

Comment 8: Areas closed to nonpelagic trawl gear should not be opened under exempted fishing permits (EFP) because many studies of fishing impacts on bottom habitat already exist.

Response: Fishing impacts on bottom habitat research are specific to the locations and the gear types tested. While research on the effects of fishing on bottom habitat has been conducted worldwide, more needs to be known about the habitat in the NBSRA before the results of research elsewhere can be applied to the conditions occurring in the NBSRA. By establishing the NBSRA, information gathered under EFPs would be directly applicable to nonpelagic trawl fisheries management in the Bering Sea in areas with similar features as the NBSRA. Because the first contact of a nonpelagic trawl is likely to cause the largest impact on bottom habitat, it is important to conduct bottom habitat effects research in an area where nonpelagic trawling has not occurred. The closure of the NBSRA and the research fishing planned in this area should provide the information necessary to effectively manage nonpelagic trawling in similar habitats of the Bering Sea.

Comment 9: Nonpelagic trawl closures also should include waters of Bristol Bay to protect spawning habitat for yellowfin sole and to protect subsistence resources. The potential effects of trawlers on spawning habitat should be studied.

Response: Under § 679.22(a)(9), all trawling for groundfish is prohibited in most of the Bristol Bay area, including nearshore waters that may include yellowfin sole spawning habitat. Directed fishing for groundfish by vessels using trawl gear in Bristol Bay, as described in the current edition of NOAA chart 16006, is closed at all times in the area east of 162°00′ W. long. The only exception is a portion of the Nearshore Bristol Bay Trawl Area that is open to trawling from 1200 hours A.l.t., April 1 to 1200 hours A.l.t., June 15 of each year (Figure 2).

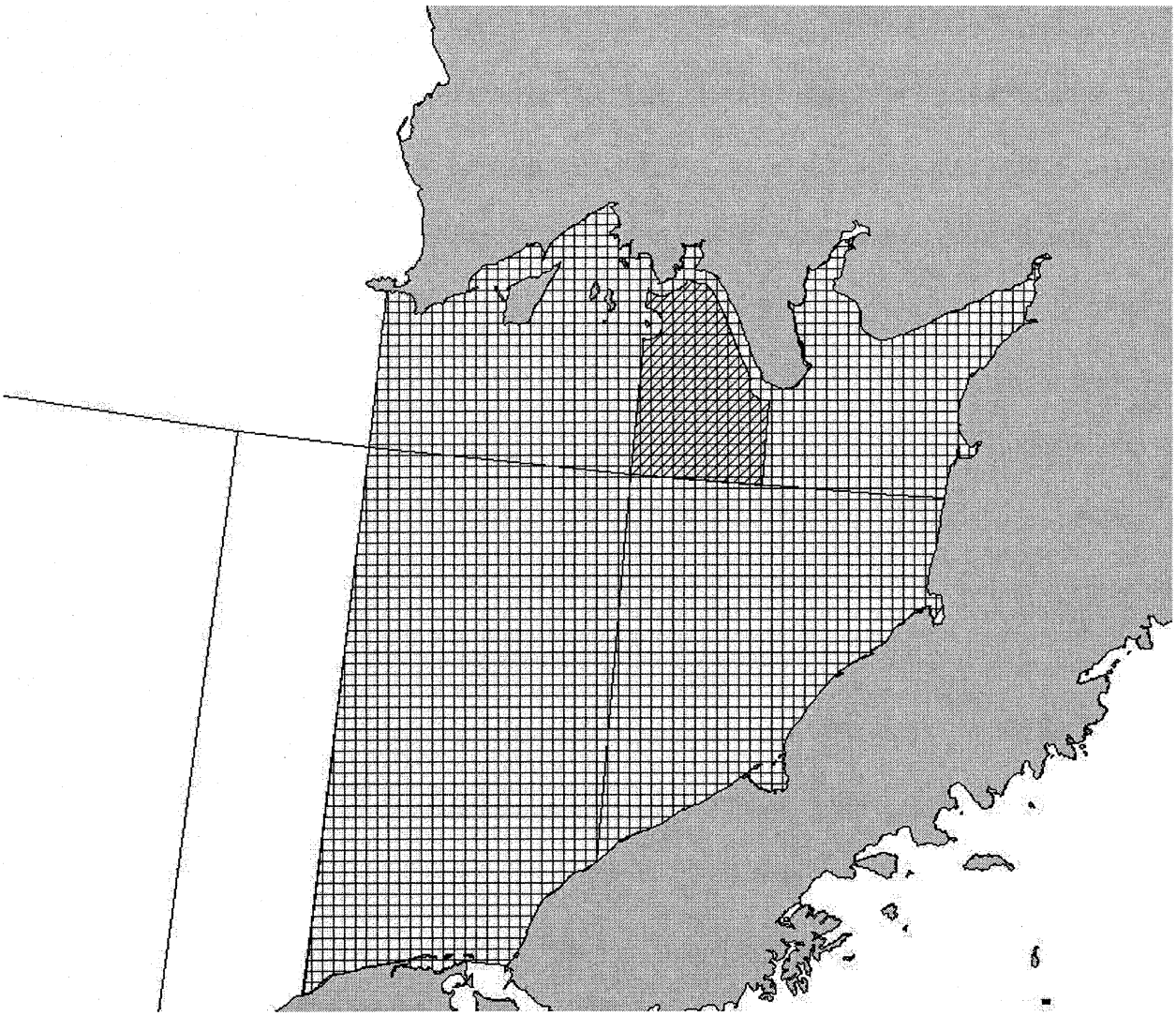

Figure 2. Nearshore Bristol Bay Trawl Closure Area. The square hatched area is closed to trawling year round. The diagonally hatched area is open to trawling April 1 to June 15.

According to the 2007 Stock Assessment and Fishery Evaluation Report for Bering Sea and Aleutian Islands yellowfin sole, commercial bottom trawlers have commonly found high concentrations of yellowfin sole in areas such as near Togiak Bay (Low and Narita, 1990) and in more recent years from Kuskokwim Bay to just south of Nunivak Island (NPFMC 2007). Yellowfin sole spawning likely occurs in the area open to trawling between April 1 and June 15. The impacts of trawling in this area on yellowfin sole were considered in the Environmental Impact Statement (EIS) for Essential Fish Habitat Identification and Conservation and were thought to be minimal. The EIS is available from the NMFS Alaska Region website at *http://www.fakr.noaa.gov/habitat/seis/efheis.htm*. The trawl closures currently in place in Bristol Bay protect areas that are known to support yellowfin sole spawning locations; and therefore, no additional closures with this action are necessary to protect yellowfin sole in Bristol Bay. With nearly the entire bay closed to trawling, no additional closures are needed to protect bottom habitat in Bristol Bay that may support subsistence resources.

The NBSRA will provide the opportunity to study the effects of nonpelagic trawling on bottom habitat and may include research on the potential effect of nonpelagic trawling specifically on yellowfin sole, if yellowfin sole spawning occurs in the NBSRA.

Comment 10: We recommend the protection areas around St. Lawrence, St. Matthew, and Nunivak Islands, and Kuskokwim Bay be enlarged, and protection areas around Little Diomede,

King Island, and Sledge Island be considered with this action.

Response: This action implements the Council recommendations, which were developed by working with the fishing industry and subsistence resource users. The Council is scheduled to revisit the boundaries of the closure areas in this final rule in 2011. Any changes to the Bering Sea habitat conservation measures, including the expansion of existing closures and closure area additions could be proposed and analyzed for consideration by the Council between now and 2011. NMFS recommends suggested changes for consideration in 2011 be provided to the Council at the earliest opportunity. This will facilitate careful development and analysis of any proposed changes to the Bering Sea habitat conservation measures implemented by this final rule.

Comment 11: The decision that locates the BSHCA border along the shelf break is based on preserving the nonpelagic trawl fleet's development of the arrowtooth flounder fishery, rather than a projected movement of arrowtooth flounder due to global warming effects. NMFS Bering Sea surveys show a large amount of arrowtooth flounder near the shelf break and slope of the Bering Sea. The location of this eastern border allows access to the arrowtooth flounder found in this area, permitting the arrowtooth flounder fishery to further develop.

Response: NMFS agrees.

Comment 12: NMFS and the Council did not conduct appropriate tribal consultation prior to the development of this actions conservation area boundaries. A workgroup of some subsistence users should not be considered ''tribal consultation.''

Response: Executive Order 13175 on consultation and coordination with Indian tribal governments establishes the requirement for regular and meaningful consultation and collaboration with Indian tribal governments in the development of federal regulatory practices that significantly or uniquely affect their communities; to reduce the imposition on unfunded mandates on Indian tribal governments; and to streamline the application process for and increase the availability of waivers to Indian tribal governments. This Executive Order requires federal agencies to have an effective process to involve and consult with representatives of Indian tribal governments in developing regulatory policies and prohibits regulations that impose substantial, direct compliance costs on Indian tribal communities.

NMFS agrees that a subsistence users workgroup does not substitute for tribal consultation. To facilitate tribal consultation, NMFS wrote to all tribal governments and Alaska native corporations notifying them of the proposed action and invited requests for tribal consultation under Executive Order 13175. NMFS also included a copy of the proposed rule in the correspondence. NMFS did not receive any requests for tribal consultation on this action. NMFS also agrees that commencing tribal consultation early in fisheries management actions is preferred. NMFS encourages tribal entities to enter into the Council process. Also see response to Comment 13.

Comment 13: The Council and NMFS should begin tribal consultation before the decision making process begins. NMFS and the Council should create suitable and binding tribal consultation protocols, immediately.

Response: NMFS agrees that Alaska Native, community, and stakeholder involvement should occur early in the process of developing fishery management action. The Council is in the process of developing tribal outreach protocols. In 2004, the Council revised its Alaska groundfish management policy including the following management objectives focused on increasing Alaska Native participation in fisheries management:

- Continue to incorporate local and traditional knowledge in fishery management;
- Consider ways to enhance collection of local and traditional knowledge from communities, and incorporate such knowledge in fishery management where appropriate; and
- Increase Alaska Native participation and consultation in fishery management.

The Council reviewed a discussion paper on meeting these objectives at its June 2008 meeting. The discussion paper includes proposed protocols for formal and informal consultation with Alaska Natives, communities, and stakeholders on fisheries management actions and the early identification of potentially affected communities to ensure consultation in the early stages of fishery management action development. Early involvement during the development of Council recommendations is an effective way to ensure Alaska Native, community, and stakeholder issues are considered. More information on this activity is available from the Council's website at *http://www.fakr.noaa.gov/npfmc/default.htm.*

Also see response to Comment 12.

Comment 14: Village organizations should be given the opportunity to review information relevant to the decision making process. NMFS and the Council should provide them specific lists of species that may be impacted by the action and their population, migration patterns, biology, and species' use of the Bering Sea habitat.

Response: This information is available in the EA supporting this action (see **ADDRESSES**). Chapter 3 provides the status including biology of all species that may be impacted by the action. Chapter 4 analyzes the action's impact on these species and their habitats. Since March 2007, the EA has been available to the public through the Council's website or at Council meetings.

Comment 15: NMFS should immediately start a process to protect the recently documented deep sea coral and sponge habitats of the Pribilof and Zhemchug Canyons of the Bering Sea from adverse fishing effects. In 2007, Greenpeace and a NMFS researcher used a submersible vessel to examine the Zhemchug and Pribilof Canyons, identifying coral and sponge habitats located in these canyons.

Response: The Council recommends habitat protection measures to NMFS for those locations where the Council has determined protections from the potential effects of fishing are appropriate based on the information available. The Council is scheduled to review its essential fish habitat (EFH) management in 2011, when information regarding new locations that may need additional protection could be submitted for consideration.

Comment 16: NMFS should consider all the people impacted by this action including those in the fishing and tourism industries. Everyone in Alaska would benefit if there was more tourism and less fishing.

Response: Along with impacts on the fisheries, NMFS considered the impacts on the passive use of the Bering Sea resources in the Regulatory Impact Review for this action (see **ADDRESSES**). Tourism in the Bering Sea region is not precluded by this action. Tourism may benefit through enhanced bottom habitat protection that may support wildlife populations of interest to tourists. Many Alaskans depend on either fishing, tourism, or both; and the reduction of either type of activity would impact those who depend on these industries.

Comment 17: It is important for NMFS to prevent nonpelagic trawling from expanding into the Arctic Ocean.

Response: This action is limited to the Bering Sea subarea, but the Council is

developing a fishery management plan for the Arctic Ocean. The Council recognizes that little is known about the fish stocks in the Arctic Ocean, and more information is needed for sustainable management of commercial fishing in the Beaufort and Chukchi Seas of the Arctic Ocean. Therefore, the Council is considering prohibiting all or nearly all commercial fishing in the Arctic Ocean until information indicates that sustainable fishery management is possible. See the Council's website at *http://www.fakr.noaa.gov/npfmc/current_issues/Arctic/arctic.htm* for more information.

Comment 18: This action is overly restrictive. The proposed action is unnecessary because no current activities occur that warrant protection measures. The action may prevent sustainable fishery options in the future. Any protection action should be specific to highly sensitive habitats and address actual problems.

The Bering Sea offers high energy mud and sand bottoms that can be safely trawled and continue to be productive. The current warmer water temperatures supporting finfish may change and result in fisheries that must target other species like shrimp that are effectively harvested by trawl gear. The proposed action would prevent development of a future shrimp trawl fishery that could have low bycatch and could be sustainable.

Response: The nonpelagic trawling closures in this action affect only the groundfish fisheries and are a precautionary approach to protecting Bering Sea bottom habitat. This final rule does not apply to shrimp fishing by any method in the Bering Sea. This action meets the Council's management objectives for the Alaska groundfish fisheries stated in the FMP.

The effects of nonpelagic trawling for groundfish on bottom habitat are relative to the sediments contacted by trawl gear. Effects are further discussed in the EA/RIR/FRFA for this action (see **ADDRESSES**). Little is known about the characteristics of the bottom sediments in most areas being closed to nonpelagic trawling. Consequently, protection measures reduce the potential for adverse effects by nonpelagic trawl gear. Because the first pass of a nonpelagic trawl is most likely to damage bottom habitat, it is prudent to protect those areas that are not already actively trawled. Results from the research in the NBSRA may provide bottom habitat effects information that can inform the management of nonpelagic trawling for groundfish in the Bering Sea subarea and may support future adjustments to the closure areas to allow for further development of groundfish fisheries.

Comment 19: NMFS is urged to continue efforts to define habitat in the Bering Sea.

Response: This action establishes protection areas for bottom habitat in the Bering Sea and does not define EFH. In 2006, the FMPs for the Alaska fisheries were updated with new descriptions of essential fish habitat for all of the managed species. NMFS continues to gather information regarding bottom habitat and will work with the Council to continue managing the fisheries based on the best available scientific information. The Council is scheduled to review EFH in 2011. Additional information regarding EFH and bottom habitat research is available from the NMFS Alaska Region website at *http://www.fakr.noaa.gov/habitat/efh.htm*.

Classification

The Administrator, Alaska Region, NMFS, determined that the FMP Amendment 89 is necessary for the conservation and management of the groundfish fisheries and that it is consistent with the Magnuson–Stevens Act and other applicable laws.

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

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA describes the economic impact of this final rule on small entities. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. Descriptions of the action, the reasons it is under consideration, and its objectives and legal basis are included earlier in the preamble and in the **SUMMARY** section of the preamble. A copy of the FRFA is available from NMFS (see **ADDRESSES**).

A summary of the IRFA was provided in the classification section to the proposed rule (73 FR 12357, March 7, 2008), and the public was notified of how to obtain a copy of the IRFA. The public comment period ended on April 21, 2008. No comments were received on the IRFA or on the economic impacts of the rule.

Fishing vessels, both catcher vessels and catcher/processors (CPs), are considered small, for RFA purposes, if their gross receipts, from all their economic activities combined, as well as those of any and all their affiliates anywhere in the world, (including fishing in federally-managed non-groundfish fisheries, and in Alaska-managed fisheries), are less than or equal to $4.0 million annually. Further, fishing vessels were considered to be large if they were affiliated with an American Fisheries Act fishing cooperative in 2004. The members of these cooperatives had combined revenues that exceeded the $4.0 million threshold.

The entities that would be directly regulated by this final rule are those vessels that fish for groundfish with nonpelagic trawl gear in the eastern Bering Sea off Alaska. Section 5.6 of the RIR provides a description of these fisheries and estimates the numbers of unique vessels that presently participate (see **ADDRESSES**). Approximately 22 to 24 vessels have participated in the nonpelagic trawl CP fishery off Alaska in recent years. Based on analysis of total annual gross revenues, two of the vessels should be classified as small entities. Six Community Development Quota groups and their associated communities are considered small entities and are directly regulated by this action because their allocations of BSAI species harvested by nonpelagic trawl gear occur within the areas defined by this action.

This regulation does not impose new recordkeeping and reporting requirements on the regulated small entities.

The FRFA did not reveal any Federal rules that duplicate, overlap, or conflict with the action.

The Council considered three alternatives and five options to the alternatives for this action. The suite of alternatives and options were developed in consultation with members of the nonpelagic trawl CP fleet to minimize potential adverse economic effects on directly regulated entities. This action is the preferred alternative and options, which reflect the least burdensome of management structures available in terms of directly regulated small entities, while fully achieving the conservation and management purposes articulated by the Council.

Alternative 1, the no action alternative, would not meet the objectives of this action. This alternative would allow nonpelagic trawling to expand into areas not previously trawled and would not meet the objective to protect certain bottom habitat in the Bering Sea subarea. Alternative 3, which would modify flatfish trawl gear to reduce contact with the bottom, was not recommended by the Council at this time because the gear is currently under development, and

gear standards are not yet ready for implementation.

Under Alternative 2 for the BSHCA, the boundaries of the closure area were established in locations that have not been trawled more than once and are not likely to be trawled in the future. In addition, the boundary of the BSHCA was adjusted to allow for potential future development of the arrowtooth flounder fishery. These features of the BSHCA mitigate potential adverse economic effects on small entities by allowing continued fishing where substantial amounts of fishing have already occurred and to allow for future expansion of the arrowtooth flounder fishery.

The boundaries for the nonpelagic trawl closures under Options 1, 3, 4, and 5 also were developed in consultation with members of the nonpelagic trawl CP fleet. Under Options 1 and 5, the waters near St. Matthew and St. Lawrence Islands were not substantially trawled and are not likely to be trawled in the future, so the closures in these areas are not likely to result in an adverse economic effect on small entities. Option 2 closed waters near Nunivak Island and Etolin Strait but would not close waters within Kuskokwim Bay to nonpelagic trawling. Option 3 expanded on the closures under Option 2 by establishing the Nunivak Island, Etolin Strait, and Kuskokwim Bay closure boundaries. Option 3 closures were carefully negotiated between members of the nonpelagic trawl CP fleet and some users of the subsistence marine resources in the area. Adjustments were made to the boundaries to ensure the flatfish fleet had access to concentrations of flatfish while still maintaining overall protection to bottom habitat from the potential effects of nonpelagic trawling. These boundary adjustments reduce potential adverse economic effects on small entities participating in the flatfish trawl fishery.

Under Option 4 for the NBSRA, the southern boundary of the area was also based on consultation with members of the affected trawl CP fleet to ensure the closure would not prevent fishing in areas currently fished and allowed for some northern movement of the fleet if fish stocks also move north in response to global warming. The southern boundary of the NBSRA would mitigate any potential adverse economic impact on small entities by allowing continued fishing in locations historically fished and permitting some flexibility with any future movement of fish stocks.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS Alaska Region has developed a website that provides easy access to details of this final rule, including links to the final rule, maps of closure areas, and frequently asked questions regarding essential fish habitat. The relevant information available on the website is the Small Entity Compliance Guide. The website address is *http://www.fakr.noaa.gov/habitat/efh.htm*. Copies of this final rule are available upon request from the NMFS, Alaska Regional Office (see **ADDRESSES**).

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of NMFS in matters affecting tribal interests. Section 161 of Public Law 108–199 (188 Stat. 452), as amended by section 518 of Public Law 109–447 (118 Stat. 3267), extends the consultation requirements of the Executive Order to Alaska Native corporations.

NMFS contacted tribal governments and Alaska Native corporations, which may be affected by the action, provided them with a copy of the proposed rule, and offered them an opportunity to further consult. No tribal governments or Alaska Native corporations requested further tribal consultation for this action.

References

Low, L. and R.E. Narita. 1990. Condition of groundfish resources in the Bering Sea-Aleutian Islands region as assessed in 1988. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-F/NWC–178, 224 p.

North Pacific Fishery Management Council (NPFMC). 2007. Stock Assessment and Fishery Evaluation Report. November 2007. Available from *http://www.afsc.noaa.gov/REFM/stocks/assessments.htm*.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 21, 2008.

Samuel D. Rauch III,

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

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447.

■ 2. In § 679.2, add in alphabetical order definitions for ''Bering Sea Habitat Conservation Area'', ''Northern Bering Sea Research Area'', ''Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area'', ''St. Lawrence Island Habitat Conservation Area'', and ''St. Matthew Island Habitat Conservation Area'' to read as follows:

§ 679.2 Definitions.

* * * * *

Bering Sea Habitat Conservation Area means a habitat protection area specified at Table 42 and Figure 16 to this part.

* * * * *

Northern Bering Sea Research Area means a habitat research area specified at Table 43 and Figure 17 to this part.

Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area means a habitat protection area specified at Table 44 and Figure 21 to this part.

* * * * *

St. Lawrence Island Habitat Conservation Area means a habitat protection area specified at Table 45 to this part.

St. Matthew Island Habitat Conservation Area means a habitat protection area specified at Table 46 to this part.

* * * * *

■ 3. In § 679.22, paragraphs (a)(16) through (a)(20) are added to read as follows:

§ 679.22 Closures.

(a) * * *

(16) *Bering Sea Habitat Conservation Area.* No federally permitted vessel may fish with nonpelagic trawl gear in the Bering Sea Habitat Conservation Area specified at Table 42 and Figure 16 to this part.

(17) *Northern Bering Sea Research Area.* No federally permitted vessel may fish with nonpelagic trawl gear in the Northern Bering Sea Research Area specified at Table 43 and Figure 17 to this part.

(18) *Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area.* No federally permitted vessel may fish with nonpelagic trawl gear in the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area specified at Table 44 and Figure 21 to this part.

(19) *St. Lawrence Island Habitat Conservation Area.* No federally permitted vessel may fish with nonpelagic trawl gear in the St. Lawrence Island Habitat Conservation Area specified at Table 45 to this part.

(20) *St. Matthew Island Habitat Conservation Area.* No federally permitted vessel may fish with nonpelagic trawl gear in the St. Matthew Island Habitat Conservation Area specified at Table 46 to this part.

* * * * *

■ 4. Tables 42 through 46 are added to part 679 to read as follows:

TABLE 42 TO PART 679—BERING SEA HABITAT CONSERVATION AREA

Longitude		Latitude	
179	19.95W	59	25.15N
177	51.76W	58	28.85N
175	36.52W	58	11.78N
174	32.36W	58	8.37N
174	26.33W	57	31.31N
174	0.82W	56	52.83N
173	0.71W	56	24.05N
170	40.32W	56	1.97N
168	56.63W	55	19.30N
168	0.08W	54	5.95N
170	0.00W	53	18.24N
170	0.00W	55	0.00N
178	46.69E	55	0.00N
178	27.25E	55	10.50N
178	6.48E	55	0.00N
177	15.00E	55	0.00N
177	15.00E	55	5.00N
176	0.00E	55	5.00N
176	0.00E	55	0.00N

TABLE 42 TO PART 679—BERING SEA HABITAT CONSERVATION AREA—Continued

Longitude		Latitude	
172	6.35E	55	0.00N
173	59.70E	56	16.96N

Note: The area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

TABLE 43 TO PART 679—NORTHERN BERING SEA RESEARCH AREA

Longitude		Latitude	
168	7.48W	65	37.48N*
165	1.54W	60	45.54N
167	59.98W	60	45.55N
171	59.92W	60	3.52N
172	0.00W	60	54.00N
174	1.24W	60	54.00N
176	13.51W	62	6.56N
172	24.00W	63	57.03N
172	24.00W	62	42.00N
168	24.00W	62	42.00N
168	24.00W	64	0.00N
172	17.42W	64	0.01N
168	58.62W	65	30.00N
168	58.62W	65	37.48N

Note: The area is delineated by connecting the coordinates in the order listed by straight lines except as noted by * below. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

* This boundary extends in a clockwise direction from this set of geographic coordinates along the shoreline at mean lower-low tide line to the next set of coordinates.

TABLE 44 TO PART 679—NUNIVAK ISLAND, ETOLIN STRAIT, AND KUSKOKWIM BAY HABITAT CONSERVATION AREA

Longitude		Latitude	
165	1.54W	60	45.54N*
162	7.01W	58	38.27N
162	10.51W	58	38.35N

TABLE 44 TO PART 679—NUNIVAK ISLAND, ETOLIN STRAIT, AND KUSKOKWIM BAY HABITAT CONSERVATION AREA—Continued

Longitude		Latitude	
162	34.31W	58	38.36N
162	34.32W	58	39.16N
162	34.23W	58	40.48N
162	34.09W	58	41.79N
162	33.91W	58	43.08N
162	33.63W	58	44.41N
162	33.32W	58	45.62N
162	32.93W	58	46.80N
162	32.44W	58	48.11N
162	31.95W	58	49.22N
162	31.33W	58	50.43N
162	30.83W	58	51.42N
162	30.57W	58	51.97N
163	17.72W	59	20.16N
164	11.01W	59	34.15N
164	42.00W	59	41.80N
165	0.00W	59	42.60N
165	1.45W	59	37.39N
167	40.20W	59	24.47N
168	0.00W	59	49.13N
167	59.98W	60	45.55N

Note: The area is delineated by connecting the coordinates in the order listed by straight lines, except as noted by * below. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

* This boundary extends in a clockwise direction from this set of geographic coordinates along the shoreline at mean lower-low tide line to the next set of coordinates.

TABLE 45 TO PART 679—ST. LAWRENCE ISLAND HABITAT CONSERVATION AREA

Longitude		Latitude	
168	24.00W	64	0.00N
168	24.00W	62	42.00N
172	24.00W	62	42.00N
172	24.00W	63	57.03N

TABLE 45 TO PART 679—ST. LAWRENCE ISLAND HABITAT CONSERVATION AREA—Continued

Longitude	Latitude
172 17.42W	64 0.01N

Note: The area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

TABLE 46 TO PART 679—ST. MATTHEW ISLAND HABITAT CONSERVATION AREA

Longitude	Latitude
172 0.00W	60 54.00N
171 59.92W	60 3.52N
174 0.50W	59 42.26N
174 24.98W	60 9.98N

TABLE 46 TO PART 679—ST. MATTHEW ISLAND HABITAT CONSERVATION AREA—Continued

Longitude	Latitude
174 1.24W	60 54.00N

Note: The area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

■ 5. Figures 16 and 17 are added to part 679 to read as follows:

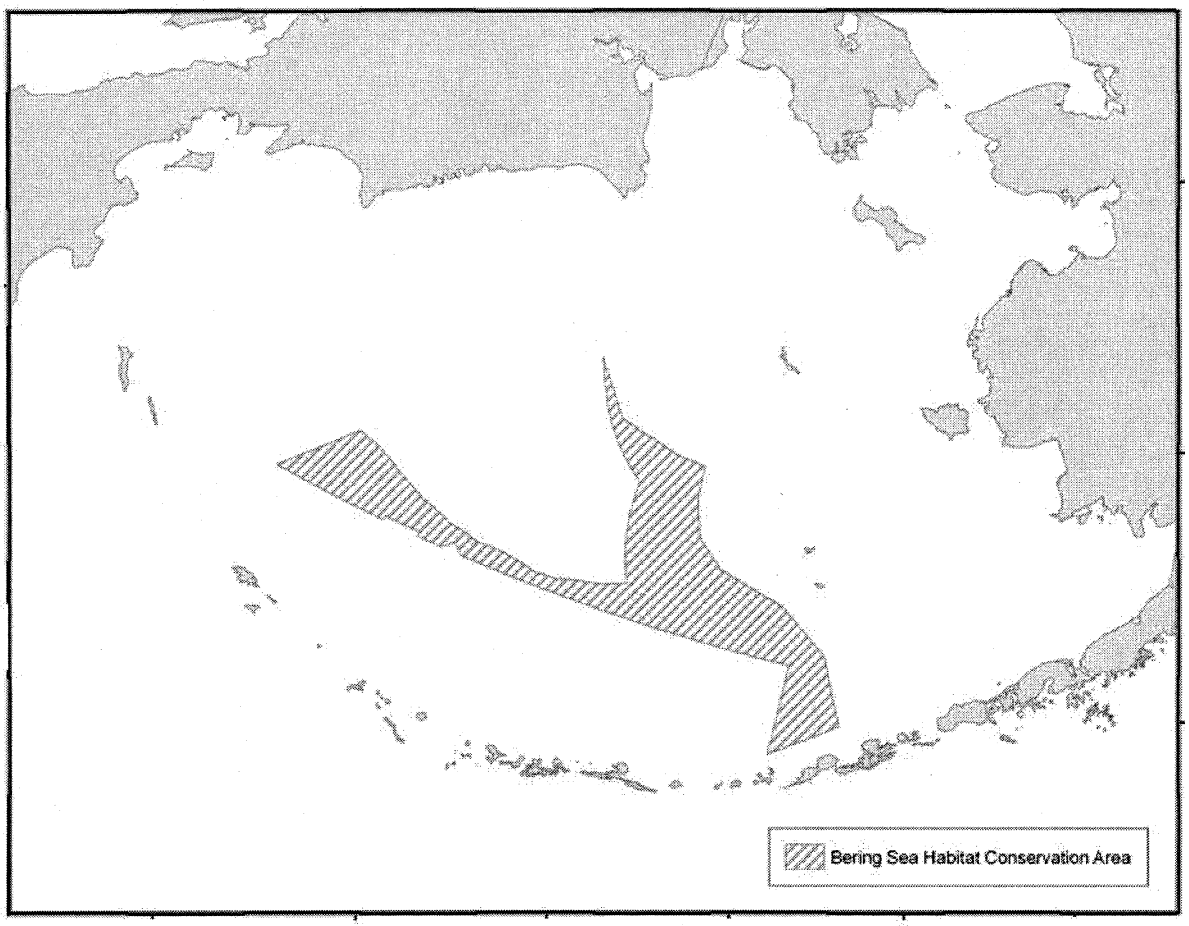

Figure 16 to Part 679--Bering Sea Habitat Conservation Area

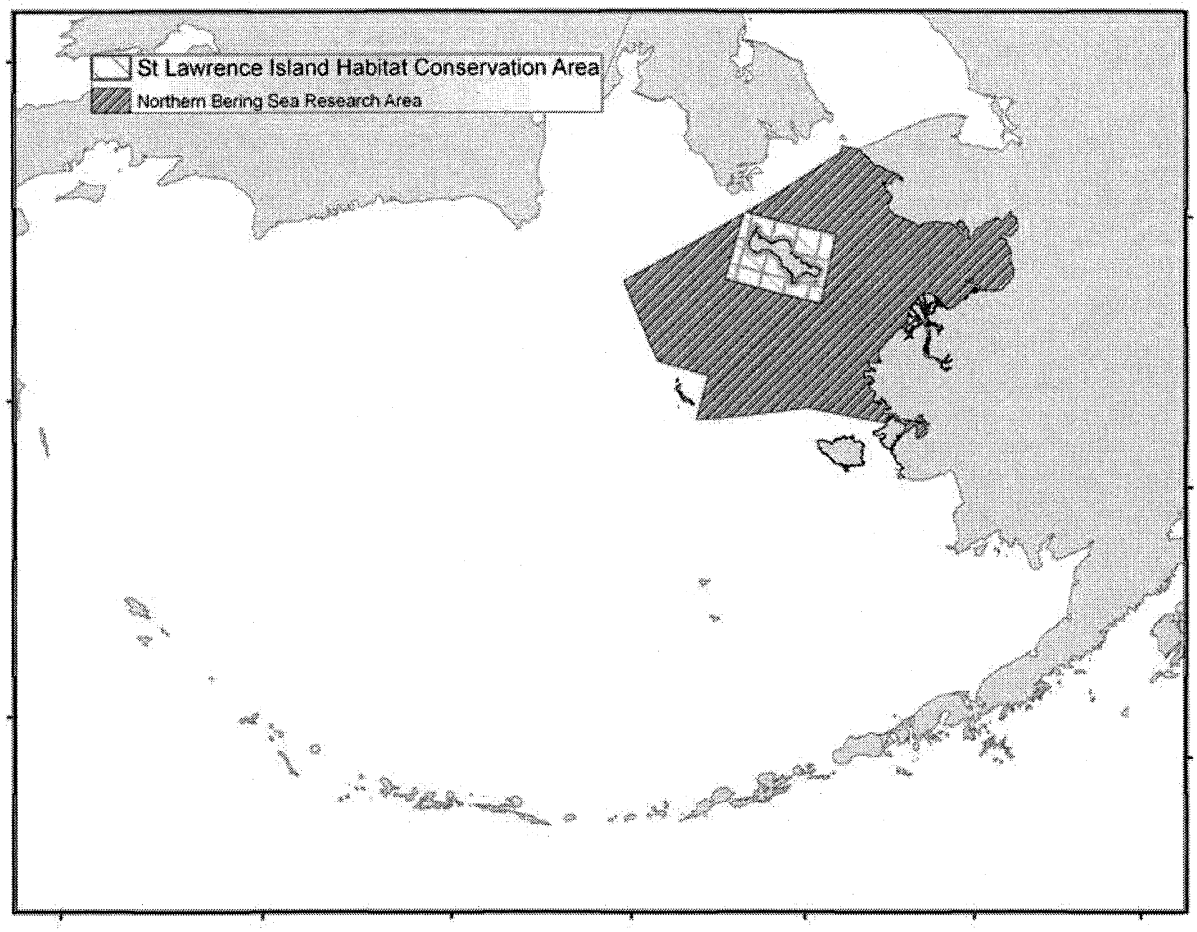

Figure 17 to Part 679--Northern Bering Sea Research Area and St. Lawrence Island Habitat Conservation Area

■ 6. Figure 21 is added to part 679 to read as follows:

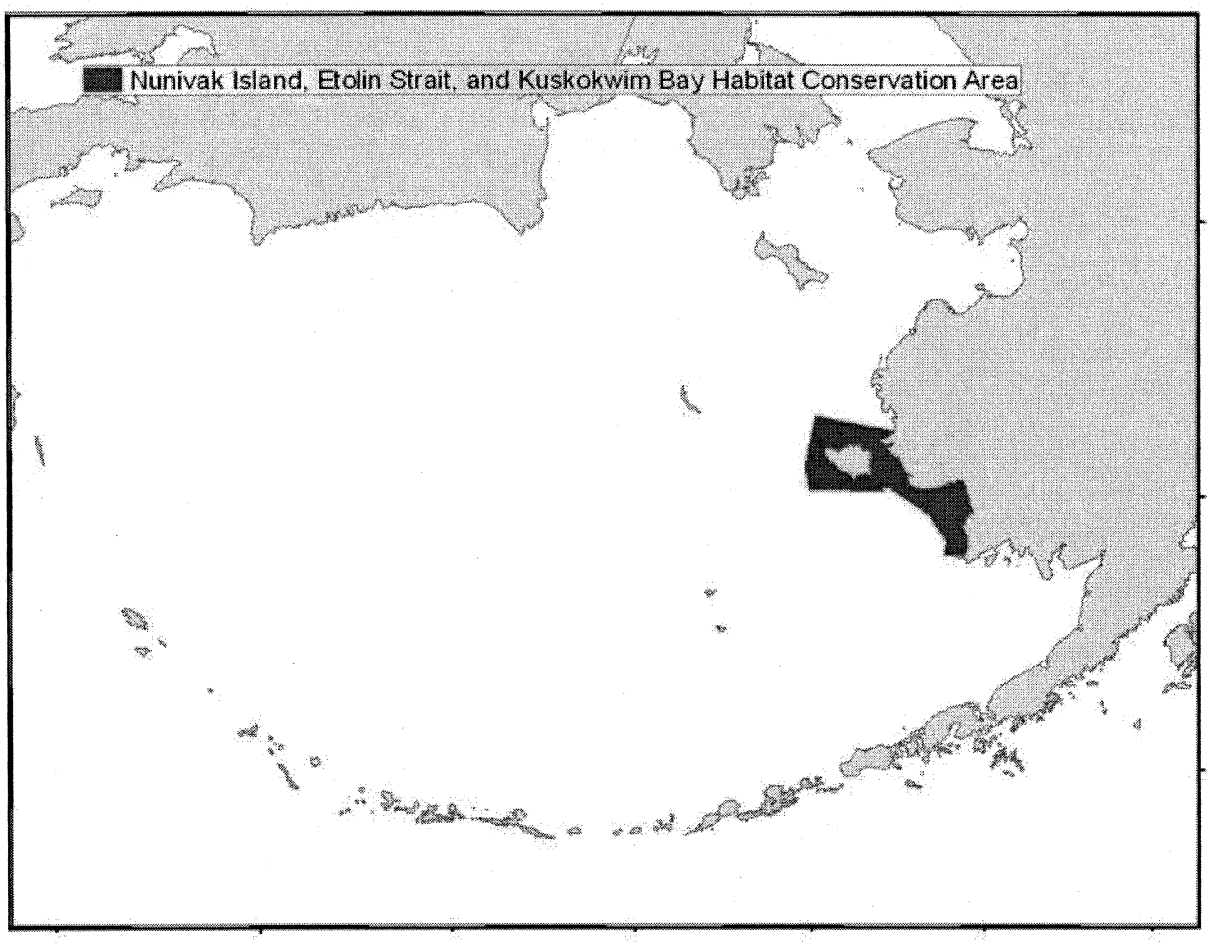

Figure 21 to Part 679--Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area

[FR Doc. E8–17144 Filed 7–24–08; 8:45 am]
BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 73, No. 144
Friday, July 25, 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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket Number DHS–2008–0024]

Privacy Act of 1974: Implementation of Exemptions; Border Crossing Information

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security is proposing to amend its regulations to exempt portions of a system of records from certain provisions of the Privacy Act. Specifically, the Department proposes to exempt portions of the Border Crossing Information from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. This document is a republication of the Treasury Department exemption regulation (title 31, Code of Federal Regulations, part 1) which previously covered the Border Crossing Information as part of the Treasury Enforcement Communications System (TECS) System of Records Notice.

DATES: Written comments must be submitted on or before August 25, 2008.

ADDRESSES: You may submit comments, identified by docket number DHS–2008–0024 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–866–466–5370.
- *Mail:* Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Laurence E. Castelli (202–572–8790), Chief, Privacy Act Policy and Procedures Branch, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, Mint Annex, 1300 Pennsylvania Ave., NW., Washington, DC 20229. For privacy issues please contact: Hugo Teufel III (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS), elsewhere in this edition of the **Federal Register**, published a Privacy Act system of records notice describing records in the Border Crossing Information (BCI). U.S. Customs and Border Protection (CBP) is the agency responsible for collecting and reviewing border crossing information from travelers entering and departing the United States. This is consistent with CBP's overall border security and enforcement missions. Upon arrival in the United States, all individuals crossing the border are required to clear CBP. As part of this clearance process, CBP reserves the right to verify the identity, nationality, and admissibility of any person crossing the border. Additionally, CBP creates a record of the fact that the individual has entered the United States at a particular time and port of entry.

BCI collects and maintains border crossing information on travelers crossing the United States border, which includes: certain biographical information; a photograph; certain itinerary information provided by air, sea, and eventually rail carriers; and the time and location of the border crossing; and, as necessary, the status of a secondary examination.

BCI contains records pertaining to various categories of individuals, including: Passengers and crew who arrive, transit through or depart the United States by air, rail, or sea (and includes the U.S. domestic portions of international travel for passengers and crew flying into or out of the United States) and crew members on aircraft that overfly the United States; and persons crossing the land border at ports of entry.

No exemption shall be asserted with respect to information maintained in the system that is collected from a person's travel documents or submitted by a government computer system in support of a proffered travel document, if that person, or his or her agent, seeks access or amendment of such information.

This system, however, may contain records or information pertaining to the accounting of disclosures made from BCI to other law enforcement agencies (Federal, State, Local, Foreign, International or Tribal) in accordance with the published routine uses and 5 U.S.C. 552a(b)(7). For the accounting of these disclosures only, in accordance with 5 U.S.C. 552a(j)(2), and (k)(2), DHS will claim the original exemptions for these records or information from subsection (c)(3), (e)(8), and (g) of the Privacy Act of 1974, as amended, as necessary and appropriate to protect such information.

DHS needs these exemptions in order to protect information relating to law enforcement investigations from disclosure to subjects of investigations and others who could interfere with investigatory and law enforcement activities. Specifically, the exemptions are required to: preclude subjects of investigations from frustrating the investigative process; avoid disclosure of investigative techniques; protect the identities and physical safety of confidential informants and of law enforcement personnel; ensure DHS's and other federal agencies' ability to obtain information from third parties and other sources; protect the privacy of third parties; and safeguard sensitive information.

Nonetheless, DHS will examine each request on a case-by-case basis, and, after conferring with the appropriate component or agency, may waive applicable exemptions in appropriate circumstances and where it would not appear to interfere with or adversely affect the law enforcement purposes of the systems from which the information is recompiled or in which it is contained.

Again, DHS will not assert any exemption with respect to information maintained in the system that is collected from a person and submitted by that person's air or vessel carrier, if that person, or his or her agent, seeks access or amendment of such information.

Regulatory Requirements

A. Regulatory Impact Analyses

Changes to Federal regulations must undergo several analyses. In conducting these analyses, DHS has determined:

1. Executive Order 12866 Assessment

This rule is not a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review'' (as amended). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB). Nevertheless, DHS has reviewed this rulemaking, and concluded that there will not be any significant economic impact.

2. Regulatory Flexibility Act Assessment

Pursuant to section 605 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), DHS certifies that this rule will not have a significant impact on a substantial number of small entities. The rule would impose no duties or obligations on small entities. Further, the exemptions to the Privacy Act apply to individuals, and individuals are not covered entities under the RFA.

3. International Trade Impact Assessment

This rulemaking will not constitute a barrier to international trade. The exemptions relate to criminal investigations and agency documentation and, therefore, do not create any new costs or barriers to trade.

4. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. This rulemaking will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DHS consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. DHS has determined that there are no current or new information collection requirements associated with this rule.

C. Executive Order 13132, Federalism

This action 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, and therefore will not have federalism implications.

D. Environmental Analysis

DHS 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 will not have a significant effect on the human environment.

E. Energy Impact

The energy impact of this action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362). This rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 6 CFR Part 5

Privacy, Freedom of information.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552.

2. At the end of Appendix C to Part 5, add new paragraph 6 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

6. DHS/CBP–007, Border Crossing Information. This system may contain records or information pertaining to the accounting of disclosures made from BCI to other law enforcement and counterterrorism agencies (Federal, State, Local, Foreign, International or Tribal) in accordance with the published routine uses. For the accounting of these disclosures only, in accordance with 5 U.S.C. 552a (j)(2), and (k)(2), DHS will claim the original exemptions for these records or information from subsection (c)(3), (e)(8), and (g) of the Privacy Act of 1974, as amended, as necessary and appropriate to protect such information. Further, no exemption shall be asserted with respect to biographical or travel information submitted by, and collected from, a person's travel documents or submitted from a government computer system to support or to validate those travel documents. After conferring with the appropriate component or agency, DHS may waive applicable exemptions in appropriate circumstances and where it would not appear to interfere with or adversely affect the law enforcement purposes of the systems from which the information is recompiled or in which it is contained. *Exemptions from the above particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, when information in this system of records is recompiled or is created from information contained in other systems of records subject to exemptions for the following reasons:*

(a) From subsection (c)(3) (Accounting for Disclosure) because making available to a record subject the accounting of disclosures from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a violation of U.S. law, including investigations of a known or suspected terrorist, by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(b) From subsection (e)(8) (Notice on Individuals) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism or law enforcement investigations to the fact of those investigations when not previously known.

(c) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: July 18, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8–17122 Filed 7–24–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. AMS–FV–08–0048; FV08–948–2 PR]

Irish Potatoes Grown in Colorado; Reinstatement of the Continuing Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would reinstate the continuing assessment rate established for the Area No. 3 Colorado Potato

Administrative Committee (Committee) for the 2008–2009 and subsequent fiscal periods at $0.02 per hundredweight of potatoes handled. The Committee locally administers the marketing order regulating the handling of potatoes grown in northern Colorado. The continuing assessment rate was suspended for the 2006–2007 and subsequent fiscal periods to bring the monetary reserve within the program limit of two fiscal periods' operating expenses. Assessments upon potato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 11, 2008.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or Internet: *http://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or e-mail: *Teresa.Hutchinson@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable potatoes beginning on July 1, 2008, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would reinstate § 948.215 of the order's rules and regulations and establish a continuing assessment rate for the Committee for the 2008–2009 and subsequent fiscal periods at $0.02 per hundredweight of potatoes handled.

The Colorado potato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Colorado potatoes in Area No. 3. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2006–2007 and subsequent fiscal periods, the Committee recommended, and USDA approved, a suspension of the continuing assessment rate that would remain suspended until reinstated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 8, 2008, and unanimously recommended 2008–2009 expenditures of $19,497 and an assessment rate of $0.02 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were $18,697. For the 2006–2007 fiscal period, the Committee recommended suspending the continuing assessment rate to bring the monetary reserve within program limits of approximately two fiscal periods' operating expenses (§ 948.78). At that time, the reserve fund contained about $49,237. The Committee has been operating for the last two years by drawing income from its reserve. With a suspended assessment rate and a significant decrease in the number of potato producers and acreage in Area No. 3, the reserve has rapidly decreased to the current level of about $16,175. The Committee would like to maintain the reserve at approximately this level, thus reinstatement of the assessment rate at $0.02 per hundredweight is needed.

The major expenditures recommended by the Committee for the 2008–2009 fiscal period include $7,800 for salaries, $3,000 for rent expense, and $1,750 for office expenses. Budgeted expenses for these items in 2007–2008 were also $7,800, $3,000, and $1,750, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Colorado Area No. 3 potatoes. Colorado Area No. 3 potato shipments for the year are estimated at 787,600 hundredweight, which should provide $15,752 in assessment income. Income derived from handler assessments, rent, and interest along with funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve (estimated at $16,175 as of June 30, 2008) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 948.78).

The reinstated assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet

prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2008–2009 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

Based on Committee data, there are 8 producers (7 of whom are also handlers) in the regulated area and 9 handlers (7 of whom are also producers) who are subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,500,000.

Based on Committee data, the production of Colorado Area No. 3 potatoes for the 2007–2008 fiscal period was 550,026 hundredweight. Based on National Agricultural Statistics Service data, the average producer price for Colorado summer potatoes for 2007 was $7.55 per hundredweight. The average annual producer revenue for the 8 Colorado Area No. 3 potato producers is therefore calculated to be approximately $519,000. Using Committee data regarding each individual handler's total shipments during the 2007–2008 fiscal period and a Committee estimated average f.o.b. price for 2007 of $9.75 per hundredweight ($7.55 per hundredweight plus estimated packing and handling costs of $2.20 per hundredweight), all of the Colorado Area No. 3 potato handlers ship under $6,500,000 worth of potatoes. Thus, the majority of handlers and producers of Colorado Area No. 3 potatoes may be classified as small entities.

This rule would reinstate § 948.215 of the order's rules and regulations and establish a continuing assessment rate for the Committee, to be collected from handlers for the 2008–2009 and subsequent fiscal periods, at $0.02 per hundredweight of potatoes. The Committee unanimously recommended 2008–2009 expenditures of $19,497 and an assessment rate of $0.02 per hundredweight. The quantity of Colorado Area No. 3 potatoes for the 2008–2009 fiscal period is estimated at 787,600 hundredweight. Thus, the $0.02 rate should provide $15,752 in assessment income. Income derived from handler assessments, rent, and interest along with funds from the Committee's authorized reserves should be adequate to meet this fiscal period's budgeted expenses.

The major expenditures recommended by the Committee for the 2008–2009 fiscal period include $7,800 for salaries, $3,000 for rent expense, and $1,750 for office expenses. Budgeted expenses for these items in 2007–2008 were also $7,800, $3,000, and $1,750, respectively.

For the 2006–2007 fiscal period, the Committee recommended suspending the continuing assessment rate to bring the monetary reserve within program limits of approximately two fiscal periods' operating expenses (§ 948.78). At that time, the reserve fund contained about $49,237. The Committee has been operating for the last two years by drawing income from its reserve. With a suspended assessment rate and a significant decrease in the number of potato producers and acreage in Area No. 3, the reserve has rapidly decreased to the current level of about $16,175. The Committee would like to maintain the reserve at approximately this level, thus reinstatement of the assessment rate is needed.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with adequate reserves. Higher assessment rates were also considered, but not recommended because they would add funds to the reserve.

To calculate the assessment rate, the Committee deducted estimated income received from rent and interest from the total recommended budget ($19,497 − $2,000 = $17,497). The assessment rate was then determined by dividing $17,497 by the quantity of assessable potatoes, estimated at 787,600 hundredweight for the 2008–2009 fiscal period. The result was rounded to $0.02 per hundredweight. This assessment rate would generate approximately $1,745 less than anticipated expenses when combined with interest and rent income, which the Committee has determined to be acceptable. Funds from the Committee's authorized reserve should be adequate to cover budgeted expenses not covered by income from assessments, interest, and rent.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2008–2009 fiscal period could range between $7.55 and $8.45 per hundredweight of Colorado summer potatoes. Therefore, the estimated assessment revenue for the 2008–2009 fiscal period as a percentage of total producer revenue could range between 0.24 and 0.26 percent.

This action would reinstate the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order.

In addition, the Committee's meeting was widely publicized throughout the Colorado Area No. 3 potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 8, 2008, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Colorado Area No. 3 potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide

increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2008–2009 fiscal period begins on July 1, 2008, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; (2) the northern Colorado potato shipping season begins in July; (3) the Committee needs to have sufficient funds to pay for expenses which are incurred on a continuous basis; and (4) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is proposed to be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In part 948, the suspension of § 948.215 is lifted.

Dated: July 22, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–17089 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. AMS–FV–08–0054; FV08–984–1 PR]

Walnuts Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Walnut Board (Board) for the 2008–09 marketing year from $0.0122 to $0.0158 per kernelweight pound of assessable walnuts. The Board locally administers the marketing order which regulates the handling of walnuts grown in California. Assessments upon walnut handlers are used by the Board to fund reasonable and necessary expenses of the program. The 2008–09 marketing year begins August 1, 2008. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 11, 2008.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Martin J. Engeler, Senior Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or e-mail: *Martin.Engeler@usda.gov*, or *Kurt.Kimmel@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable walnuts beginning on August 1, 2008, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Board for the 2008–09 and subsequent marketing years from $0.0122 to $0.0158 per kernelweight pound of assessable walnuts. The 2008–09 marketing year begins on August 1, 2008, and ends on August 31, 2009. Due to a recent amendment to the order changing the definition of marketing year, the 2008–09 marketing year will cover a 13-month period (73 FR 11328, March 3, 2008). Subsequent marketing years will cover a

12-month period from September 1 through August 31.

The California walnut marketing order provides authority for the Board, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2007–08 and subsequent marketing years, the Board recommended, and USDA approved, an assessment rate of $0.0122 per kernelweight pound of assessable walnuts that would continue in effect from year to year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on May 28, 2008, and unanimously recommended 2008–09 expenditures of $4,594,300 and an assessment rate of $0.0158 per kernelweight pound of assessable walnuts. In comparison, 2007–08 budgeted expenditures were $3,777,120. The assessment rate of $0.0158 per kernelweight pound of assessable walnuts is $0.0036 per pound higher than the rate currently in effect. The increased assessment rate is necessary to cover increased expenses in the areas of domestic market promotion, production research activities, and Board operating expenses. The higher assessment rate should generate sufficient income to cover anticipated 2008–09 expenses.

The following table compares major budget expenditures recommended by the Board for the 2007–08 and 2008–09 marketing years:

Budget expense categories	2007–08	2008–09
Employee Expenses	$438,600	$410,500
Travel/Board Expenses	86,000	100,000
Office Costs/Annual Audit	139,500	142,500
Program Expenses Including Research Controlled Purchases	5,000	5,000
Crop Acreage Survey	85,000	
Crop Estimate	100,000	110,000
Production Research *	730,000	805,000
Domestic Market Development	2,002,000	2,935,000
Reserve for Contingency	191,020	56,300

* Includes Research Director's compensation.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 290,773,800 kernelweight pounds which should provide $4,594,300 in assessment income and allow the Board to cover its expenses. Unexpended funds may be retained in a financial reserve, provided that funds in the financial reserve do not exceed approximately two year's budgeted expenses. If not retained in a financial reserve, unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69 of the order.

The estimate for merchantable shipments is based on historical data, which is the prior year's production of 323,082 tons (inshell). Pursuant to § 984.51(b) of the order, this figure was converted to a merchantable kernelweight basis using a factor of .45 (323,082 tons × 2,000 pounds per ton × .45).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other available information.

Although this assessment rate would be in effect for an indefinite period, the Board would continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2008–09 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are currently 58 handlers of California walnuts subject to regulation under the marketing order and approximately 4,000 producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those whose annual receipts are less than $6,500,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000.

Industry information for the most recent complete season indicates that 18 of 53 handlers (34 percent) shipped over $6,500,000 of merchantable walnuts and could be considered large handlers by the SBA. Thirty-five of 53 walnut handlers (66 percent) shipped under $6,500,000 of merchantable walnuts and could be considered small handlers.

The number of large walnut growers (annual walnut revenue greater than $750,000) can be estimated as follows. According to the National Agricultural Statistics Service (NASS), the two-year average yield per acre for 2005 and 2006 is approximately 1.63 tons. A grower with 287 acres with an average yield of

1.63 tons per acre would produce approximately 468 tons. The season average of grower prices for 2005 and 2006 published by NASS is $1,600 per ton. At that average price, the 468 tons produced on 287 acres would yield slightly less than $750,000 in annual revenue. The 2002 Agricultural Census indicated two percent of walnut farms were between 250 and 500 acres in size. The 287 acres would produce, on average, slightly less than the small business threshold level of $750,000 in annual revenue from walnuts, and is near the lower end of the 250 to 500 acreage range category of the 2002 census. Thus, it can be concluded that the number of large walnut farms in 2006 was likely around two percent. Based on the foregoing, it can be concluded that the majority of California walnut handlers and producers may be classified as small entities.

This rule would increase the assessment rate established for the Board and collected from handlers for the 2008–09 and subsequent marketing years from $0.0122 per kernelweight pound of assessable walnuts to $0.0158 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2008–09 expenditures of $4,594,300 and an assessment rate of $0.0158 per kernelweight pound of assessable walnuts. The proposed assessment rate of $0.0158 is $0.0036 higher than the rate currently in effect. The quantity of assessable walnuts for the 2008–09 marketing year is estimated at 323,082 tons. Thus, the $0.0158 rate should provide $4,594,300 in assessment income and be adequate to meet the year's expenses. The increased assessment rate is primarily due to increased budget expenditures.

The following table compares major budget expenditures recommended by the Board for the 2007–08 and 2008–09 fiscal years:

Budget expense categories	2007–08	2008–09
Employee Expenses	$438,600	$410,500
Travel/Board Expenses	86,000	100,000
Office Costs/Annual Audit	139,500	142,500
Program Expenses Including Research Controlled Purchases	5,000	5,000
Crop Acreage Survey	85,000	.....
Crop Estimate	100,000	110,000
Production Research *	730,000	805,000
Domestic Market Development	2,002,000	2,935,000
Reserve for Contingency	191,020	56,300

* Includes Research Director's compensation.

The Board reviewed and unanimously recommended 2008–09 expenditures of $4,954,300. Prior to arriving at this budget, the Board considered alternative expenditure levels, but ultimately decided that the recommended levels were reasonable to properly administer the order. The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 290,773,800 kernelweight pounds which should provide $4,954,300 in assessment income and allow the Board to cover its expenses. Unexpended funds may be retained in a financial reserve, provided that funds in the financial reserve do not exceed approximately two years' budgeted expenses. If not retained in a financial reserve, unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year, according to § 984.69 of the order.

According to NASS, the season average grower price for 2006 was $1,630 per ton. Although no official NASS data is available regarding the 2007 average grower price, industry information indicates that it could be higher than the 2006 average grower price. Dividing the 2006 price of $1,630 by 2,000 pounds per ton provides an inshell equivalent price per pound of $0.815. Dividing this inshell price per pound by the 0.45 conversion factor (inshell to kernelweight) established in the order yields a 2006 average equivalent grower price of $1.81 per kernelweight pound of assessable walnuts.

To calculate the percentage of grower revenue represented by the assessment rate for 2006, the assessment rate of $0.0122 (per kernelweight pound) is divided by the estimated average grower price. This results in estimated assessment revenue for the 2006 marketing year as a percentage of total grower revenue of .674 percent. As previously mentioned, NASS data for 2007 is not yet available. However, applying the same calculations above utilizing 2006 price levels and the proposed assessment rate would result in estimated assessment revenue as a percentage of total grower revenue of 0.873 percent for the 2008 season. Because 2007 average grower prices are expected to be higher than 2006 levels, and could continue at the higher level into the 2008 season, it is expected that 2008 assessment revenue as a percentage of grower revenue will be less than the 0.873 percent expressed above. In any event, it is estimated that assessment revenue will be well below one percent of estimated grower revenue in 2008.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California walnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the May 28, 2008, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of Internet and other information technologies to provide increased

opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2008–09 marketing year will begin on August 1, 2008, and the marketing order requires that the rate of assessment for each year apply to all assessable walnuts handled during the year; (2) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 2008, an assessment rate of $0.0158 per kernelweight pound is established for California merchantable walnuts.

Dated: July 22, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–17088 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM–20–26; NRC–2005–0017]

James Salsman; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–20–26) submitted by James Salsman (petitioner). The petitioner requested that NRC amend its regulations to modify exposure and environmental limits for heavy metal radionuclides, in particular uranium. NRC is denying the petition because current NRC regulations provide adequate protection of public health and safety. The petitioner has not presented sufficient peer-reviewed data, pertinent to the types and levels of exposures associated with the concentration values used in NRC's regulations, to provide a sufficient reason for NRC to initiate a revision of its regulations. Thus, the NRC has decided not to expend limited resources on initiating a rulemaking at this time.

ADDRESSES: You can access publicly available documents related to this petition for rulemaking using the following methods:

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2008–0017].

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR reference staff at 1–899–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Cardile, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6185, e-mail *frank.cardile@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. The Petition

On June 15, 2005 (70 FR 34699), NRC published a notice of receipt of a petition for rulemaking filed by James Salsman. The petitioner requested that NRC revise its regulations in 10 CFR part 20 that specify limits for ingestion and inhalation occupational values, effluent concentrations, and releases to sewers, for heavy metal radionuclides, with nonradiological chemical toxicity hazards exceeding that of their radiological hazards so that those limits properly reflect the hazards associated with danger to organs, reproductive toxicity, and all other known nonradiological aspects of heavy metal toxicity. Specifically, the petition focused on uranium toxicity. The petitioner also requested that the classification for uranium trioxide within Class W, given in the Class column of the table for Uranium-230 in Appendix B to 10 CFR part 20, be amended to Class D. In addition, the petitioner requested that monomeric (monomolecular) uranium trioxide gas, as produced by the oxidation of U_3O_8 at temperatures above 1000° Celsius, be assigned its own unique solubility class if necessary, when its solubility characteristics become known.

In providing support for the petition, the petitioner states that NRC's regulations were designed to address only the radiological hazard of uranium, and not heavy metal toxicity which is known to be about six orders of magnitude worse. The petitioner believes that current regulations allow intake of more soluble compounds than insoluble compounds and that, in practice, the soluble compounds are more toxic than the insoluble compounds. The petitioner states that this should indicate that long half-life uranium isotope standards need to be revised.

The petitioner states that the current NRC regulations allow an annual inhalation of more than two grams of uranium. The petitioner also states that because "...the LD50/30 [lethal dose to 50 percent of a population in 30 days] of uranyl nitrate (which has considerably less uranyl ion per unit of mass than uranium trioxide) is 2.1 mg/kg in rabbits, 12.6 mg/kg in dogs, 48 mg/kg in rats, and 51 mg/kg in guinea pigs and albino mice," two grams of UO_3 seems very likely to comprise a fatal dose for a 200 pound human (Gmelin

Handbook of Inorganic Chemistry, 8th edition, English translation (1982), Vol. U–#A7, pp. 312–322). The petitioner indicates that the values in NRC's regulations seem much too high and were likely derived to avoid immediate kidney failure, without regard to reproductive toxicity nor with sufficient care to avoid allowing lethal exposures. The petitioner states that the limit of 10 mg/day [1] of soluble uranium compounds (or about half a gram per year) in 10 CFR 20.1201(e) seems likely to allow substantial kidney damage and certain reproductive toxicity. The petitioner states that the correct way to account for the reproductive toxicity is probably to measure resulting mutations of mammalian peripheral lymphocytes.

In support of the petitioner's request for changes to solubility classes, the petitioner states that the primary mode of uranium toxicity involves much greater solubility. The petitioner asserts that UO_3 should be amended from Class W to Class D based on Morrow, *et al.*, Health Physics, 1972 ''Inhalation Studies of Uranium Trioxide'' (Health Physics, vol. 23 (1972), pp. 273–280), which states: ''inhalation studies with uranium trioxide (UO_3) indicated that the material was more similar to soluble uranyl salts than to the so-called insoluble oxides UO_3 is rapidly removed from the lungs, with most following a 4.7 day biological half time.'' The petitioner also states that monomeric uranium trioxide gas will turn out to be absorbed more rapidly in the mammalian lung than uranyl nitrate, because of its monomolecular gas nature, and not merely about as rapidly as the studies of granular uranium trioxide by P.E. Morrow, *et al.*, indicate (''Inhalation Studies of Uranium Trioxide,'' Health Physics, vol. 23 (1972), pp. 273–280). The petitioner states that even Class D may not be appropriate for monomolecular uranium trioxide gas and that it should be assigned its own unique solubility class, if necessary, when its solubility characteristics become known (R. J. Ackermann, R. J. Thorn, C. Alexander, and M. Tetenbaum, in ''Free Energies of Formation of Gaseous Uranium, Molybdenum, and Tungsten Trioxides,'' Journal of Physical Chemistry, vol. 64 (1960) pp. 350–355: ''gaseous monomeric uranium trioxide is the principal species produced by the reaction of U_3O_8 with oxygen'' at 1200° Kelvin and above).

In providing additional technical support of the petition, the petitioner referenced several studies regarding potential uranium toxicity, including follow-up studies of health impacts on Gulf War veterans of exposure to depleted uranium (DU) (see Section III(4) of this document). In addition to these references submitted as part of the petition, the petitioner also referenced several studies in three e-mails submitted in support of the petition as part of the public comment process. These documents, discussed in Section II of this document, were also considered as part of NRC's response to the petition in Section III(4) of this document. In addition, on April 3, 2005, the petitioner filed a separate petition (ML051240497) under 10 CFR 2.206 of the Commission's regulations regarding impacts of operation of DU munitions licensees on the public health and safety. As part of that proceeding, the petitioner submitted several additional documents related to potential impacts of uranium chemical toxicology on public health and safety and uranium chemical behavior in various environments. These studies were also considered as part of NRC's response to the petition in Section III(4) of this document. All of the supporting studies referenced by the petitioner focused on the toxicity of uranium; similar studies were not submitted regarding other heavy metals.

II. Public Comments on the Petition

The notice of receipt of the petition for rulemaking invited interested persons to submit comments. The comment period closed on August 29, 2005. NRC received eight comment letters before the comment period closed and four additional comments after the close of the comment period. There were four letters from the general public supporting the petition, including three from the petitioner. There were eight letters opposing the petition, including five from the uranium industry, one from the Nuclear Energy Institute (NEI), one from a physician, and one from an individual.

Commenters supporting the petition noted that the U.S. Code, Title 42, Section 2114, states that NRC is to protect public health and safety from non-radiological as well as radiological hazards.[2] These commenters state that current regulations are inadequate because they ignore reproductive toxicity of heavy metals and that toxins should not be released if a fully established toxicology profile is not prepared. These commenters cite information indicating that the chemical toxicity of uranium is 6 orders of magnitude greater than its radiological toxicity in vitro and that the toxicity profile for uranium combustion product inhalation in humans is unknown beyond 14 years and that uranium accumulates in testes damaging sperm cells and induces chromosome damage. These commenters referenced studies that specifically considered potential uranium reproductive toxicity on Gulf War Veterans and also referenced additional studies which cited potential chemical neurotoxicity of uranium based on studies of effects of brain function in rats following intake of uranium (see Section III(4) of this document). In referring to a U.S. Transuranium and Uranium Registries (USTUR) study cited by the uranium industry, these commenters stated that a relative amount of uranium in a human body in the USTUR study has no bearing on the question of reproductive toxicity. Instead, these commenters assert that only the extent to which the uranium may cause chromosome damage is important, and that regulators should establish uranium exposure limits to avoid unacceptable levels of reproductive harm. These commenters state that despite the amount of data being small and/or the level of harm not known, the Commission must protect public health and safety by setting acceptable exposure limits even if that requires extrapolating the existing known toxicity profile of heavy metal and assuming worst cases and/or performing additional research on uranium exposure.

Those commenters who opposed the petition noted that non-radiological effects are better, and adequately, addressed elsewhere in Federal regulations and that NRC's current regulations address both radiological and chemical toxicity of uranium. In addition, these commenters note that NRC recognizes that the chemical toxicity of uranium is greater than radiological toxicity in 10 CFR 20.1201 and that the current limits set forth in 10 CFR part 20 are protective of human health. With regard to chemical toxicity, these commenters cited a National Institute of Occupational Safety and Health study on uranium mill workers that states that mortality was less than expected and lower than the general population, and that there is no statistically significant increase in deaths due to renal failure. These

[1] 10 CFR 20.1201(e) limits soluble uranium intake to 10 mg/week, not 10 mg/day as asserted by the petitioner.

[2] U.S. Code, Title 42, Section 2114 applies to a specific category of byproduct material defined in section 11(e)(2) of the Atomic Energy Act of 1954, as amended. Section 11(e)(2) byproduct material includes ''the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.''

commenters note that this suggests that current low exposure standards have a considerable margin of safety with respect to chemical toxicity. These commenters also stated that workers engaged in handling uranium have experienced very few, if any, adverse health impacts. These commenters also provided comment on studies cited by the petitioner on reproductive toxicity and neurotoxicity (see Section III(4) of this document). These commenters cited a USTUR study which stated that levels in testes of a man exposed to uranium during a working career are not uncommon among that seen in the aged, indicating that uranium in reproductive organs is not a major issue. These commenters note that some data cited in the petition may not adequately represent American workers, are not rigorously documented, or were at doses in excess of uranium exposure limits. Thus, overall, these commenters note that, until data from rigorous toxicological studies are available, there is inadequate data on uranium toxicity at current permissible exposure levels to warrant changes to 10 CFR part 20.

III. Reasons for Denial

NRC is denying this petition. The rationale for NRC's denial of the petition is discussed as follows.

(1) NRC's Current Regulations Limiting Occupational Exposure Provide Adequate Protection of Public Health and Safety.

NRC has established standards for protection against ionizing radiation resulting from activities conducted by licensees and has codified these standards in 10 CFR Part 20. These regulations are intended to control the receipt, possession, use, transfer, and disposal of licensed material by its licensees. Licensed material is any source, byproduct, or special nuclear material received, possessed, used, transferred, or disposed of under a general or specific license issued by NRC.

Appendix B, Table 1, to 10 CFR part 20 lists ''Annual Limits on Intake'' (ALI) and ''Derived Air Concentrations'' (DAC) of radionuclides for occupational exposure. In addition to these radiological values, NRC's regulations in 10 CFR part 20 also contain the following specific limits for uranium based on chemical toxicity: § 20.1201(e) requires licensees to limit soluble uranium intake by an occupationally-exposed individual to 10 mgU/week; and Appendix B to 10 CFR part 20, Footnote 3, limits occupational exposure to mixtures of soluble uranium to an average of 2 mgU/m^3 over a 40 hour period. These uranium limits are based on chemical toxicity and are limiting in situations where the ALI and DAC would allow intake of greater than 10 mgU/week, or exposure to greater than 2 mgU/m^3 averaged over a 40 hour period.

The basis for NRC's occupational chemical toxicity limits for uranium are given in an amendment to 10 CFR part 20 (39 FR 13671; April 16, 1974) and are based on the threshold limit value (TLV) of 0.2 mgU/m^3 as adopted by the American Conference of Governmental Industrial Hygienists (ACGIH). Federal Guidance Report (FGR) No. 11, which was published by the Environmental Protection Agency's (EPA) Office of Radiation Programs, states that recommendations of the ACGIH should be consulted when limiting the airborne concentration of chemical substances in the workplace.[3] The ACGIH is an independent scientific organization made up of industrial hygienists and other occupational health and safety professionals and whose committees review existing published and peer-reviewed literature in various scientific disciplines (*e.g.*, industrial hygiene, toxicology, occupational medicine, and epidemiology). Based on these reviews, the ACGIH publishes guidelines known as TLVs for making decisions regarding safe levels of exposure to various chemical agents found in the workplace. Recommendations of the ACGIH consider health impairments that shorten life expectancy, compromise physiological function, impair ability to resist other toxic substances, or adversely affect reproductive function, and are reviewed and updated periodically. ACGIH notes that each year it publishes TLVs, provides public notice of its TLVs, invites interested parties to submit substantive data and comments to assist in its deliberations, and places certain chemicals on its ''Under Study'' list. This information and data is then collected and reviewed by an ACGIH committee and ratified, as appropriate, for inclusion in ACGIH updates on TLVs. Despite the continuing review undertaken during this process, the uranium TLV of 0.2 mgU/m^3 has not been changed by ACGIH in 30 years nor, as of May 2008, is the uranium TLV listed on the ACGIH's Under Study list on its Web site. Based on the processes for development and review of information in this area, NRC believes that its current occupational exposure limits for uranium have a sound scientific and technical basis and provide adequate protection of public health and safety.

(2) NRC's Effluent Values Provide Adequate Protection of Public Health and Safety.

In addition to occupational exposure limits, Appendix B to 10 CFR part 20 also contains concentration values for release of nuclides in effluents. Specifically, Tables 2 and 3 in Appendix B contain effluent concentration values for releases to unrestricted areas and for releases to sewers, respectively. The effluent and sewer concentration values in Tables 2 and 3 are derived by reducing the radiological occupational limits in Table 1 by a factor of 300 for air effluents, a factor of 100 for water effluents, and a factor of 10 for sewer discharges. These factors are applied to account for the substantially lower radiation dose limits applicable to the general public; increased exposure time applicable to the general public compared to occupational exposure time; different inhalation rates; and, as appropriate, age. Application of these reducing factors provides some assurance that the effluent and sewer values in Tables 2 and 3 are protective from a chemical standpoint. For example, for natural uranium and uranium-238 (two nuclides listed in 10 CFR part 20, Appendix B, which reasonably approximate DU behavior) the radiological air effluent values in Table 2 provide protection against chemical effects of uranium because the air effluent values are 300 times less than the radiological air occupational limits in Table 1. In turn, the radiological air occupational limits in Table 1 for natural uranium are similar in magnitude to the uranium chemical limit.[4] Further, the radiological water effluent and sewer discharge values for natural uranium and uranium-238 are similar in magnitude to the uranium chemical limit. As noted in footnote 4 to this document, however, absorption of soluble uranium is significantly lower for ingestion than for inhalation. In addition, with regard to sewer releases, additional dilution and removal is likely to occur prior to release to the

[3] Although the ACGIH concentration limit is based on inhalation, rather than ingestion, the § 20.1201(e) occupational intake limit (which is based on the ACGIH limit) is conservative with respect to ingestion pathways because of the significantly lower absorption of soluble uranium into the bloodstream though the gastrointestinal tract than through the lungs (Reference: Institute of Medicine ''Gulf War and Health,'' copyright 2000, National Academy Press, Washington DC).

[4] Although the chemical toxicity and radiological values are expressed in different units, they can be compared by using the specific activity of the form of uranium in question and by using, as appropriate, the air intake and ingestion intake values given in Appendix B to Part 20. Specific activity is defined as the radioactivity of a given nuclide per gram of the material.

environment, either as part of the discharge process itself or during processes which occur at the water treatment plant that processes a licensee's sewer discharges.

Other NRC regulations further limit the amount of radioactive material that may be released to unrestricted areas and sewers to levels below the public dose limits upon which the values in Tables 2 and 3 are based. These requirements include § 20.1101(b), which requires that each NRC licensee use procedures and engineering controls to achieve doses to members of the public that are ''as low as reasonably achievable (ALARA);'' §§ 20.1101(d) and 50.34a, which contain requirements for implementing the ALARA principal; and 20.1301(e), which constrains allowable doses to the public, resulting from uranium fuel cycle operations, to levels below the public dose limits upon which the values in Tables 2 and 3 are based. In addition, the assumptions used to derive the effluent values in Appendix B are considered conservative with regard to any actual exposures likely to be received because they assume continuous (24 hours/day, 7 days/week) exposure at the facility boundary without additional dilution in the environment. Application of these regulatory requirements and conservative exposure assumptions serve to limit any actual exposure likely to be received by a member of the public to levels below the values in Appendix B to 10 CFR part 20.

Based on the above, it is unlikely that any effluent releases to unrestricted areas or releases to sewers meeting the effluent limits in Appendix B to 10 CFR part 20 would result in chemically significant exposures. In addition, application of the other NRC regulations and the conservative exposure assumptions discussed previously serve to limit any actual exposures to levels below the values given in Tables 2 and 3 of Appendix B to 10 CFR part 20. Therefore, NRC believes that its current limits provide adequate protection of public health and safety.

(3) NRC's Solubility Classification Has a Sound Technical Basis.

Appendix B to 10 CFR part 20 groups uranium according to solubility classes which refer to their retention (days, weeks, years) in the pulmonary region of the lung. The solubility classifications in Appendix B to 10 CFR part 20 are consistent with those in FGR No. 11, issued by the EPA in September 1988. They are also consistent with the discussion of solubility in the U.S. Department of Health and Human Services report on toxicological profile for uranium. The solubility classifications in Appendix B to 10 CFR part 20 are taken from the International Commission on Radiological Protection (ICRP) Publication 30 issued by the ICRP (published in a series of reports, supplements, and addenda from 1979 to 1989). FGR No. 11 and ICRP Publication 30 discuss the basis for placing the uranium compounds in the different solubility classes. ICRP is an expert body in the field of establishing radiation standards and NRC often uses recommendations of that body in establishing its standards in 10 CFR part 20.

(4) Studies Presented in Support of the Petition Do Not Provide a Sufficient Reason for NRC to Revise its Current Occupational, Effluent, and Sewer Limits, and Solubility Classification.

As noted in Section I of this document, NRC considered information submitted in support of the petition, either as part of the petition, as comments on the petition, or as part of the § 2.206 petition on impacts of operation of DU munitions licensees on public health and safety. The more than 20 studies and reports referenced by the petitioner have included information based on data from Gulf War Veterans with exposure to DU during military deployment; results from studies involving exposure of animals to DU; and uranium chemical behavior in various environments. The petitioner indicated that these studies suggested renal, reproductive, and neurotoxic effects on humans that could occur as a result of exposure to DU. For example, the petitioner specifically referenced excerpts from the Gulf War studies stating conclusions, such as the risk of malformation among pregnancies being 50 percent greater for Gulf War Veterans when compared to non-Gulf War Veterans; and that infants conceived to Gulf War Veterans had significantly higher birth defects (see Docketed Comment Number 2 from James Salsman, dated June 16, 2005 (ML051680165)). The petitioner also noted that tests on rats involving exposure to DU resulted in strong evidence of DU accumulation in the testes and kidneys of the tested animals. In addition to these health effects studies, the petitioner presented data on uranium solubility in technical documents referred to in the petition (see Section I of this document) and in references to other studies as part of the separate petition filed under 10 CFR 2.206. As noted in Section II of this document, those commenters who opposed the petition provided comment on studies cited by the petitioner and did not agree that the studies cited were sufficient to support a change to 10 CFR part 20, noting specifically that study results from war-time exposures do not represent current occupational exposure limits in Part 20 and that data from animal experiments were at exposure levels well in excess of 10 CFR part 20 uranium exposure limits. In general, these commenters indicated that the studies cited are too premature and/or not rigorous enough in their methodology to support a change in NRC's regulations.

NRC has concluded that, taken as a whole, the studies submitted by the petitioner do not provide a sufficient reason to revise the occupational exposure and effluent limits or solubility values currently codified in 10 CFR part 20. For example, many of the studies referenced by the petitioner investigate the correlation between health effects and exposure to DU munitions during the Gulf War. The exposure scenarios in these Gulf War studies included scenarios of exposure to DU dusts, vapors, and aerosols; to permanently imbedded shrapnel containing DU; and to a complex, potentially synergistic, set of various agents including infectious agents, chemical warfare agents, vaccines, and environmental pollutants. Similarly, in considering the animal studies submitted by the petitioner, NRC notes that the studies did not provide conclusive dose-response relationships, suggesting instead that further specific analyses were needed. Further, the effects described in certain studies resulted from uranium exposure in excess of doses allowed by current regulations. Thus, these studies would not challenge current uranium chemical or radiological limits for humans. In addition, while the petition requested the revision of exposure and effluent limits for all heavy metal radionuclides with chemical hazards that exceed their radiological hazards, the supporting information submitted by the petitioner focused exclusively on uranium. The petitioner did not provide information or studies addressing other heavy metal radionuclides that would cause the NRC to revise the exposure and effluent limits currently codified in 10 CFR part 20. With regard to the studies on solubility, NRC does not consider the data sufficient to prompt the adoption of values different from those recommended in FGR 11 and ICRP Publication 30 because the environments considered in certain of the studies (*e.g.*, war-time environment with combustion after DU munitions hit hard targets, loss of coolant accidents) are not comparable to the broad range of licensees regulated under 10 CFR part

20, and the chemical species noted are generated by physical and chemical interactions not associated with the broad range of license activities covered by Part 20.

Thus, based on review of the referenced studies, NRC does not believe that these studies provide sufficient support for a revision to the limits and values in Part 20 because of the uncertainty in the levels of exposure in the war arena; differences in exposure scenarios; potential confounding effects of exposures to other environmental pollutants; and differences between the uranium doses evaluated in the studies and the occupational and public doses that are likely to be received given NRC's current occupational and effluent limits. In addition, the studies referenced do not provide dose-response information that would be necessary to revise NRC's uranium chemical exposure limits in a meaningful way. These studies also generally note that caution should be used in interpreting results given and that further investigations should be made. Other commenters on the petition noted that data in the studies are either already addressed by existing regulations or are premature to influence public policy with respect to the issues NRC is considering.

(5) Relationship of this Rulemaking Petition to Petitions Submitted Pursuant to 10 CFR 2.206.

The request made by the petitioner in this petition for rulemaking was limited to changes to the 10 CFR part 20 occupational exposure limits, effluent limits, and solubility categorization of heavy metal nuclides, with a particular focus on uranium. The petitioner did not directly raise specific concerns with regulations governing the licensing and operations of DU munitions licensees in his rulemaking petition. As noted in Section I of this document, on April 3, 2005, the petitioner filed a separate petition (ML051240497) under NRC's § 2.206 related to the licensing and operations of DU munitions licensees.

The NRC denied the petitioner's initial § 2.206 petition (ML051240497) on its merits in a decision dated December 30, 2005 (ML053460450). The petitioner submitted two additional § 2.206 petitions on this subject dated July 12, 2006 (ML062140659), and December 2, 2006 (ML070080059). The NRC rejected both of these petitions by letters dated September 26, 2006 (ML062640210), and May 4, 2007 (ML071170288), respectively. The NRC's § 2.206 denial and rejection letters referenced this rulemaking proceeding to the extent that the petitioner's requests constituted a generic concern about the nature and magnitude of safety hazards associated with inhaled byproducts of DU and the adequacy of NRC regulations pertaining to limits for ingestion and inhalation occupational values, effluent concentrations, and releases to sewers. With regard to these generic concerns and based on the information reviewed in evaluating this petition for rulemaking, the NRC believes that the occupational exposure and effluent limits for uranium contained in Part 20—which apply to DU munitions licensees—are adequate to protect public health and safety, and, therefore, the NRC does not believe that changes in the regulations governing licensed use of DU munitions are required at this time. As stated in the NRC's May 4, 2007, letter to the petitioner (ML071170288), the NRC does not have the statutory authority to regulate foreign or combat use of DU munitions.

IV. Conclusion

NRC is denying the petition because current NRC regulations have a sound scientific and technical basis and provide adequate protection of public health and safety. In developing these regulations, NRC considered both the radiological and chemical toxicity of uranium, ultimately adopting the TLV for uranium established by the ACGIH. The ACGIH is an expert body in the area of chemical toxicity and federal guidance recommends using ACGIH limits when setting chemical exposure limits. As discussed in Section III(1) of this document, the ACGIH has a process for updating TLVs but has not updated the uranium TLV at this time. The information provided by the petitioner does not provide a sufficient reason to initiate a revision of NRC's existing requirements. Specifically, the petitioner has not presented sufficient peer-reviewed data, pertinent to the types and levels of exposures associated with the concentration values used in Appendix B to 10 CFR part 20, to provide a sufficient reason for NRC to initiate a revision of its regulations. Thus, the NRC has decided not to expend limited resources initiating a rulemaking at this time.

For the reasons cited in this document, the NRC denies this petition.

Dated at Rockville, Maryland, this 11th day of July, 2008.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Executive Director for Operations.

[FR Doc. E8–17108 Filed 7–24–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 4, 7, 10, 102, 134 and 177

[USCBP–2007–0100]

RIN 1505–AB49

Uniform Rules of Origin for Imported Merchandise

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the U.S. Customs and Border Protection (''CBP'') Regulations to establish uniform rules governing CBP determinations of the country of origin of imported merchandise. This proposal would extend application of the country of origin rules codified in 19 CFR part 102. Those rules have proven to be more objective and transparent and provide greater predictability in determining the country of origin of imported merchandise than the system of case-by-case adjudication they would replace. The proposed change also will aid an importer's exercise of reasonable care. In addition, this document proposes to amend the country of origin rules applicable to pipe fittings and flanges, printed greeting cards, glass optical fiber, and rice preparations. Finally, this document proposes amendments to the textile regulations set forth in § 102.21 to make corrections so that the regulations reflect the language of section 334(b)(5) of the Uruguay Round Agreement Act.

DATES: Comments must be received on or before September 23, 2008.

ADDRESSES: You may submit comments, identified by docket number, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2007–0100.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any

personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*. Submitted comments may be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: Ned Leigh, Valuation and Special Programs, Office of International Trade, 202–572–8827; Heather K. Pinnock, Tariff Classification and Marking, Office of International Trade, 202–572–8828.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

II. Background

CBP notes initially that in this document, references to the U.S. Customs Service or Customs concern the former U.S. Customs Service or actions undertaken by the former U.S. Customs Service prior to its transfer to the Department of Homeland Security (''DHS'') under the Homeland Security Act and the Reorganization Plan Modification for DHS of January 30, 2003.

All merchandise imported into the United States is subject to a country of origin determination. The origin of imported goods is determined for various purposes, including admissibility into the United States, eligibility for preferential trade programs, country of origin marking requirements, and administration of the U.S. textile import program.

It is important to note that origin-related determinations are also made in the context of the scope of investigations, orders or measures pertinent to the administration of the trade remedy laws and application of trade relief (e.g., antidumping and countervailing duties under Title VII of the Tariff Act of 1930, as amended, and safeguard remedies imposed pursuant to sections 201 or 421 of the Trade Act of 1974). Although such trade remedy origin-related scope determinations generally mirror the origin determinations made by CBP in its administration of the customs laws, they may differ, and in such cases, the origin-related scope determinations made by the administering authority (the Department of Commerce), and not CBP, are dispositive for purposes of administering the trade remedy laws.[1]

Under current regulations, there are two primary methods that CBP uses to determine the country of origin of imported goods that are processed in, or contain materials from, more than one country. One method employs case-by-case adjudication to determine whether goods have been ''substantially transformed'' in a particular country, and the other method employs codified rules, also used to determine whether a good has been ''substantially transformed,'' primarily expressed through changes in tariff classification. The substantial transformation standard has developed from a series of federal court decisions issued over many years. The standard was first applied by the U.S. Supreme Court in the case of *Anheuser-Busch Brewing Association* v. *United States*, 207 U.S. 556 (1908). In that case, the Supreme Court considered whether the cleaning, sanitizing, and coating of imported beer bottle corks constituted a ''manufacture'' of the corks in the United States for drawback purposes. The Court concluded that the articles were not manufactured in the United States because the imported corks remained corks after the processing. According to the court, manufacture requires a ''transformation; a new and different article must emerge, 'having a distinctive name, character or use.' '' *Anheuser-Busch*, 207 U.S. at 562 (quoting *Hartranft* v. *Wiegmann*, 121 U.S. 609, 615 (1887)).

In *United States* v. *Gibson-Thomsen Co., Inc.*, 27 CCPA 267, C.A.D. 98 (1940), the U.S. Court of Customs and Patent Appeals applied the substantial transformation standard in a country of origin marking context, holding that imported wood brush blocks and toothbrush handles became products of the United States when processed into hairbrushes and toothbrushes, respectively. The court stated that the imported articles lost their identity and became ''an integral part of a new article having a new name, character, and use.'' Under this standard, a good must be substantially transformed in a country in order for it to be considered a product of that country. Because in almost all cases there can be only one country of origin for rules of origin purposes, the standard refers to the country in which the last substantial transformation occurs.

Despite its heritage and apparent straightforwardness, administration of the substantial transformation standard has not been without problems. These problems derive in large part from the inherently subjective nature of judgments made in case-by-case adjudications as to what constitutes a new and different article and whether processing has resulted in a new name, character, and use. The substantial transformation standard has evolved over many years through numerous court decisions and CBP administrative rulings. Because the rule has been applied on a case-by-case basis to a wide range of scenarios and has frequently involved consideration of multiple criteria, the substantial transformation standard has been difficult for the courts and CBP to apply consistently and has often resulted in a lack of predictability and certainty for both CBP and the trade community.

In an effort to simplify and standardize country of origin determinations, Customs developed a codified method that uses specified changes in tariff classification (tariff shifts) and other rules to express the substantial transformation concept. Under this codified method, the substantial transformation that an imported good must undergo in order to be deemed a good of the country where the change occurred is usually expressed in terms of a specified tariff shift as a result of further processing.

The U.S. Customs Service originally proposed simplified and standardized rules for determining a product's country of origin in a document published in the **Federal Register** on September 25, 1991 (56 FR 48448), proposing to amend the CBP Regulations to establish in Part 102,

[1] The origin-related scope determination of the administering authority (Department of Commerce) is for trade remedy purposes only; it does not alter CBP's origin determination for customs purposes unrelated to trade remedies.

uniform rules governing the determination of the country of origin of imported merchandise that is wholly obtained or produced in a single country. Customs refined and expanded the original proposal with a second proposal that was published in the **Federal Register** on January 3, 1994 (59 FR 141). In a document published in the **Federal Register** (59 FR 110) on the same day, Customs applied the proposed rules on an interim basis to trade among the NAFTA countries, in order to implement a commitment under Annex 311 of NAFTA. Based on a review of the comments received in response to the January 3, 1994, proposal, Customs published another document in the **Federal Register** on May 5, 1995 (60 FR 22312) which, in part, provided further clarification and explanation of the intent behind the proposed uniform rule concept. Later that year, Congress, in section 334 of the Uruguay Round Agreements Act, mandated a codified approach for determining the origin of textile and apparel products, except for those textile and apparel products that are products of ''a country that is party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1987.'' (This includes only the U.S.-Israel FTA.)

In Treasury Decision (T.D.) 96–48, however, published in the **Federal Register** on June 6, 1996 (61 FR 28932), Customs announced its decision not to apply the Part 102 rules more broadly than to trade among NAFTA countries, at that time. Customs noted, however, that ''the proposal to extend section 102 to all trade * * * should remain under consideration for implementation at a later date.'' (In this context, it should also be noted that in *Bestfoods* v. *United States*, 165 F.3d 1371 (Fed. Cir. 1999), the U.S. Court of Appeals for the Federal Circuit found Part 102 valid and that it was not necessary for Congress to amend the marking statute (19 U.S.C. 1304) to effect that change because ''nothing in the statute requires continued adherence to the case-by-case approach.'' (165 F.3d at 1375–76.) Shortly after the June publication of T.D. 96–48, Customs, on July 1, 1996, gave effect to section 334 of the Uruguay Round Agreements Act by implementing the Part 102 rules of origin relating to trade in textile and apparel products (found at 19 CFR 102.21), which are uniformly applicable to all textile and apparel imports except for purposes of determining whether goods originate in Israel, (*see* T.D. 95–69, published in the **Federal Register** on September 5, 1995 (60 FR 46188)).

Consequently, since 1996 the Part 102 rules have applied to all imports from Canada and Mexico, and nearly all imports of textile products, accounting for approximately 40 percent of total U.S. imports. As a result, both the importing community and CBP have extensive experience in applying the Part 102 rules to goods from Canada and Mexico. CBP's experience in administering country of origin rules using the codified method has been that, by virtue of their greater specificity and transparency, codified rules result in determinations that are more objective and predictable than under the case-by-case adjudication method.

Therefore, CBP is proposing to extend application of the Part 102 rules of origin to all country of origin determinations made under the customs and related laws and the navigation laws of the United States, unless otherwise specified.[2]

Specifically with regard to determining origin for purposes of applying preferential trade agreements, the Part 102 rules will not be used where agreements specify another origin test for that purpose. For example, application of tariff benefits under NAFTA are determined by the origin rules set out in Chapter Four of that agreement. Moreover, the Part 102 rules will not be used for making preference determinations for goods other than textile and apparel goods under the United States-Israel and United States-Jordan Free Trade Agreements because it has been the understanding of U.S. negotiators and trade officials of those governments that the case-by-case method would be used for making origin determinations for preference purposes under those agreements. CBP will, however, use the appropriate sections of Part 102 to make all other origin determinations (non-preference or preference) regarding goods from Israel and Jordan.

The Part 102 rules of origin will, however, be used to administer those free trade agreements already negotiated that use the substantial transformation standard as part of the test to determine whether products qualify for reduced tariffs where under these agreements the trade negotiators had reached an understanding that the codified rules under Part 102 should guide those determinations, to date, the United States-Bahrain and United States-Morocco Free Trade Agreements. It is also CBP's intent to apply the Part 102 rules to any FTA negotiated in the future using the substantial transformation standard, unless otherwise specified.

A. Reasonable Care

Under section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify, and determine the value of imported merchandise and to provide any other information necessary to enable CBP to assess duties properly, collect accurate statistics, and determine whether any other applicable legal requirements have been met. An importer's reasonable care obligations include ensuring that CBP entry documents reflect the correct country of origin of imported merchandise.

As explained above, CBP believes that the proposed extension of the Part 102 country of origin rules to all trade will result in determinations that are more objective, transparent, and predictable and will therefore facilitate the exercise of reasonable care by importers with respect to their obligations regarding the identification of the proper country of origin of imported merchandise.

B. Tariff Shift Rules for Pipe Fittings and Flanges, Printed Greeting Cards, Glass Optical Fiber, Rice Preparations, and Certain Textile Products

After over 10 years of concurrently administering the codified and the case-by-case methods for determining origin, CBP has identified five specific product areas in which the outcomes of the two systems have been inconsistent and for which we believe the codified rules in Part 102 should be altered: Pipe fittings and flanges, greeting cards, glass optical fiber, rice preparations, and certain textile products. The disparate outcomes for pipe fittings and flanges have been known to exist since the original proposal for the Part 102 rules; they stem from disparate outcomes in earlier adjudications under the case-by-case method. The inconsistencies for printed greeting cards, glass optical fiber, and certain textile products stem from errors in drafting Part 102. The change for rice preparations stems from a recent change in practice by CBP.

[2] Origin-related scope determinations made by the administering authority for trade remedy purposes (Department of Commerce) may differ from the origin determinations made by CBP for customs purposes. For purposes of administering the trade remedy laws, the origin-related scope determinations made by the administering authority, not CBP, are controlling. However, the origin-related scope determination of the administering authority is for trade remedy purposes only; it does not alter CBP's origin determination for customs purposes unrelated to trade remedies.

1. Pipe Fittings and Flanges

In *Midwood Industries, Inc.* v. *United States*, 64 Cust. Ct. 499, C.D. 4026, 313 F. Supp. 951 (1970), *appeal dismissed*, 57 CCPA 141 (1970), the U.S. Customs Court determined that the U.S. processor of imported rough steel forgings who subjected the forgings to several machining processes, such as boring, facing, spot facing, drilling, tapering, threading, bevelling, and heating and compressing, was the ultimate purchaser of the forgings for purposes of the country of origin marking statute, 19 U.S.C. 1304, and therefore the resulting finished fittings and flanges were not required to carry country of origin markings. In determining that the steel forgings were substantially transformed in the United States, the court found it relevant that the imported forgings were changed from producers' goods to consumers' goods.

Customs noted in a document published in the **Federal Register** on May 5, 1995 (60 FR 22312, 22315), that the Part 102 rules of origin do not stipulate that all forgings manufactured into fittings and flanges undergo a substantial transformation, and that the U.S. Court of International Trade has not employed the ''consumer-good-versus-producer-good'' analysis used by the Customs Court in *Midwood*. Customs further stated that it believed that the proposed Part 102 tariff shift rules relating to fittings and flanges would be sustained by the U.S. Court of International Trade in light of more recent court decisions as well as changes in industry practices since the date of the *Midwood* decision (1970). Following the 1995 notice, in T.D. 00–15, ''*Final Interpretation: Application of Producers' Good Versus Consumers' Good Test in Determining Country of Origin Marking*,'' published in the **Federal Register** on March 12, 2000 (65 FR 13827), Customs announced that it would no longer rely on the distinction between producers' goods and consumers' goods in making origin determinations and that all pipe fittings and flanges produced in the United States from imported forgings must be marked with the country of origin of the imported forgings. In addition, Customs informed interested parties in a notice published in the Customs Bulletin and Decisions on June 7, 2000 (34 Cust. B. & Dec. 51 (2000)), that it intended to revoke or modify (as applicable), pursuant to 19 U.S.C. 1625(c)(1), the pipe fitting and flange Customs rulings that used the distinction between producers' and consumers' goods in making country of origin marking determinations. The notice of final revocation/modification was published in the Customs Bulletin and Decisions on August 2, 2000 (34 Cust. B. & Dec. 10 (2000)).

In *Boltex Manufacturing Co.* v. *United States,* 24 CIT 972, 140 F. Supp. 2d 1339 (2000), the U.S. Court of International Trade vacated T.D. 00–15, determining that Customs had abused its discretion by encroaching on judicial authority and relying on a legal conclusion in deciding that Midwood and the producers' goods-consumers' goods distinction was no longer good law, rather than engaging in and providing a reasoned factual analysis in support of its determination that the forgings had to be marked. *Id.* at 1347, 1348. Accordingly, CBP rescinded the action announced in the August 2, 2000, Customs Bulletin notice, which had relied on vacated T.D. 00–15. Because the court in *Boltex* stated that CBP need not rely on *Midwood* in all instances, and that it may well be possible that *Midwood* would be decided differently today, CBP published in the Customs Bulletin and Decisions on November 21, 2001 (35 Cust. B. & Dec. 35 (2001)), a notice of proposed modification/revocation of rulings explaining why *Midwood* should no longer be followed for determining the country of origin applicable to pipe fittings and flanges. Following a review of the comments received and after further consideration of the judicial guidance in *Boltex,* CBP believes the codification of the substantial transformation standard as it relates to the processing of forgings into fittings and flanges is best reflected by the proposed rule set forth below, which is consistent with the result in *Midwood.*

Section 102.20(n) (Section XV: Chapters 72 through 83) of the CBP Regulations (19 CFR 102.20(n)) sets forth the tariff shift rule for determining the country of origin of goods imported from Canada or Mexico that are classified in headings 7301 through 7307, HTSUS, which include forgings, pipe fittings, and flanges of heading 7307. According to the rule, which requires ''[a] change to heading 7301 through 7307 from any other heading, including another heading within that group,'' the processing of unfinished pipe fittings and flanges into finished goods does not result in a change of origin for articles imported from a NAFTA country. As noted above, this rule was intended to codify what CBP believed reflected current industry practices and general principles enunciated by the courts since the *Midwood* decision. Based on the comments received in response to the November 21, 2001, Customs Bulletin notice, and in considering *Boltex,* CBP is proposing to amend the Part 102 rule for goods classified in heading 7301 through 7307 to provide (consistent with the result in *Midwood*) for a change within heading 7307 from fitting forgings or flange forgings to fittings or flanges made ready for commercial use by certain processing, including bevelling, bore threading, center or step boring, face machining, heat treating, recoining or resizing, taper boring, machining ends or surfaces other than a gasket face, drilling bolt holes, and burring or shot blasting.

2. Greeting Cards

In this document, CBP also proposes to amend the specific change in tariff classification rule set forth in § 102.20(j) (Section X, Chapters 47 through 49) for headings 4901 through 4911 of the HTSUS, which includes printed greeting cards. This tariff shift rule currently provides for ''[a] change to heading 4901 through 4911 from any other heading, including another heading within that group.'' With respect to greeting cards, the effect of this rule is a change in origin of an unfinished greeting card bearing no textual message (classified in heading 4911) when it is further processed in a second country by the addition of printed text (becoming a good of heading 4909). However, an unfinished greeting card bearing some printed text (classified in heading 4909) will not satisfy the tariff shift rule (and therefore will not undergo a change in origin) when it is further processed in a second country, regardless of the work performed, as the card remains classified in heading 4909. *See* Headquarters Ruling Letter (''HRL'') 962603, dated May 14, 2002.

To avoid such disparate origin results for greeting cards, this document proposes to amend the tariff shift rule for HTSUS headings 4901 through 4911 in § 102.21(j) by the creation of a specific rule for heading 4909, providing for a change to that heading from any other heading except from heading 4911 when the change is a result of adding text. The effect of this amendment is to enable the country of origin of all printed greeting cards to be determined according to the country of initial printing of literary text, photographs, graphic designs, or illustrations. This revised rule for goods of heading 4909, which reflects CBP practice in applying the substantial transformation standard to printed materials, will facilitate application of the tariff shift rule when greeting cards

classified under 4909, HTSUS, are printed in multiple countries.

3. Glass Optical Fiber

CBP is also proposing in this document to amend the specific change in tariff classification rule set forth in § 102.20(q) (Section XVIII, Chapters 90 through 92) for subheading 9001.10 of the HTSUS, which encompasses optical fibers and optical fiber bundles and cables. This tariff shift rule presently provides for ''[a] change to subheading 9001.10 from any other subheading, except from subheading 8544.70.''

In HRL 560660 dated April 9, 1999, Customs considered whether imported glass preforms, which are solid glass rods made from fused silica, are substantially transformed in the United States for purposes of the country of origin marking statute (19 U.S.C. 1304) when ''drawn'' to create glass optical fiber. Customs determined that no substantial transformation results from the drawing process as the information presented established that the specifications and qualities of the optical fiber are predetermined by the chemical and other critical attributes of the glass preform. Therefore, it was determined that the optical fiber must be marked to indicate that its country of origin is the country where the preform was produced.

Glass preforms are classified in heading 7002, HTSUS, while glass optical fiber is classified in subheading 9001.10.00, HTSUS. Under the current tariff shift rule in § 102.20(q) for subheading 9001.10, HTSUS, a change in origin results when a glass preform is drawn into optical fiber. To eliminate the inconsistency between the country of origin determination in HRL 560660 and the change in tariff classification rule for HTSUS subheading 9001.10, this document proposes to amend the tariff shift rule by providing for a change to subheading 9001.10 from any other subheading, except from subheading 8544.70 or glass preforms of heading 7002.

4. Rice Preparations

CBP is also proposing in this document to amend the specific change in tariff classification rule set forth in § 102.20(d) (Section IV, Chapters 16 through 24) for subheading 1904.90 of the HTSUS, which encompasses certain rice preparations. This tariff shift rule presently provides for ''[a] change to subheading 1904.90 from any other heading.''

In HRL 967925 dated February 28, 2006, CBP considered whether rice is substantially transformed for purposes of the country of origin marking statute (19 U.S.C. 1304) when it was processed with 2% water, 0.4% sunflower oil, 0.2% salt and 0.4% soy lecithin, placed into cups and sealed, and thermally processed. The final rice preparation was ready for consumption after the consumer places the cup in a microwave. Customs determined that no substantial transformation of the rice results from the additional mixture with the ingredients or thermal processing as the essential character of the rice was maintained. The rice was still discernable in the final product and the product was marketed as a rice product. Therefore, it was determined that the rice preparation must be marked to indicate that its country of origin is the country or countries where the rice originated. This outcome is in accord with *National Juice Products Association* v. *United States,* 628 F. Supp. 978 (CIT 1986), where the court held that foreign manufacturing concentrate processed into frozen concentrated orange juice in the United States and reconstituted orange juice was not substantially transformed in the United States.

Rice is classified in heading 1006, HTSUS, and in subheading 1008.90, HTSUS, as other cereals (including wild rice), while rice preparations are classified in subheading 1904.90, HTSUS. Under the current tariff shift rule in § 102.20(d) for subheading 1904.90, HTSUS, a change in origin results when rice is made into a rice preparation. To eliminate the inconsistency between the country of origin determination in HRL 967925 and the change in tariff classification rule for HTSUS subheading 1904.90, this document proposes to amend the tariff shift rule by providing for a change to subheading 1904.90 from any other heading, except from heading 1006 or wild rice of subheading 1008.90.

As changes in law necessitate, or when it is determined that a tariff shift rule in Part 102 does not reflect the substantial transformation standard, appropriate changes to the affected specific rules may be made.

5. Corrections to the Rules of Origin for Textile and Apparel Products

It has come to CBP's attention that the rules of origin for textile and apparel products set forth in 19 CFR 102.21 are out of alignment with the language of the statute, 19 U.S.C. 3592, in two instances. With regard to fabrics of chapter 59 of the Harmonized Tariff Schedule of the United States (HTSUS), the statute provides that a fabric of chapter 59 derives its origin from where ''the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process.'' See 19 U.S.C. 3592(b)(1)(C). However, in the case of plastic laminated fabrics of heading 5903, HTSUS, sequential application of the § 102.21 regulations allows for the origin of laminated plastic fabrics to derive from the lamination, or assembly, process and not from the fabric-formation process as intended by the statute. In order to align the regulation with the statute, CBP proposes to amend § 102.21(c)(3)(ii) by adding ''fabrics of chapter 59 and'' after ''Except for'' and before ''goods of''. The amended text would read ''Except for fabrics of chapter 59 and goods of heading * * *'' This amendment would preclude the application of the wholly assembled rule set forth in § 102.21(c)(3)(ii) to fabrics of chapter 59 and lead to application of the most important assembly or manufacturing process rule set forth in § 102.21(c)(4). As the statute makes clear that fabric formation is the origin conferring process for fabrics of chapter 59, the statute would be followed in applying § 102.21(c)(4) and determining the most important manufacturing process for purposes of determining the origin of fabrics of chapter 59.

In addition, CBP has become aware of an oversight in the drafting of the tariff shift rule for goods of heading 6212 set forth in § 102.21(e). As currently written, ''brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted,'' of heading 6212 are grouped with goods of headings 6210 and 6211. The tariff shift rules for these goods do not provide for the possibility of knit to shape goods. The body supporting garments of heading 6212 may be knitted or crocheted and may be knit to shape. Therefore, in order to ensure that a knit to shape good of heading 6212 is found to derive its origin from where the good was knit to shape in accordance with 19 U.S.C. 3592(b)(2)(A)(ii), CBP proposes to amend § 102.21(e) as follows: (1) The tariff shift rules currently designated for headings ''6210—6212'' will be designated as for headings ''6210—6211''; (2) separate tariff shift rules will be added to § 102.21(e) for heading 6212 which will repeat the current rules applicable for that heading with the addition of language limiting application of the rules to goods which are not knit to shape and an additional tariff shift rule will be added for knit to shape goods. The proposed tariff shift rules for heading 6212 will read:

(1) If the good is not knit to shape and consists of two or more component parts, a

change to an assembled good of heading 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

(2) If the good is not knit to shape and does not consist of two or more component parts, a change to heading 6212 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.

(3) If the good is knit to shape, a change to heading 6212 from any other heading, provided that the knit to shape components are knit in a single country, territory, or insular possession.

C. Relation to International Standardization Effort

The United States has been an active participant in the ongoing effort to standardize non-preferential rules of origin on the international level. This effort, under the auspices of the World Trade Organization and in cooperation with the World Customs Organization, also focuses on change in tariff classification as a means to express substantial transformation. When the undertaking began in 1994, participants intended to complete their work within three years. It is still ongoing at this time. This proposal to extend application of the Part 102 rules is in no way intended to supplant U.S. participation or positions in that effort.

III. Discussion of Proposals

This document proposes to amend Part 102 of the CBP Regulations, § 102.0 (Scope), to set forth the scope of areas for which the rules of origin set forth in Part 102 are to be used to make country of origin determinations. As a result of the proposed changes to § 102.0, the Part 102 rules of origin will be applicable for all purposes for which a ''product of'' or ''country of origin'' criterion is prescribed under the customs and related laws, the navigation laws of the United States, and the CBP Regulations, except for the purpose of determining whether a good other than a textile or apparel good is entitled to preferential treatment under our free trade agreements with Israel and Jordan, or unless otherwise specified,[3] or as otherwise provided for by statute. The term ''product of'' encompasses any requirement that a good be ''wholly the growth, product or manufacture'' of a country; substantially transformed in a country; a new and different product or a new or different article of commerce as a result of processing performed in a country; or the growth, product or manufacture of a country. In addition, § 102.0 is proposed to be amended by removing the specific reference to the U.S.—Bahrain Free Trade Agreement, as this reference is no longer necessary as a result of the proposed changes described above.

Consistent with the proposed changes to § 102.0 described above, this document also proposes to add a cross-reference to the definition of ''wholly obtained or produced in a country'' set forth in § 102.1(g) to all provisions in the CBP Regulations where the phrase ''wholly the growth, product or manufacture'' or a similar phrase is used for origin purposes, except where otherwise defined by statute (*e.g.*, U.S.-Morocco and U.S.-Bahrain Free Trade Agreements). Similarly, CBP proposes to add a cross-reference to the rules of origin in Part 102 to all provisions in the CBP Regulations in which the phrases ''country of origin,'' ''substantial transformation,'' a ''new and different product,'' and a ''new and different article of commerce'' are used for origin purposes. These proposed amendments affect Parts 4, 7, 10, 102, 134, and 177, CBP Regulations (19 CFR parts 4, 7, 10, 102, 134, and 177).

As a result of the proposed amendments set forth in this document, the Part 102 rules would be used to determine whether a good meets the ''product of'' criterion for receiving duty preference under General Note (''GN'') 3(a)(iv), HTSUS (U.S. insular possessions); GN 3(a)(v), HTSUS (West Bank, Gaza Strip or qualifying industrial zones); GN 4(b) and (c), HTSUS (Generalized System of Preferences (''GSP'')); GN 7(b), HTSUS (Caribbean Basin Economic Recovery Act (''CBERA''); GN 10(b), HTSUS (Freely Associated States); GN 11(b), HTSUS (Andean Trade Preferences Act (''ATPA'')); GN 16(b), HTSUS (African Growth and Opportunity Act (''AGOA'')); GN 27(b)(ii), HTSUS (U.S.-Morocco Free Trade Agreement); and GN 30(b)(ii), HTSUS (U.S.-Bahrain Free Trade Agreement). The applicable value-content requirements and any other rules under these programs, however, must still be met in order for a good to qualify for the duty preference.

The proposed amendments to Part 134 concerning country of origin marking also propose that the Part 102 rules would be used to determine both the country of origin of imported foreign articles and whether imported articles that are further processed become goods of the United States for purposes of identifying the goods' ''ultimate purchaser.''

In addition, this document proposes to change the specific tariff shift rules set forth in 19 CFR 102.20 that apply to printed greeting cards classified in heading 4909 of the HTSUS, fittings and flanges classified in heading 7307, HTSUS, glass optical fiber classified in subheading 9001.10, HTSUS, and rice preparations classified in subheading 1904.90, HTSUS.

Finally, this document proposes amendments to the textile regulations set forth in § 102.21 in order to more closely align the regulations with the language of the statute, 19 U.S.C. 3592, and also to remedy an oversight in the drafting of the tariff shift rule for goods of heading 6212 set forth in § 102.21(e).

IV. The Regulatory Flexibility Act and Executive Order 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities because the amendments reflect recent judicial guidance and standardize country of origin marking requirements for NAFTA and non-NAFTA trade. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

V. Signing Authority

This document is being issued by CBP in accordance with § 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)), pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

List of Subjects

19 CFR Part 4

Administrative practice and procedure, Cargo vessels, Coastwise trade, Freight, Imports, Landing, Merchandise, Shipping, Vessels.

[3] Origin-related scope determinations made by the administering authority for trade remedy purposes (Department of Commerce) may differ from the origin determinations made by CBP for customs purposes. For purposes of administering the trade remedy laws, the origin-related scope determinations made by the administering authority, not CBP, are controlling. However, the origin-related scope determination of the administering authority is for trade remedy purposes only; it does not alter CBP's origin determination for customs purposes unrelated to trade remedies.

19 CFR Part 7

Customs duties and inspection, Imports, Insular possessions, Reporting and recordkeeping requirements.

19 CFR Part 10

American goods, Assembly, Customs duties and inspection, Entry, Imports, Preference Programs, Reporting and recordkeeping requirements, Shipments, Trade agreements.

19 CFR Part 102

CBP duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

19 CFR Part 134

Canada, Country of origin, Customs duties and inspection, Imports, Labeling, Marking, Mexico, Packaging and containers, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 177

Administrative practice and procedure, Government procurement, Reporting and recordkeeping requirements, Rulings, Trade agreements.

Proposed Amendments to the Regulations

Accordingly, CBP proposes to amend parts 4, 7, 10, 12, 102, 134, and 177 of the CBP Regulations (19 CFR parts 4, 7, 10, 102, 134, and 177) as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. App. 3, 91.

* * * * *

2. Section 4.80b is amended by adding a sentence at the end of paragraph (a) to read as follows:

§ 4.80b Coastwise transportation of merchandise.

(a)* * * For purposes of this section, merchandise is manufactured or processed into a new and different product when it has undergone a change in country of origin under the provisions of §§ 102.1 through 102.21 of this chapter.

* * * * *

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANOMO BAY NAVAL STATION

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

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624; 48 U.S.C. 1406i.

4. Section 7.3 is amended by revising paragraph (b) to read as follows:

§ 7.3 Duty-free treatment of goods imported from insular possessions of the United States other than Puerto Rico.

* * * * *

(b) *Origin of goods.* (1) For purposes of this section, and subject to paragraph (b)(2) of this section, goods shall be considered to be the growth, product of, or manufactured or produced in, an insular possession if:

(i) The goods are wholly the growth or product of the insular possession; or

(ii) The goods became a new and different article of commerce as a result of production or manufacture performed in the insular possession.

(2) For purposes of this section, the expression ''wholly the growth or product'' refers to articles and materials wholly obtained or produced within the meaning of § 102.1(g) of this chapter. For purposes of paragraph (b) of this section, a ''new and different article of commerce'' exists when the country of origin of a good which is produced in an insular possession from foreign materials is determined to be that insular possession under §§ 102.1 through 102.21 of this chapter.

* * * * *

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

5. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

6. Section 10.12 is amended by revising the last sentence of paragraph (e) to read as follows:

§ 10.12 Definitions.

* * * * *

(e) * * * If the article consists wholly or partially of foreign components or materials, the manufacturing process must be such that the foreign components or materials have been substantially transformed as provided in § 10.14(b) of this part.

7. Section 10.14 is amended by revising paragraph (b) to read as follows:

§ 10.14 Fabricated components subject to the exemption.

* * * * *

(b) *Substantial transformation of foreign-made articles or materials.* Foreign made articles or materials will become products of the United States if they undergo a process of manufacture in the United States which results in their substantial transformation. For purposes of this section and § 10.12(e) of this part, substantial transformation occurs when the country of origin of a good which is produced in the United States from foreign materials is determined to be the United States under §§ 102.1 through 102.21 of this chapter.

Example 1. Unfinished automotive crankshaft forgings, classified in subheading 8483.10, HTSUS, are imported into the United States for further processing. In the United States, the importer machines, drills, and heat treats the forging to produce a finished crankshaft. The finished article also is classified in subheading 8483.10, HTSUS. Under § 102.20 of this chapter, the applicable tariff shift rule for goods classified in subheading 8483.10 requires a change to that subheading from any other subheading. The further processing does not result in the article becoming a product of the United States because the requisite tariff shift is not satisfied. By application of the residual rules in § 102.11, the origin of the finished crankshaft is determined to be the country of origin of the imported forging.

Example 2. Optical fiber, classified in subheading 9001.10, HTSUS, is imported into the United States. After importation, the U.S. importer sheaths and insulates the individual optical fibers in color-coated plastic. The further-processed optical fiber is classified in 8544.70, HTSUS. The applicable tariff shift rule in § 102.20 of this chapter for articles classified within subheadings 8544.11 through 8544.70, HTSUS, requires a change in tariff classification from any other subheading, including a subheading within that group, except when the tariff shift results from a simple assembly. Because the further processing results in a change from a good of subheading 9001.10 to a good of subheading 8544.70 (by more than a simple assembly), the tariff shift requirement is satisfied and the finished optical fibers are determined to be products of the United States.

8. Section 10.171 is amended by adding a new paragraph (c) to read as follows:

§ 10.171 General.

* * * * *

(c) *Wholly the growth, product, or manufacture defined.* For purposes of §§ 10.171 through 10.178, the expression ''wholly the growth, product, or manufacture'' refers to articles and materials wholly obtained or produced within the meaning of § 102.1(g) of this chapter.

9. Section 10.176 is amended by adding a sentence at the end of paragraph (a)(1) to read as follows:

§ 10.176 Country of origin criteria.

(a) * * *

(1) * * * For purposes of this section, a ''new and different article of commerce'' exists when the country of origin of a good which is produced in a beneficiary developing country from foreign materials is determined to be that beneficiary developing country under §§ 102.1 through 102.21 of this chapter.

* * * * *

10. Section 10.191 is amended by revising paragraph (b)(3) to read as follows:

§ 10.191 General.

* * * * *

(b) * * *

(3) *Wholly the growth, product, or manufacture.* For purposes of § 10.191 through § 10.199, the expression ''wholly the growth, product, or manufacture'' refers to articles and materials wholly obtained or produced within the meaning of § 102.1(g) of this chapter.

* * * * *

11. Section 10.195 is amended by adding a sentence at the end of paragraph (a)(1) to read as follows:

§ 10.195 Country of origin criteria.

(a) * * *

(1) * * * For purposes of this section, a ''new and different article of commerce'' exists when the country of origin of a good which is produced in a beneficiary country from foreign materials is determined to be that beneficiary country under §§ 102.1 through 102.21 of this chapter.

* * * * *

12. Section 10.199 is amended by adding a sentence at the end of paragraph (e)(1) to read as follows:

§ 10.199 Duty-free entry for certain beverages produced in Canada from Caribbean rum.

* * * * *

(e) * * *

(1) * * * For purposes of this section, the expression ''wholly the growth, product, or manufacture'' refers to articles and materials wholly obtained or produced within the meaning of § 102.1(g) of this chapter, and a ''new and different article of commerce'' exists when the country of origin of a good which is produced in a beneficiary country or the U.S. Virgin Islands from foreign materials is determined to be that beneficiary country or the U.S. Virgin Islands under §§ 102.1 through 102.20 of this chapter.

* * * * *

13. Section 10.202 is amended by revising paragraph (d) to read as follows:

§ 10.202 Definitions.

* * * * *

(d) *Wholly the growth, product, or manufacture.* The expression ''wholly the growth, product, or manufacture'' refers to articles and materials wholly obtained or produced within the meaning of § 102.1(g) of this chapter.

14. Section 10.205 is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 10.205 Country of origin criteria.

* * * * *

(b) *New and different article of commerce.* For purposes of this section, a ''new and different article of commerce'' exists when the country of origin of a good which is produced in a beneficiary country from foreign materials is determined to be that beneficiary country under the provisions of §§ 102.1 through 102.21 of this chapter.

* * * * *

15. Section 10.252 is amended by adding a new definition in alphabetical order to read as follows:

§ 10.252 Definitions.

* * * * *

Wholly the growth, product, or manufacture. ''Wholly the growth, product, or manufacture'' refers to articles and materials wholly obtained or produced within the meaning of § 102.1(g) of this chapter.

16. Section 10.253 is amended by redesignating paragraph (c)(2) as paragraph (c)(3) and by adding a new paragraph (c)(2) to read as follows:

§ 10.253 Articles eligible for preferential treatment.

* * * * *

(c) * * *

(2) *New and different article of commerce.* For purposes of this section, a ''new and different article of commerce'' exists when the country of origin of a good which is produced in an ATPDEA beneficiary country from foreign materials is determined to be that beneficiary country under the provisions of §§ 102.1 through 102.21 of this chapter.

* * * * *

17. Section 10.769 is amended by revising paragraph (i) to read as follows:

§ 10.769 Definitions.

* * * * *

(i) *New or different article of commerce.* A ''new or different article of commerce'' exists when the country of origin of a good which is produced in a Party from foreign materials is determined to be that country under the provisions of §§ 102.1 through 102.21 of this chapter.

* * * * *

PART 102—RULES OF ORIGIN

18. The authority citation for part 102 continues to read as follows:

Authority: 7 U.S.C. 1854, 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

19. Section 102.0 is revised to read as follows:

§ 102.0 Scope.

This part sets forth rules for determining the country of origin of imported goods for purposes of the customs and related laws and the navigation laws of the United States. Except for the purpose of determining whether goods are entitled to preferential treatment under the U.S.-Israel or U.S,-Jordan FTAs, or unless otherwise specified [4], or as otherwise provided for by statute, the rules set forth in §§ 102.1 through 102.20 apply for all such purposes where a requirement exists to determine the ''country of origin'' of a good or whether a good is: wholly the growth, product or manufacture of a country; substantially transformed in a country; a new and different product or a new or different article of commerce as a result of processing performed in a country; or the growth, product or manufacture of a country. The rules in §§ 102.1 through 102.20 also apply for determining the country of origin of imported goods for the purposes specified under Annex 311 of the North American Free Trade Agreement (''NAFTA''). The rules for determining the country of origin of textile and apparel products set forth in § 102.21 and § 102.22 also apply for the other purposes stated in those sections. Sections 102.23 through 102.25 set forth certain procedural requirements relating to the importation of apparel products.

20. In the table in § 102.20:

[4] Origin-related scope determinations made by the administering authority for trade remedy purposes (Department of Commerce) may differ from the origin determinations made by CBP for customs purposes. For purposes of administering the trade remedy laws, the origin-related scope determinations made by the administering authority, not CBP, are controlling. However, the origin-related scope determination of the administering authority is for trade remedy purposes only; it does not alter CBP's origin determination for customs purposes unrelated to trade remedies.

A. Paragraph (d), titled ''Section IV: Chapters 16 through 24,'' is amended by revising the entry for 1904.90;

B. Paragraph (j), titled ''Section X: Chapters 47 through 49,'' is amended by removing the entry for 4901–4911, and by adding three new entries for 4901–4908, 4909, and 4910–4911;

C. Paragraph (n), titled ''Section XV: Chapters 72 through 83,'' is amended by revising the entry for 7301–7307; and

D. Paragraph (q), titled ''Section XVIII: Chapters 90 through 92,'' is amended by revising the entry for 9001.10.

The additions and revisions read as follows:

§ 102.20 Specific rules by tariff classification.

* * * * *

HTSUS	Tariff shift and/or other requirements
*	*
(d)	Section IV: Chapters 16 through 24.
*	*
1904.90	A change to subheading 1904.90 from any other heading, except from heading 1006 or wild rice of subheading 1008.90.
*	*
(j)	Section X: Chapters 47 through 49.
*	*
4901–4908	A change to heading 4901 through 4908 from any other heading, including another heading within that group.
4909	A change to heading 4909 from any other heading, except from heading 4911 when the change is a result of adding text.
4910–4911	A change to heading 4910 through 4911 from any other heading, including another heading within that group.
*	*
(n)	Section XV: Chapters 72 through 83.
*	*
7301–7307	A change to heading 7301 through 7307 from any other heading, including another heading within that group, or a change within heading 7307 from fitting forgings or flange forgings to fittings or flanges made ready for commercial use by: (a) at least one of the following processes: (1) bevelling; (2) threading of the bore; (3) center or step boring; or (4) machining the gasket face; and (b) at least two of the following processes: (1) heat treating; (2) recoining or resizing; (3) taper boring; (4) machining ends or surfaces other than a gasket face; (5) drilling bolt holes; or (6) burring or shot blasting.
*	*
(q)	Section XVIII: Chapters 90 through 92.
9001.10	A change to subheading 9001.10 from any other subheading, except from subheading 8544.70 or glass preforms of heading 7002.
*	*

21. Section 102.21 is amended by revising paragraph (c)(3)(ii) and by removing the entry for 6210–6212 and adding new entries for 6210–6211 and 6212 in the table in paragraph (e)(1) to read as follows:

§ 102.21 Textile and apparel products.

* * * * *

(c) * * *

(3) * * *

(ii) Except for fabrics of chapter 59 and goods of heading 5609, 5807, 5811, 6213, 6214, 6301 through 6306, and 6308, and subheadings 6209.20.5040, 6307.10, 6307.90, and 9404.90, if the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

* * * * *

(e) * * *

(1) * * *

HTSUS	Tariff shift and/or other requirements
*	*
6210–6211	(1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6211 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

HTSUS	Tariff shift and/or other requirements
	(2) If the good does not consist of two or more component parts, a change to heading 6210 through 6211 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6212	(1) If the good is not knit to shape and consists of two or more component parts, a change to an assembled good of heading 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
	(2) If the good is not knit to shape and does not consist of two or more component parts, a change to heading 6212 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
	(3) If the good is knit to shape, a change to heading 6212 from any other heading, provided that the knit to shape components are knit in a single country, territory, or insular possession.

* * * * * * *

PART 134—COUNTRY OF ORIGIN MARKING

22. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1304, 1624.

23. Section 134.1 is amended by revising paragraphs (b), (d)(1) and (d)(2) to read as follows:

§ 134.1 Definitions.

* * * * *

(b) *Country of origin.* ''Country of origin'' means the country of manufacture, production, or growth of any article of foreign origin entering the United States as determined under §§ 102.1 through 102.21 of this chapter.

* * * * *

(d) * * *

(1) If an imported article will be further processed in the United States, the processor will be the ''ultimate purchaser'' if the country of origin of the processed good is determined to be the United States under §§ 102.1 through 102.21 of this chapter.

(2) If the country of origin of the processed good is not determined to be the United States under §§ 102.1 through 102.21 of this chapter, the consumer or user of the article, who obtains the article after the processing, will be regarded as the ''ultimate purchaser.''

* * * * *

24. Section 134.35 is revised to read as follows:

§ 134.35 Articles effecting a change in country of origin.

If an imported article will be used in further processing in the United States, the processor will be considered the ultimate purchaser if the processed good is determined to be a good of the United States under §§ 102.1 through 102.21 of this chapter. In such a case, the imported article is excepted from individual marking pursuant to 19 U.S.C. 1304(a)(3)(D) and § 134.32(d) of this part, provided the outermost container in which it is imported will reasonably indicate the country of origin of the article to the ultimate purchaser.

PART 177–ADMINISTRATIVE RULINGS

25. The authority citation for part 177 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1502, 1624, 1625.

26. Section 177.22 is amended by revising paragraph (a) to read as follows:

§ 177.22 Definitions.

(a) *Country of origin.* (1) For purposes of this subpart, an article is a product of a country or instrumentality only if:

(i) It is wholly the growth, product, or manufacture of that country or instrumentality; or

(ii) In the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce.

(2) The term ''instrumentality'' will not be construed to include any agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community. For purposes of this section, the expression ''wholly the growth, product, or manufacture'' refers to articles wholly obtained or produced within the meaning of § 102.1(g) of this chapter, and a substantial transformation into a ''new and different article of commerce'' occurs when the country of origin of an article which is produced in a country or instrumentality from foreign materials is determined to be that country or instrumentality under §§ 102.1 through 102.21 of this chapter.

* * * * *

W. Ralph Basham,

Commissioner, U.S. Customs and Border Protection.

Approved: July 21, 2008.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. E8–17025 Filed 7–24–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD–2008–HA–0029; 0720–AB22]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/ TRICARE: Inclusion of TRICARE Retail Pharmacy Program in Federal Procurement of Pharmaceuticals

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: Section 703 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA–08) states with respect to any prescription filled on or after the date of enactment of the NDAA, the TRICARE retail pharmacy program (TRRx) shall be treated as an element of the DoD for purposes of procurement of drugs by Federal agencies under section 8126 of title 38, United States Code (U.S.C.), to the extent necessary to ensure pharmaceuticals paid for by the DoD that are provided by network retail pharmacies under the program to eligible covered beneficiaries are subject to the pricing standards in such section 8126. NDAA–08 was enacted on January 28, 2008. The statute requires implementing regulations. This

proposed rule is to implement section 703 of the NDAA 2008.

DATES: Written comments received at the address indicated below by September 23, 2008 will be considered and addressed in the final rule.

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://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Captain William Blanche, TRICARE Management Activity, telephone (703) 681–2890.

SUPPLEMENTARY INFORMATION:

A. Background

Section 703 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA–08) (Pub. L. 110–181) enacted 10 U.S.C. 1074g(f). It provides that with respect to any prescription filled on or after the date of enactment of the NDAA, the TRRx shall be treated as an element of the DoD for purposes of procurement of drugs by Federal agencies under section 8126 of title 38, United States Code (U.S.C.), to the extent necessary to ensure pharmaceuticals paid for by the DoD that are provided by network retail pharmacies under the program to eligible covered beneficiaries are subject to the pricing standards in such section 8126. NDAA–08 was enacted on January 28, 2008. The statute requires implementing regulations.

The Veterans Health Care Act (VHCA) of 1992, codified at 38 U.S.C. 8126, established Federal Ceiling Prices (FCPs) of covered pharmaceuticals (requiring a minimum 24% discount off non-Federal average manufacturing prices—''non-FAMP'') procured by the four designated agencies covered in the Act: Department of Veterans Affairs (VA), DoD, Coast Guard, and the Public Health Service/Indian Health Service. The non-FAMP is the average price paid to the manufacturer by wholesalers (or, if there are insufficient wholesale sales, others who purchase directly from the manufacturer) for drugs distributed to non-federal purchasers, taking into account any cash discounts or similar reductions given to those purchasers. The VA administers the VHCA discount program on behalf of the four specified agencies. The DoD consulted closely with the VA in the development of this proposed rule.

The TRICARE Pharmacy Benefits Program operates under the authority of 10 U.S.C. 1074g. It provides outpatient drugs to TRICARE beneficiaries through Military Treatment Facility (MTF) pharmacies, the TRICARE mail order pharmacy program (TMOP), and a TRRx consisting of TRICARE Retail Pharmacy Network and retail non-network pharmacies. As implemented, the new statutory requirement will only apply to pharmaceuticals paid for by DoD and provided to eligible beneficiaries through the TRICARE Retail Pharmacy Network.

The TRICARE Retail Pharmacy Network is managed under a single Pharmacy Benefits Manager contract, linked to the DoD Pharmacy Benefits Office, and enabled by a management information system to verify beneficiary eligibility, check for potential drug interactions, and authorize payment for the pharmaceuticals used to fill the beneficiary's prescription. The management information system also records data on all prescriptions filled through the Retail Pharmacy Network, permitting an accurate accounting of all retail network pharmaceuticals paid for by DoD under the TRICARE Pharmacy Benefits Program. Since the beginning of the FCP program, outpatient pharmaceuticals provided by DoD through MTF pharmacies have been subject to FCPs, as have those under the TMOP program since it began. Implementation of similar applicability to the TRICARE Retail Pharmacy Network component of the Program is the subject of this proposed regulation.

B. Provisions of the Rule

The proposed rule would add a new paragraph (q) to § 199.21. Paragraph (q)(1) repeats the new statutory requirement. Paragraph (q)(2) provides that an agreement by a manufacturer to honor the FCPs in the Retail Pharmacy Network component of the Pharmacy Benefits Program is a condition of inclusion of a drug on the uniform formulary. Further, it states that a drug not under such an agreement requires preauthorization to be provided through the Retail Pharmacy Network. In addition, it indicates that drugs covered by this requirement are TRICARE Retail Pharmacy Network provided drugs that are covered by the VA's FCP program, except any prescription for which the TRICARE Pharmacy Benefits Program is the second payer. While DoD proposes in this rulemaking to enter into voluntary agreements with manufacturers that would make prescriptions filled on or after the date of enactment of NDAA–08 subject to FCPs, the Department solicits comment regarding any other appropriate and legally permissible implementation approach and/or date from which to begin making prescriptions filled in the Retail Pharmacy Network subject to FCPs. DoD is specifically interested in the legal justification, including under section 703 of NDAA–08, for any alternative implementation approaches and/or dates that commenters may propose.

Paragraph (q)(3) establishes refund procedures to, in the words of the statute, ''ensure that pharmaceuticals paid for by the DoD that are provided by pharmacies under the program to eligible covered beneficiaries under this section are subject to the pricing standards'' of the FCP program. The refund procedures will, to the extent practicable, incorporate common industry practices for implementing pricing agreements between manufacturers and large pharmacy benefit plan sponsors. Such procedures shall provide the manufacturer at least 70 days from the date of submission by TMA to the manufacturer (initially expected to be on a quarterly basis) of the TRICARE pharmaceutical utilization data needed to calculate the refund before the refund payment is due. The basis of the refund will be the difference between the average non-federal price of the drug sold by the manufacturer to wholesalers, as represented by the most recent annual non-FAMP (reported to VA) and the FCP or, in the discretion of the manufacturer, the difference between FCP and direct commercial contract sales prices specifically attributable to TRICARE paid pharmaceuticals, determined for each applicable National Drug Code (NDC) listing. Further, this paragraph of the rule provides that a refund due under the statute is subject to the overpayment recovery procedures of § 199.11 of the TRICARE regulation.

Finally, paragraph (q)(4) states that in the case of the failure of a manufacturer of a covered drug to make or honor an agreement to ensure that DoD pays no more than the FCP for covered drugs provided through the TRICARE Retail Pharmacy Network component of the program, the Director, TMA, in addition

to other actions referred to in the rule, may take any other action authorized by law.

C. Regulatory Procedures

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

Executive Order (EO) 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined primarily as one that would result in an effect of $100 million or more in any one year. The DoD has examined the economic, legal, and policy implications of this proposed rule and has concluded that it is an economically significant regulatory action under section 3(f)(1) of the EO. The economic impact of applying Federal Ceiling Prices to the TRICARE Retail Pharmacy Network is in the form of reducing the prices of drugs paid for by DoD in the retail pharmacy component of the TRICARE Pharmacy Benefits Program, making them comparable to the prices paid by DoD in the Military Treatment Facility and Mail Order Pharmacy components of the program.

A recent Government Accountability Office Report, ''DoD Pharmacy Program: Continued Efforts Needed to Reduce Growth in Spending at Retail Pharmacies,'' April 2008 (GAO–08–327), found that DoD's drug spending ''more than tripled from $1.6 billion in fiscal year 2000 to $6.2 billion in fiscal year 2006'' and that retail pharmacy spending ''drove most of this increase, rising almost nine-fold from $455 million to $3.9 billion and growing from 29 percent of overall drug spending to 63 percent.'' DoD concurs in these findings. The principal economic impact of this proposed rule is to moderate somewhat the rate of growth in the retail pharmacy component of the program.

DoD has estimated the reduced spending associated applying Federal Ceiling Prices to the Retail Pharmacy Network. DoD funds the Military Health System through two separate mechanisms. One is the Defense Health Program (DHP) appropriation, which pays for health care for all beneficiaries except those who are also eligible for Medicare. DoD-funded health care for DoD beneficiaries who are also eligible for Medicare is paid for by way of an accrual fund called the Medicare-Eligible Retiree Health Care Fund (MERHCF) under 10 U.S.C Chapter 56. Funds are paid into the MERHCF from military personnel appropriations and the general U.S. treasury. DoD estimated cost reductions from applying Federal Ceiling Prices to the TRICARE Retail Pharmacy Network in Fiscal Years 2009 through 2011 are:

	Millions
FY–2009 DHP Reduced Spending	$352
FY–2009 MERHCF Reduced Spending	367
FY–2010 DHP Reduced Spending	388
FY–2010 MERHCF Reduced Spending	404
FY–2011 DHP Reduced Spending	427
FY–2011 MERHCF Reduced Spending	444

As a frame of reference, total TRICARE Pharmacy Benefits Program spending (incorporating these spending reductions) is estimated to be $8 billion in FY–2009, $8.4 billion in FY–2010, and $9.3 billion in FY–2011.

Congressional Review Act, 5 U.S.C. 801, et seq.

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This proposed rule is a major rule under the Congressional Review Act. As noted above, applying Federal Ceiling Prices to the TRICARE Retail Pharmacy Network will reduce DoD spending on pharmaceuticals by more than $100 million per year.

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

This rule 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 (adjusted for inflation) in any one year.

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

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. DoD does not anticipate that this regulation will result in changes that would impact small entities, including retail pharmacies, whose reimbursements are not affected by the proposed rule. In addition, drugs newly subject to implementation of Federal Ceiling Prices under the proposed rule represent less than 2% of manufacturers' prescription drug sales. Therefore, this proposed rule is not expected to result in significant impacts on a substantial number of small entities.

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

This proposed rule contains information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3511). This consists of responding to the periodic TMA report of the TRICARE prescription utilization data needed to calculate the refund. This information collection has been approved with OMB Control Number 0720–0032. No person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Executive Order 13132, ''Federalism''

This proposed rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have 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.

Public Comments Invited

This is a proposed rule. DoD invites public comments on all of its provisions.

List of Subjects in 32 CFR Part 199

Claims, Health care, Health insurance, Military personnel, Pharmacy benefits.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[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 199.21 is amended by adding a new paragraph (q), to read as follows:

§ 199.21. Pharmacy Benefits Program.

* * * * *

(q) *Pricing standards for retail pharmacy program.*—(1) *Statutory requirement.*—As required by 10 U.S.C. 1074g(f), with respect to any prescription filled on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008, the TRICARE retail pharmacy program shall be treated as an element of the

DoD for purposes of the procurement of drugs by Federal agencies under 38 U.S.C. 8126 to the extent necessary to ensure pharmaceuticals paid for by the DoD that are provided by pharmacies under the program to eligible covered beneficiaries under this section are subject to the pricing standards in such section 8126.

(2) *Manufacturer written agreement.* (i) A written agreement by a manufacturer to honor the pricing standards required by 10 U.S.C. 1074g(f) and referred to in paragraph (q)(1) of this section for pharmaceuticals provided through retail network pharmacies shall with respect to a particular covered drug be a condition for:

(A) Inclusion of that drug on the uniform formulary under this section; and

(B) Availability of that drug through retail network pharmacies without preauthorization under paragraph (k) of this section.

(ii) A covered drug not under an agreement under paragraph (q)(2)(i) of this section requires preauthorization under paragraph (k) of this section to be provided through a retail network pharmacy under the Pharmacy Benefits Program. This preauthorization requirement does not apply to other points of service under the Pharmacy Benefits Program.

(iii) For purposes of this paragraph (q)(2), a covered drug does not include:

(A) A drug that is not a covered drug under 38 U.S.C. 8126;

(B) A drug provided under a prescription that is not covered by 10 U.S.C. 1074g(f);

(C) A drug that is not provided through a retail network pharmacy under this section;

(D) Any pharmaceutical for which the TRICARE Pharmacy Benefits Program is the second payer under paragraph (m) of this section; and

(E) Any other exception, consistent with law, established by the Director, TMA.

(3) *Refund procedures.* (i) The agreement referred to in paragraph (q)(2) of this section shall include refund procedures to ensure that pharmaceuticals paid for by the DoD that are provided by retail network pharmacies under the pharmacy benefits program are subject to the pricing standards referred to in paragraph (q)(1) of this section.

(ii) The refund procedures referred to in paragraph (q)(3)(i) of this section shall, to the extent practicable, incorporate common industry practices for implementing pricing agreements between manufacturers and large pharmacy benefit plan sponsors. Such procedures shall provide the manufacturer at least 70 days from the date of the submission of the TRICARE pharmaceutical utilization data needed to calculate the refund before the refund payment is due. The basis of the refund will be the difference between the average non-federal price of the drug sold by the manufacturer to wholesalers, as represented by the most recent annual non-Federal average manufacturing prices (non-FAMP) (reported to the Department of Veterans Affairs (VA)) and the FCP or, in the discretion of the manufacturer, the difference between the FCP and direct commercial contract sales prices specifically attributable to the reported TRICARE paid pharmaceuticals, determined for each applicable NDC listing.

(iii) A refund due under this paragraph (q) is subject to § 199.11 of this part.

(4) *Remedies.* In the case of the failure of a manufacturer of a covered drug to make or honor an agreement under this paragraph (q), the Director, TMA, in addition to other actions referred to in this paragraph (q), may take any other action authorized by law.

* * * * *

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–17024 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

Notices

Federal Register
Vol. 73, No. 144
Friday, July 25, 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

Notice of Proposed Revision to Privacy Act Systems of Records

AGENCY: Office of the Secretary, Department of Agriculture (USDA).

ACTION: Notice of proposed revision to Privacy Act Systems of Records.

DATES: *Effective Date:* This notice will be adopted without further publication in the **Federal Register** on September 23, 2008 unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before August 25, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. David R. Gray, Counsel to the Inspector General, Office of Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 441–E, Washington, DC 20250–2308: (202) 720–9110, Facsimile: (202) 690–1528, e-mail: *drgray@oig.usda.gov*.

SUPPLEMENTARY INFORMATION: USDA Office of Inspector General (OIG) proposes to rename Privacy Act system of records USDA/OIG–5, change the description for ''Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System,'' and add one new routine use, pursuant to recent Office of Management and Budget (OMB) requirements.

In accordance with the Privacy Act 5 U.S.C. 552(a)(e)(11), USDA OIG proposes to revise its seven systems of records, USDA/OIG–1: Employee Records, USDA/OIG; USDA/OIG–2: Informant and Undercover Agent Records, USDA/OIG; USDA/OIG–3: Investigative Files and Automated Investigative Indices System; USDA/OIG–4: OIG Hotline Complaint Records, USDA/OIG; USDA/OIG–5: Consolidated Assignments Personnel Tracking Administrative Information Network (CAPTAIN), USDA/OIG; USDA/OIG–6: Training Tracking System, USDA/OIG; and USDA/OIG–7: Freedom of Information Act and Privacy Act Request Records, USDA/OIG. The full systems of records were last published in the **Federal Register** on pages 61262–61266, 62 FR 61262, *et seq.*, November 17, 1997; and they were last amended on pages 21389–21391, 70 FR 21389, *et seq.*, April 26, 2005.

OIG proposes to rename USDA/OIG–5 ''Consolidated Assignments Personnel Tracking Administrative Information Network (CAPTAIN),'' to USDA/OIG–5 ''Automated Reporting and General Operations System (ARGOS).'' The ARGOS system has information contained in it of OIG, and OIG has limited its usage to OIG employees on a need-to-know basis.

OIG further proposes to add an OMB-mandated New Disclosure Routine Use language in the OIG system of records notice (SORN) revisions, to be numbered ''16,'' which would allow disclosure to appropriate agencies, entities, and persons when the agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised or to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and to prevent, minimize, or remedy such harm. Specifically the text will read:

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

OIG also proposes revising the description in the ''Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System'' for all seven of its Privacy Act systems of records to reflect that covered electronic information stored on OIG computers is now maintained in ARGOS, an application system built specifically by OIG to store information. The ARGOS system as an application system is stored on four servers: Two in Washington, DC and two in remote locations for backup purposes. The previous language was as follows: ''Storage: Records are maintained on computers and automated image filing systems, and in file folders, notebooks, and card file boxes.'' The new language will read as follows: ''Storage: Records are maintained in software applications, and some information is also stored in file folders.''

All other aspects of OIG's systems of records remain unchanged and are as published. A ''Report on New System,'' required by 5 U.S.C. 552a(r), as implemented by OMB Circular A–130, was sent to the Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate; the Chairman, Committee on Oversight and Government Reform, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Dated: June 17, 2008.

Edward T. Schafer,

Secretary.

* * * * *

USDA/OIG–1

SYSTEM NAME:

Employee Records, USDA/OIG.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

* * * * *

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the

compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

STORAGE:

Records are maintained in software applications, and some information is also stored in file folders.

* * * * *

USDA/OIG–2

SYSTEM NAME:

Informant and Undercover Agent Records, USDA/OIG.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

* * * * *

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

STORAGE:

Records are maintained in software applications, and some information is also stored in file folders.

* * * * *

USDA/OIG–3

SYSTEM NAME:

Investigative Files and Automated Investigative Indices System, USDA/OIG.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

* * * * *

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

STORAGE:

Records are maintained in software applications, and some information is also stored in file folders.

* * * * *

USDA/OIG–4

SYSTEM NAME:

OIG Hotline Complaint Records, USDA/OIG.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

* * * * *

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

STORAGE:

Records are maintained in software applications, and some information is also stored in file folders.

* * * * *

USDA/OIG–5

SYSTEM NAME:

Automated Reporting and General Operations System (ARGOS), USDA/OIG.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

* * * * *

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

STORAGE:

Records are maintained in software applications, and some information is also stored in file folders.

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USDA/OIG–6

SYSTEM NAME:

Training Tracking System, USDA/OIG.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

* * * * *

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with

USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

STORAGE:

Records are maintained in software applications, and some information is also stored in file folders.

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USDA/OIG–7

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Records, USDA/OIG.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

* * * * *

16. To appropriate agencies, entities, and persons when (1) OIG suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

STORAGE:

Records are maintained in software applications, and some information is also stored in file folders.

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[FR Doc. E8–17052 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–23–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

2008-Crop Marketing Assistance Loans and Loan Deficiency Payments for Cotton and Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: As announced by this notice, the Commodity Credit Corporation (CCC) is implementing provisions of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) regarding Marketing Assistance Loans (MAL) and Loan Deficiency Payments (LDP) for 2008 crop cotton and peanuts. The 2008 Farm Bill authorizes the continuation of the MAL and LDP programs for the 2008 through 2012 crops. This notice specifies how CCC will administer 2008 crop MAL and LDP provisions.

DATES: *Effective Date:* July 25, 2008

FOR FURTHER INFORMATION CONTACT: Candace Thompson, Director, Price Support Division, Farm Service Agency, USDA, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250–0512; telephone: (202) 720–7901 or fax: (202) 690–3307; e-mail: *candy.thompson@wdc.usda.gov*. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: CCC administers a loan program, including MAL and LDP, that provides short-term financing to allow farmers to pay their bills soon after harvest and to facilitate orderly marketing throughout the rest of the year. The loan program also provides significant income support when market prices are below statutory loan rates. Currently, regulations in 7 CFR parts 1421, 1425, and 1427 cover MAL and LDP provisions for the 2002 through 2007 crop years.

The 2008 Farm Bill (Pub. L. 110–246) authorizes the continuation of MAL and LDP for cotton and peanuts for the 2008 through 2012 crops.

With the pending harvest of 2008-crop cotton and peanuts, this notice announces that CCC will, with the exceptions noted below, immediately implement MAL and LDP provisions for 2008-crop cotton and peanuts based on the regulations that applied to the 2007 crop and appeared in:

- 7 CFR part 1421, Grains and Similarly Handled Commodities—Marketing Assistance Loans and Loan Deficiency Payments for the 2002 through 2007 Crop Years;
- 7 CFR part 1425, Cooperative Marketing Associations; and
- 7 CFR part 1427, Cotton.

To address the 2008 exceptions and for the 2009 through 2012 crops, CCC will amend the applicable regulations to reflect changes required by the 2008 Farm Bill including the fine count adjustment, storage credit rates, and transportation costs. The 2008 exceptions are as follows. For cotton, the calculation of the prevailing world market price, for repayment purposes, will continue to be calculated as specified in the current regulations. Also, for cotton, storage payments will be allowed to the extent permitted in the current regulations. For peanuts, handling and storage costs will be allowed to the extent permitted in the current regulations. These three 2008 exceptions will be changed later to implement the requirements of the 2008 Farm Bill through rulemaking instead of being made effective now because the software development required to implement the changes is not immediately available.

Additionally, CCC revised regulations, effective on May 23, 2008 (73 FR 30274–30277, final rule published May 27, 2008) providing that Far East prices will be used instead of Northern Europe prices in determining the upland cotton adjusted world price (AWP). The revised AWP calculation applies to the 2007 through the 2012 crops of upland cotton.

Environmental Review

FSA has determined that these changes would not constitute a major Federal action that would significantly affect the quality of the human environment. Therefore, in accordance with the provisions of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799), no environmental assessment or environmental impact statement will be prepared.

Signed at Washington, DC on July 21, 2008.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E8–17001 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Genesis Inc. 2009 Exploration Drilling Project; Kootenai National Forest, Lincoln County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, Kootenai National Forest will prepare an environmental impact statement (EIS) to document the analysis and disclose the environmental impacts of the proposed action to conduct a helicopter-assisted exploration drilling project near Troy, Montana. Genesis, Inc. submitted a

proposed Plan of Operations on June 19, 2008, pursuant to Forest Service locatable mineral regulations 36 CFR 228, Subpart A. A single EIS, evaluating all components of the proposed project will be prepared.

Scoping Comment Date: Comments concerning the proposed action must be postmarked by August 25, 2008, to be considered in the draft EIS.

ADDRESSES: Send written comments concerning the Proposed Action to Mike Herrin, Three Rivers District Ranger, Genesis Exploration Project, Kootenai National Forest, 12858 U.S. Hwy. 2, Troy, MT 59935, or e-mail your comments to: *comments-northern-kootenai-threerivers@fs.fed.us*. All comments received must contain: Name of commenter, postal service mailing address, and date of comment. Comments sent as an e-mail message should be sent as an attachment to the message. A copy on computer-generated disc should accompany all comments over one page in length.

FOR FURTHER INFORMATION CONTACT: Dick Harlow, Project Coordinator, Three River Ranger Station, 12858 U.S. Hwy. 2, Troy, Montana 59935. Phone (406) 293–7773, or e-mail at *dharlow@fs.fed.us*.

SUPPLEMENTARY INFORMATION:

Proposed Action

The Three Rivers District Ranger of the Kootenai National Forest has received a plan of operations proposing to access three (3) helicopter-supported drill sites on NFS lands in sections 7, 17, & 18, T28N, R33W, MT. P.M., southwest of Bull Lake, in Lincoln and Sanders Counties. These sites were previously drilled in 1999 and this additional exploration drilling is needed to further define ore reserves on the unpatented mining claims. The proposal is to drill 8 core holes from 3 separate locations, utilizing existing openings from previous helicopter drill sites. The holes will vary from 100′ to 1600′ in depth.

The Drilling Plan for the drill sites is to use a pre-constructed metal landing/drill platform (approx. 30′ long x 15′ wide). The platform will be flown to the sites in sections and assembled. The drill will be mounted on the drill platforms on the south side of Ross Creek.

A helicopter staging site will be located near the junction of FR 4628 and FR 4628A. Some site maintenance will be required. This work will include removal of brush and short trees.

Design features and mitigations to maintain and protect resource values would be included.

The proposed implementation period would be June 16, 2009, through November 15, 2009.

Lead and Cooperating Agencies

Montana Department of Environmental Quality, U.S. Fish and Wildlife Service, Montana Department of Natural Resources and Conservation, Confederated Salish and Kootenai Tribes, and Kootenai Tribe of Idaho, have either jurisdiction or interest and will participate as cooperating agencies or government entities in the preparation of this EIS. Other governmental agencies and any public that may be interested in or affected by the proposal are invited to participate in the scoping process, which is designed to obtain input and to identify potential issues relating to the proposed project.

Responsible Official

As the District Ranger of the Three Rivers Ranger District, Kootenai National Forest, I am the Responsible Official. As the Responsible Official, I will decide if the proposed project will be implemented. I will document the decision and reasons for the decision in the Record of Decision.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities will be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

Nature of Decision To Be Made

The nature of the decision to be made is to select an action that meets the legal rights of the proponent, while protecting the environment in compliance with applicable laws, regulations and policy. The District Ranger will use the EIS process to develop the necessary information to make an informed decision as required by 36 CFR 228 Subpart A. Based on the alternatives developed in the EIS, the following are possible decisions:

(1) An approval of the Plan of Operations as submitted;

(2) An approval of the Plan of Operations with changes, and the incorporation of mitigations and stipulations that meet the mandates of applicable laws, regulations, and policy;

(3) Denial of the Plan of Operations if no alternative can be developed that is in compliance with applicable laws, regulations and policy.

Permits or Licenses Required

Various permits and licenses are needed prior to implementation of this project. Permits or licenses required by the issuing agencies identified for this proposal are:

- Approval of Plan of Operations from the Kootenai National Forest
- Exploration License from the Montana Department of Environmental Quality

Public Involvement and Scoping: This Notice of Intent initiates the scoping process, which guides the development of the EIS. At this stage of the planning process, site-specific public comments are being requested to determine the scope of the analysis, and identify significant issues and alternatives to the Proposed Action. Comments concerning the proposed action must be postmarked by August 25, 2008, to be considered in the draft EIS. The public is encouraged to take part in the process and to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, Tribal governments, and other individuals or organizations that may be interested in, or affected by, the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will include:

1. Identifying potential issues.
2. Identifying major issues to be analyzed in depth.
3. Identifying alternatives to the proposed action.
4. Exploring additional alternatives that will be derived from issues recognized during scoping activities.
5. Identifying potential environmental effects of this proposal (i.e. direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing: The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in December 2008. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed in February 2009. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and to applicable laws, regulations, and

policies considered in making a decision regarding the proposal.

Reviewer's Obligations: The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NIRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. 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 cord 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: July 18, 2008.

Mike Herrin,

District Ranger, Three Rivers Ranger District, Kootenai National Forest.

[FR Doc. E8–17063 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Service Manual 2360 for Heritage Program Management

AGENCY: Forest Service, USDA.

ACTION: Notice of availability of final directive.

SUMMARY: The Forest Service is issuing a new directive to Forest Service Manual 2360 for Heritage Program Management. The Forest Service Manual for the Heritage Program was last amended in 1991. The new directive addresses laws, amendments, and Executive orders passed since 1991 and issues that are increasingly important to the Forest Service Heritage Program including increased Tribal coordination on a variety of issues from re-burial of human remains to tourism, growth of educational travel and heritage tourism, emphasis on use of historic properites, and increased theft of American antiquities.

The directive provides Heritage Program guidance to Forest Service land managers. It does not change management direction, but rather clarifies responsibilities, authorities, and internal procedures to improve the management and protection of cultural resources on National Forest System lands.

DATES: This directive is effective July 25, 2008.

ADDRESSES: The directive is available at *http://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsm?2300!*. Single paper copies of the directive are also available by contacting April Thorne, Recreation and Heritage Resources (Mail Stop 1125), Forest Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250, telephone 202–205–3562.

FOR FURTHER INFORMATION CONTACT: Michael Kaczor, Federal Preservation Officer, Forest Service, U.S. Department of Agriculture, 201 14th Street, NW., Washington, DC 20250, e-mail: *mkaczor@fs.fed.us*, telephone 202–205–1427.

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.

SUPPLEMENTARY INFORMATION: In addition to legislation and regulation passed prior to 1991, this directive incorporates laws, regulations, and Executive orders passed since 1991 that affect Heritage Program management, including:

1992—Amendments to the National Historic Preservation Act (NHPA).

2000—E.O. 13175—Consultation with Indian Tribal Governments.

2003—43 CFR 10—Native American Graves and Repatriation Regulations.

2003—E.O. 13287—Preserve America

2004—Amendments to the 36 CFR 800 regulations implementing the National Historic Preservation Act.

2004—E.O. 13327—Federal Real Property Asset Management.

2004—Federal Lands Recreation Enhancement Act.

2005—Forest Service Facility Realignment and Enhancement Act.

Goals of FSM 2360—Heritage Program Management

The goals of the updated direction in Forest Service Manual 2360 are to:

1. Improve cultural resource stewardship on National Forest System lands.
2. Establish consistent Heritage program implementation across Forest Service units.
3. Increase efficiency in Heritage Program support to other Forest Service programs.
4. Improve and expand Forest Service partnerships with the public and with Indian tribal communities in the interest of historic preservation.
5. Improve and expand the delivery of Heritage programs and products to the American public.

FSM 2360 Sections

2361—Consultation and Coordination describes consultation and coordination with State, Tribal, and local governments, other Federal agencies, and the public in all facets of Heritage Program management.

2362—Planning includes guidance on the integration of heritage issues in agency planning efforts and development of management plans for the Heritage Program and for individual historic properties.

2363—Identification, Evaluation, and Allocation to Management Categories describes the process to identify cultural resources that are eligible for listing on the National Register of Historic Places and recommend management that protects the value of cultural resources and maximizes their benefit to the agency and the public.

2364—Protection and Stewardship describes requirements to protect cultural resources from environmental damage, effects of agency or agency-authorized undertakings, and illegal activity or unauthorized use. It provides guidance on conservation, study, and formal designations of historic properties.

2365—Public Education and Outreach provides guidelines for the delivery of heritage values to the public through the Forest Service Windows on the Past program.

2366—Management of Heritage Collections describes types of collections and curation standards.

2367—Permits, Agreements, and Contracts provides guidance for the

issuance of permits, agreements, and contracts for Heritage Program work.

2368—Information Management and Reporting identifies the importance of maintaining up-to-date electronic data for the Heritage Program and explains confidentiality options for sensitive cultural resource information.

Dated: July 21, 2008.

Gloria Manning,

Associate Deputy Chief, National Forest System.

[FR Doc. E8–17111 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request approval to revise and extend a currently approved information collection, the Milk and Milk Products Surveys. Revision to burden hours may be needed due to changes in the size of the target population, sample design, and/or questionnaire length.

DATES: Comments on this notice must be received by September 23, 2008 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0020, by any of the following methods:

- E-mail: *OMBofficer@nass.usda.gov*. Include docket number above in the subject line of the message.
- Fax: (202) 720–6396.
- Mail: Mail any paper, disk, or CD-ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- Hand Delivery/Courier: Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Milk and Milk Products Surveys.

OMB Control Number: 0535–0020.

Expiration Date of Approval: December 31, 2008.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production. The Milk and Milk Products Surveys obtain basic agricultural statistics on milk production and manufactured dairy products from farmers and processing plants throughout the nation. Data are gathered for milk production, dairy products, evaporated and condensed milk, manufactured dry milk, and manufactured whey products. Milk production and manufactured dairy products statistics are used by the U.S. Department of Agriculture (USDA) to help administer federal programs and by the dairy industry in planning, pricing, and projecting supplies of milk and milk products.

Authority: Voluntary dairy information reporting is conducted under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276), which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Mandatory dairy product information reporting is based on the Agricultural Marketing Act of 1946, as amended by the Dairy Market Enhancement Act of 2000 and the Farm Security and Rural Development Act of 2002 (U.S.C. 1637–1637b). This program requires each manufacturer to report to USDA the price, quantity, and moisture content of dairy products sold and each entity storing dairy products to report information on the quantity of dairy products stored. Any manufacturer that processes, markets, or stores less than 1,000,000 pounds of dairy products per year is exempt. USDA is required to maintain information, statistics, or documents obtained under these Acts in a manner that ensures that confidentiality is preserved regarding the identity of persons and proprietary business information, subject to verification by the Agricultural Marketing Service (AMS) under Public Law No. 106–532.

This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, codified at 44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 minutes per response. This average is based on the 9 different surveys in the information collection: 4 weekly, 2 monthly, 1 quarterly, and 2 annual. Total annual response is estimated to be 95,000 with an average annual frequency of 3.65 responses per respondent.

Respondents: Farms and businesses.

Estimated Number of Respondents: 26,000.

Estimated Total Annual Burden on Respondents: 12,500 hours. Copies of this information collection and related instructions can be obtained without charge from David Hancock, the Agency Clearance Officer, at (202) 690–2388, or at *OMBofficer@nass.usda.gov*.

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 will have practical utility; (b) 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; (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 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.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, June 18, 2008.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. E8–17039 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–20–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions And Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a product

and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 24, 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@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the product(s) and/or service(s) 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 product(s) and/or service(s) to the Government.

2. If approved, the action will result in authorizing small entities to furnish the product(s) and/or service(s) 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(s) and/or service(s) 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 product(s) and/or service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product

Target, Silhouette.
NSN: 6920–00–795–1807.
NPA: North Central Sight Services, Inc., Williamsport, PA.
Coverage: C-List for the Government requirement of the Defense Supply Center Philadelphia, Philadelphia, PA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location(s): Janitorial Services.
San Francisco Maritime Museum Building, 900 Beach Street;
San Francisco Hyde Street Pier, 2905 Hyde Street;
San Francisco Maritime Visitor Center, 499 Jefferson Street, San Francisco, CA.
NPA: Toolworks, Inc., San Francisco, CA.
Contracting Activity: U.S. Department of the Interior, National Park Service, Oakland, CA.

Kimberly M. Zeich,
Director, Program Operations.

[FR Doc. E8–17104 Filed 7–24–08; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* August 24, 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 May 30 and June 6, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 31056; 31057; 32287) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and 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 products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Paper, Tabulating Machine

NSN: 7530–00–185–6752—Paper, Tabulating Machine.
NPA: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY.
Coverage: B-List for the broad Government requirement as specified by the General Services Administration.

Tri-Wall Aerial Distribution System (TRIADS) Humanitarian Airdrop Kit

NSN: 8115–01–544–2416.
NPA: Tarrant County Association for the Blind, Fort Worth, TX.
Coverage: B-List for the broad Government requirement as specified by the General Services Administration.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Services

Service Type/Location: Administrative Services, Carl Vinson VA Medical Center, 1826 Veterans Blvd., Dublin, GA.

Service Type/Location: Administrative Services, Charlie Norwood VA Medical Center, Uptown Division Complex—1 Freedom Highway, Downtown Division Complex—950 15th Street, Augusta, GA.
NPA: Bobby Dodd Institute, Inc., Atlanta, GA.
Contracting Activity: VISN 7 Network Logistics, Augusta, GA.

Service Type/Location: Base Supply Center, Base Supply Center, Camp Atterbury, IN.
NPA: L.C. Industries for the Blind, Inc., Durham, NC.
Contracting Activity: United States Property & Fiscal Officer for Indiana, Indianapolis, IN.
Service Type/Location: Document Destruction, Department of Health and Human Services, Office of Medicare Hearings and Appeals, 200 Public Square, Cleveland, OH.
NPA: Weaver Industries, Inc., Akron, OH.
Contracting Activity: Department of Health and Human Services, Rockville, MD.
Service Type/Location: Mailroom Operations, Moody Air Force Base, 5293 Schrader St., Moody Air Force Base, GA.
NPA: Bobby Dodd Institute, Inc., Atlanta, GA.
Contracting Activity: Moody Air Force Base, Moody AFB, GA.
Service Type/Location: Mailroom Operations, Internal Revenue Service, 50 South 200 East, Salt Lake City, UT.
NPA: ServiceSource, Alexandria, VA (Prime Contractor).
NPA: Utah Industries for the Blind, Salt Lake City, UT (Sub-Contractor).
Service Type/Location: Mailroom Operations, Internal Revenue Service, 801 Civic Center Drive, West, Santa Ana, CA.
NPA: ServiceSource, Alexandria, VA (Prime Contractor).
NPA: Pacific Coast Community Services, Richmond, CA (Sub-Contractor).
Contracting Activity: U.S. Department of the Treasury, Internal Revenue Services Headquarters, Oxon Hill, MD.

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. E8–17105 Filed 7–24–08; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Customer Surveys.

Form Number(s): None.

OMB Approval Number: 0648–0342.

Type of Request: Regular submission.

Burden Hours: 4,196.

Number of Respondents: 59,100.

Average Hours per Response: 5 minutes.

Needs and Uses: This is a request for renewal of a generic clearance for voluntary customer surveys to be conducted by NOAA program offices. In accordance with Executive Order 12862, the National Performance Review, and good management practices, NOAA offices seek to continue to gather customer feedback on services and/or products, which can be used in planning for service/product modification and prioritization.

Under this generic clearance, individual offices would continue use of approved questionnaires and develop new questionnaires, as needed, by selecting subsets of the approved set of collection questions and tailoring those specific questions to be meaningful for their particular programs. These proposed questionnaires would then be submitted through a fast-track request for approval process.

Affected Public: Individuals or households; not-for-profit institutions; business or other for-profit organizations; State, Local or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17059 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Highly Migratory Species Vessel Logbooks and Cost-Earnings Data Reports.

Form Number(s): None.

OMB Approval Number: 0648–0371.

Type of Request: Regular submission.

Burden Hours: 29,460.

Number of Respondents: 7,451.

Average Hours per Response: Trip reports with catch, 12 minutes; trip reports without catch, and no-trip reports, 2 minutes; cost-earnings and annual expenditure reports, 30 minutes.

Needs and Uses: The National Marine Fisheries Service (NMFS) seeks to renew an existing logbook information and cost-earnings data collection from fishermen who possess permits to fish for highly migratory species (HMS). This renewal would continue the successful HMS Vessel Logbook program and have several revisions. The revisions would: (1) Decrease the overall number of respondents based on recent information; (2) decrease the number of Atlantic tunas, shark, swordfish, and HMS Charter/Headboat permit holders based on recent information; (3) increase the number of Dolphin/Wahoo commercial and Charter/Headboat permit holders; and (4) decrease the burden estimate associated with the cost-earnings and logbook forms.

The information collected in logbooks and the cost-earnings form will help NMFS identify impacts of proposed regulatory measures on fishermen and the resource, consistent with applicable law such as the Magnuson-Stevens Fishery Conservation and Management Act and the Regulatory Flexibility Act.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17060 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Community-based Restoration Program Progress Reports.

Form Number(s): None.

OMB Approval Number: 0648–0428.

Type of Request: Regular submission.

Burden Hours: 792.

Number of Respondents: 99.

Average Hours per Response: 8.

Needs and Uses: The Commercial Operator's Annual Report (COAR) provides information on exvessel and first wholesale values for statewide Alaska fish and shellfish products. This information is used to analyze and measure the impact of proposed or enacted management measures. The National Marine Fisheries Service requires owners of catcher/processors and motherships operating in the Exclusive Economic Zone off Alaska to complete the State of Alaska, Department of Fish and Game COAR.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17061 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Census Coverage Measurement Independent Listing Operation

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before September 23, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Gia F Donnalley, U.S. Census Bureau, 4600 Silver Hill Road, Room 4K067, Washington, DC 20233, 301–763–4370 (or via the Internet at *Gia.F.Donnalley@census.gov*.)

SUPPLEMENTARY INFORMATION

I. Abstract

The 2010 Census Coverage Measurement (CCM) Independent Listing Operation will be conducted in the U.S. (excluding remote Alaska) and in Puerto Rico in select CCM sampled areas. The primary sampling unit is a block cluster, which consists of one or more geographically contiguous census blocks. As in the past, the CCM operations and activities will be conducted separate from and independent of the 2010 Census operations.

CCM will be conducted to provide estimates of net coverage error and coverage error components (omissions and erroneous enumerations) for housing units and persons in housing units (see Definition of Terms) to improve future censuses. The data collection and matching methodologies for previous coverage measurement programs were designed only to measure net coverage error, which reflects the difference between omissions and erroneous inclusions.

The Independent Listing Operation is the first step in the CCM process. It will be conducted to obtain a complete housing unit inventory of all the addresses within the CCM sample block clusters before the 2010 Census enumeration commences. Enumerators will canvass every street, road, or other place where people might live in their assigned block clusters and construct a list of housing units. Enumerators will contact a member (or proxy) of each housing unit to ensure all units at a given address are identified. They also will identify the location of each housing unit by assigning map spots on block maps provided with their assignment materials. Following the completion of each block cluster, the listing books are keyed for matching against the census Decennial Master Address File (DMAF) for the same areas.

Completed Independent Listing Books are subject to a Dependent Quality Check (DQC) wherein DQC listers return to the field to check 12 units per cluster to ensure that the work performed is of acceptable quality and to verify that the correct blocks were visited. If the cluster fails the DQC, then the DQC lister reworks the entire cluster.

The Independent Listing results will be computer and clerically matched to the DMAF from the census in the same areas. There will be two Independent Listing Forms, D–1302 and D–1302PR. The D–1302 is the English language version of the listing form and will be used both to list and to conduct DQC for addresses in CCM stateside sample areas. The D–1302PR is the Spanish language version of the listing form, which will be used for the same purposes in the CCM sample areas of Puerto Rico.

The addresses that remain unmatched or unresolved after matching will be sent to the field during the next field operation of the CCM (Initial Housing Unit Followup), to collect additional information that might allow a resolution of any differences between the independent listing results and the census DMAF. Cases also will be sent to resolve potential duplicates and unresolved housing unit status. The forms and procedures to be used in the Initial Housing Unit Followup phase of

the CCM in the 2010 Census and all subsequent CCM phases will be the subject of a separate **Federal Register** Notice.

II. Method of Collection

The Independent Listing operation will be conducted using person-to-person interviews.

Definition of Terms

Components of Coverage Error—The two components of census coverage error are census omissions (missed persons or housing units) and erroneous inclusions (persons or housing units enumerated in the census that should not have been). Examples of erroneous inclusions are: Persons or housing units enumerated in the census that should not have been enumerated at all, persons or housing units enumerated in an incorrect location, and persons or housing units enumerated more than once (duplicates).

Net Coverage Error—Reflects the difference between census omissions and erroneous inclusions. A positive net error indicates an undercount, while a negative net error indicates an overcount.

For more information about the Census 2010 Coverage Measurement Program, please visit the following page of the Census Bureau's Web site: *http://www.census.gov/cac/www/pdf/coverage-measurement-program.pdf.*

III. Data

OMB Control Number: None.

Form Number: D–1302, D–1302PR.

Type of Review: Regular submission.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 1,000,000 Housing Units (HUs) for Independent Listing and 157,000 HUs for Independent Listing DQC.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 38,567.

Estimated Total Annual Cost: $0.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S. Code, Section 141, 193, and 221.

IV. Request for 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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17067 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Application for Insular Watch and Jewelry Program Benefits

AGENCY: International Trade Administration.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 23, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Faye Robinson, Statutory Import Programs Staff, (202) 482–3526, *Faye_Robinson@ita.doc.gov* and fax number (202) 482–0949.

SUPPLEMENTARY INFORMATION:

I. Abstract

Public Law 97–446, as amended by Public Law 103–465, Public Law 106–36, and Public Law 108–429, requires the Departments of Commerce and the Interior (Departments) to administer the distribution of watch duty-exemptions and watch and jewelry duty-refunds to program producers in the U.S. insular possessions and the Northern Mariana Islands. The primary consideration in collecting information is the enforcement of the law and the information gathered is limited to that necessary to prevent abuse of the program and to permit a fair and equitable distribution of its benefits. The ITA–334P is the principal program form used for recording operational data on the basis of which program entitlements are distributed among the producers. This form also serves as the producer's application to the Departments for these entitlements and is completed biannually by watch and jewelry assemblers and manufacturers. A proposed modification to form ITA–334P is planned, by dividing it into four forms, so that there is an annual and mid-year application for watch producers and an annual and mid-year application for jewelry producers. This would not involve any increase in the amount of information collected.

II. Method of Collection

The form is sent to each watch and jewelry producer biannually. The form is also available at *http://ita-web.ita.doc.gov/doc/eFormsPub.nsf* and may be completed online and printed, and submitted via mail.

III. Data

OMB Control Number: 0625–0040.

Form Number: ITA–334P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 30.

Estimated Total Annual Cost to Public: $600.

IV. Request for 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 (including hours and costs) 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 forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17066 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration.

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 08–00007.

SUMMARY: On July 21, 2008, the U.S. Department of Commerce issued an Export Trade Certificate of Review to Global Trade International LLC (''GTI''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by e-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2007).

Export Trading Company Affairs (''ETCA'') is issuing this notice pursuant to 15 CFR section 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR section 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. *Products*

All Products.

2. *Services*

All Services.

3. *Technology Rights*

Technology rights that relate to Products and Services, including, but not limited to, patents, trademarks, copyrights, and trade secrets.

4. *Export Trade Facilitation Services (As They Relate to the Export of Products, Services, and Technology Rights)*

Export Trade Facilitation Services, including, but not limited to, professional services in the areas of government relations and assistance with state and federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and facilitating the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. With respect to the sale of Products and Services, licensing of Technology Rights, and provision of Export Trade Facilitation Services, GTI may:

a. Provide and arrange for the provision of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and non-exclusive licensing and sales agreements with Suppliers for the export of Products, Services, and Technology Rights to Export Markets;

d. Enter into exclusive and non-exclusive arrangements with distributors and sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among Suppliers for the sale and licensing of Products, Services, and Technology Rights;

f. Allocate export orders among Suppliers;

g. Establish the price of Products, Services, and Technology Rights for sales and licensing in Export Markets;

h. Negotiate, enter into, and manage licensing agreements for the export of Technology Rights; and

i. Enter into contracts for shipping of Products to Export Markets.

2. GTI may exchange information on a one-to-one basis with individual Suppliers regarding that Supplier's inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating export with distributors.

Terms and Conditions

1. GTI, including its officers, employees, and agents, shall not intentionally disclose, directly or indirectly, to any Supplier (including parent companies, subsidiaries, or other entities related to any Supplier) any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods unless such information is already generally available to the trade or public.

2. GTI will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standard of Section 303(a) of the Act.

Definition

''Supplier'' means a person who produces, provides, or sells Products, Services and/or Technology Rights.

Protection Provided by Certificate

This Certificate protects GTI and its directors, officers, and employees acting on its behalf, from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits GTI from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to GTI by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion of the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of GTI or (b) the legality of such business plans of GTI under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in Export Trade where the U.S. Government is the buyer or where the U.S. Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the ''Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition),'' 50 FR 1786 (January 11, 1985).

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: July 21, 2008.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E8–17026 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–846

Brake Rotors from the People's Republic of China: Notice of Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) is rescinding the new shipper review of the antidumping duty order on brake rotors from the People's Republic of China (PRC) with respect to Longkou Zhongkai Automobile Parts Co., Ltd. (Longkou Zhongkai), an exporter of the subject merchandise from the PRC. The period of review (POR) covers April 1, 2007, through March 31, 2008. This order was revoked as a result of a sunset proceeding and the effective date of revocation is prior to the date of the U.S. entry made by Longkou Zhongkai, the subject of this new shipper review.

EFFECTIVE DATE: July 25, 2008.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton Stefanova, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1766 and (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2008, the Department initiated a new shipper review for Longkou Zhonghai and indicated that the POR for this new shipper review was April 1, 2007, through March 31, 2008. *See Brake Rotors From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 73 FR 31065 (May 30, 2008).

On May 29, 2008, the International Trade Commission (ITC) determined, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping duty order on brake rotors from the PRC would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The ITC notified the Department of its decision on June 12, 2008, and published its decision on June 18, 2008.[1] Based on the ITC's decision, the Department subsequently revoked the antidumping duty order on brake rotors from the PRC, effective August 14, 2007.[2]

On July 14, 2008, Longkou Zhongkai withdrew its new shipper review request.

Rescission of Review

Longkou Zhongkai's POR U.S. entry occurred after the effective date of revocation of the order, which is August 14, 2007. The Department has already issued its revocation instructions to U.S. Customs and Border Protection (CBP), which will liquidate this entry without regard to antidumping duties (*i.e.*, release all bonds and refund all cash deposits, with interest). *See Revocation Notice*. Because Longkou Zhongkai has no additional U.S. entries to review during the POR, we are rescinding this new shipper review. Furthermore, Longkou Zhongkai has withdrawn its review request in a timely manner. In addition, because this order is now revoked, no cash deposit instructions are necessary.

Notification Regarding Administrative Protective Orders

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(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 777(i) of the Act and 19 CFR 351.214(f)(3).

Dated: July 21, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–17099 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See Brake Rotors from China: Investigation No. 731-TA-744 (Second Review)*, 73 FR 34790 (June 18, 2008) and ITC Publication 4009 Inv. No. 731-TA-744 (Second Review) June 2008.

[2] *See Brake Rotors from the People's Republic of China: Revocation of Antidumping Duty Order Pursuant to Second Five-Year (Sunset) Review*, 73 FR 36039 (June 25, 2008) (*Revocation Notice*).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Application To Shuck Surf Clams/Ocean Quahogs at Sea

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 23, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Timothy Cardiasmenos, 978–281–6204 or *Timothy.Cardiasmenos@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

National Marine Fisheries Service (NMFS) Northeast Region manages the Atlantic surfclam and ocean quahog fisheries of the Exclusive Economic Zone (EEZ) of the Northeastern United States through the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP). The Mid-Atlantic Fishery Management Council prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The regulations implementing the FMP are specified at 50 CFR 648.70.

The recordkeeping and reporting requirements at § 648.70 and § 648.74 form the basis for this collection of information. NMFS Northeast Region requests information from Atlantic surfclam and ocean quahog individual transferable quota (ITQ) allocation holders in order to process and track requests from the allocation holders to transfer quota allocation to another entity. NMFS Northeast Region also requests information from Atlantic surfclam and ocean quahog permit holders in order to track and properly account for Atlantic surfclam and ocean quahog harvest that is shucked at-sea. Because there is not a standard conversion factor for estimating unshucked product from shucked product, NMFS requires vessels that choose to shuck product at-sea to carry on board the vessel a NMFS-approved observer to certify the amount of Atlantic surfclam and ocean quahog harvested. This information, upon receipt, results in an increasingly more efficient and accurate database for management and monitoring of fisheries of the Northeastern U.S. EEZ.

II. Method of Collection

Paper applications are used to process requests.

III. Data

OMB Number: 0648–0240.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 205.
Estimated Time per Response: 5 minutes for the application to transfer quota, and 30 minutes for the application to shuck surfclams and ocean quahogs at-sea.
Estimated Total Annual Burden Hours: 45.
Estimated Total Annual Cost to Public: $219,765.

IV. Request for 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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17065 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ21

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Test Flight Activities from Vandenberg Air Force Base (VAFB), California

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Air Force (USAF) for authorization for the take of marine mammals incidental to launching space launch vehicles, intercontinental ballistic and small missiles, and aircraft and helicopter operations at VAFB for the period of February 2009 through February 2014. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the USAF's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the USAF's application and request.

DATES: Comments and information must be received no later than August 25, 2008.

ADDRESSES: Comments on the application 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 20910–3225. The mailbox address for providing email comments is *PR1.0648XJ21@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289, ext. 156.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the USAF's application may be obtained by writing to the address specified above (see **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

Background

Sections 101(a)(5)(A) and (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) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and that the permissible methods of taking and

requirements pertaining to the mitigation, monitoring and reporting of such taking 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.

With respect to military readiness activities, the MMPA defines ''harassment'' as:

(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 March 21, 2008, NMFS received an application from the USAF requesting authorization for the take of four species of marine mammals incidental to space vehicle and test flight activities from VAFB, which would impact pinnipeds on VAFB and the Northern Channel Islands, over the course of 5 years. These training activities are classified as military readiness activities. Marine mammals may be exposed to continuous noise due mostly to combustion effects of aircraft and launch vehicles and impulsive noise due to sonic boom effects. The USAF requests authorization to take four pinniped species by Level B Harassment.

Specified Activities

There are currently six active space launch vehicle facilities at VAFB used to launch satellites into polar orbit. These facilities support the launch programs for space vehicles, including the Atlas V, Delta IV, Falcon, Minotaur, and Taurus. There are also a variety of small missiles launched from North VAFB, including the Minuteman III and several types of interceptor and target vehicles for the Missile Defense Agency program. The VAFB runway, located on north VAFB, supports various aircraft operations. A full description of the activities to be conducted by the USAF at VAFB, including descriptions of the different space vehicles and missiles, are described in the USAF's application.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the USAF's request (see **ADDRESSES**). All information, suggestions, and comments related to the USAF's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the USAF on and around VAFB will be considered by NMFS in developing, if appropriate, regulations governing the issuance of letters of authorization.

Dated: July 21, 2008.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–17112 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of Secretary

[Docket ID: DoD–2008–OS–0082]

Privacy Act of 1974; System of Records

AGENCY: National Security Agency/Central Security Service, DoD.

ACTION: Notice to Amend System of Records.

SUMMARY: The National Security Agency/Central Security Service is proposing to amend an exempt system of records in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the National Security Agency/Central Security Service, Office of Policy, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688–6527.

SUPPLEMENTARY INFORMATION: The National Security Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

GNSA 07

SYSTEM NAME:

NSA/CSS Motor Vehicles and Carpools (February 22, 1993, 58 FR 10531).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Records of individuals who have registered a vehicle to include parking permit information, decal data, and insurance information. Applications may contain such information as name, Social Security Number (SSN), employee identification number, home address, home phone number, Driver's license information, and vehicle identification number. File also contains motor vehicle violation reports, stolen vehicle reports, and other forms and correspondence related to parking privileges, transportation needs, parking enforcement procedures, vehicle abuse and other related matters.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''40 U.S.C. 1315; National Security Agency Act of 1959, Pub. L. No. 86–36, § 11 (codified as amendment in 50 U.S.C. 402 note); 32 CFR parts 228 and 634; and E.O. 9397 (SSN).''

PURPOSE:

Delete entry and replace with ''To track the issuance of parking permits and decals and to provide a record of individuals who have registered a vehicle. In addition, to manage and enforce parking lot regulations, to assist employees with respect to vehicle abuse and stolen vehicles, provide carpool assistance, assure availability of adequate transportation and parking facilities and other related matters.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper in file folders and electronic storage media.''

SAFEGUARDS:

Delete entry and replace with ''Buildings are secured by a series of guarded pedestrian gates and checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts are controlled

by limited-access facilities and lockable containers. Access to electronic means is limited and controlled by computer password protection.''

* * * * *

SYSTEM MANAGER:

Delete entry and replace with ''Chief, Commuter & Motor Fleet Services, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

Individuals should provide their full name, current address, telephone number and signature.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

Individuals should provide their full name, current address, telephone number and signature.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The NSA/CSS rules for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained by written request addressed to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.''

* * * * *

GNSA 07

SYSTEM NAME:

NSA/CSS Motor Vehicles and Carpools.

SYSTEM LOCATION:

Primary location: National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.

Decentralized segments: Each non-headquarters facility and field element as appropriate and required.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian employees, military assignees, other governmental employees or personnel under contract granted extended temporary or permanent access to an NSA/CSS facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individuals who have registered a vehicle to include parking permit information, decal data, and insurance information. Applications may contain such information as name, Social Security Number (SSN), employee identification number, home address, home phone number, driver's license information, and vehicle identification number. File also contains motor vehicle violation reports, stolen vehicle reports, and other forms and correspondence related to parking privileges, transportation needs, parking enforcement procedures, vehicle abuse and other related matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 1315; National Security Agency Act of 1959, Pub. L. No. 86–36, § 11 (codified as amendment in 50 U.S.C. 402 note); 32 CFR parts 228 and 634; and E.O. 9397 (SSN).

PURPOSE(S):

To track the issuance of parking permits and decals and to provide a record of individuals who have registered a vehicle. In addition, to manage and enforce parking lot regulations, to assist employees with respect to vehicle abuse and stolen vehicles, provide carpool assistance, assure availability of adequate transportation and parking facilities and other related matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To commercial or private transportation entities where the individuals have indicated a desire to use or join a multiple-user transportation arrangement. Selected individual data limited to name, address and telephone number may be made available.

To contractor employees to make determinations as noted in the purposes above.

The 'Blanket Routine Uses' set forth at the beginning of the NSA/CSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Buildings are secured by a series of guarded pedestrian gates and checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts are controlled by limited-access facilities and lockable containers. Access to electronic means is limited and controlled by computer password protection.

RETRIEVABILITY:

By name, motor vehicle identifier, and Social Security Number (SSN).

SAFEGUARDS:

For paper, cards and computer listings—Secure limited access facilities, within those facilities secure limited access rooms and within those rooms lockable containers as appropriate. Access is limited to authorized users. For machine records stored on magnetic tape, disk or other computer storage media within the computer processing area—additional secure limited access facilities, specific processing requests accepted from authorized persons only, specific authority to access stored records and delivery granted to authorized persons only.

RETENTION AND DISPOSAL:

Maintained for two years, then destroyed. Destruction by pulping, burning, shredding, or erasure of magnetic media.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Commuter & Motor Fleet Services, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

Individuals should provide their full name, current address, telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written

inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Ft. George G. Meade, MD 20755–6000.

Individuals should provide their full name, current address, telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained by written request addressed to the Chief, Office of Policy, National Security Agency/ Central Security Service, Ft. George G. Meade, MD 20755–6000.

RECORD SOURCE CATEGORIES:

Data provided by individuals, authorities in charge of parking facilities, local civil and military law enforcement entities and other related sources as appropriate and required.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information specifically authorized to be classified under E.O. 12958 may be exempt pursuant to 5 U.S.C. 552a(k)(1).

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 322. For additional information contact the system manager.

[FR Doc. E8–17020 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0028]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to delete five System of Records Notices.

SUMMARY: The Department of the Army is deleting five system of records notices in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed actions will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Army, Records Management and Declassification Agency, Privacy Division, 7701 Telegraph Road, Alexandria, VA 22315.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of Army proposes to five delete system of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0190–30 DAMO

SYSTEM NAME:

Military Police Investigator Certification Files (February 22, 1993, 58 FR 10002).

REASON:

Commanders can no longer certify personnel to perform military police investigations. The military police investigations regulation requires all personnel performing investigations to be trained at the U.S. Army Military Police School at Fort Leonard Wood, Missouri.

A0210–60 SAFM

SYSTEM NAME:

Check Cashing Privilege Files (February 22, 1993, 58 FR 10002).

REASON:

These files are covered under system of records notice AAFES 0702.22, System name: Check-Cashing Privilege Files (August 9, 1996, 61 FR 41585).

A0037–202 SAFM

SYSTEM NAME:

FHA Mortgage Payment Insurance Files (February 22, 1993, 58 FR 10002).

REASON:

FHA Mortgage Insurance system is no longer an active program.

A0360 SAIS

SYSTEM NAME:

Mailing List for Army Newspapers/ Periodicals/Catalogs (February 22, 1993, 58 FR 10002).

REASON:

These types of records are no longer monitored or maintained.

A0215–1a SAFM

SYSTEM NAME:

Nonappropriated Funds Central Payroll System (NAFCPS) (February 22, 1993, 58 FR 10002).

REASON:

These are records are now covered under System of Records Notice T7206, Nonappropriated Funds Central Payroll System (NAFCPS) (June 24, 2008, 73 FR 35669).

[FR Doc. E8–17027 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0032]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0351–1a TRADOC

SYSTEM NAME:

Automated Instructional Management System-Redesign (AIMS–R) (October 16, 2000, 65 FR 61150).

CHANGES:

Change system ID to A0350–1a TRADOC.

SYSTEM NAME:

Delete entry and replace with ''Resident Individual Training Management System (RTIMS)''

SYSTEM LOCATION:

Delete entry and replace with ''Headquarters, Training and Doctrine Command (TRADOC); TRADOC Service Schools; and Army Training Centers. Addresses for the above may be obtained from the Commander, U.S. Army Training Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; Army Regulation 350–1, Army Training and Leader Development; and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper printouts and electronic storage media.''

RETRIEVABILITY:

Retrieved by Social Security Number and course/class number.

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine if information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.''

* * * * *

A0350–1a TRADOC

SYSTEM NAME:

Resident Individual Training Management System (RTIMS)

SYSTEM LOCATION:

Headquarters, Training and Doctrine Command (TRADOC); TRADOC Service Schools; and Army Training Centers. Addresses for the above may be obtained from the Commander, U.S. Army Training Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Army, Navy, Marine Corps, and Air Force, and civilians employed by the U.S. Government, and approved foreign military personnel enrolled in a resident course at a U.S. Army service school.

CATEGORIES OF RECORDS IN THE SYSTEM:

Course data to include scheduling, testing, academic, graduation, personnel and attrition data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 350–1, Army Training and Leader Development; and E.O. 9397 (SSN).

PURPOSE(S):

To automate those processes associated with the scheduling, management, testing, and tracking of resident student training. This TRADOC standard management system is composed of several subsystems which perform functions for personnel, student load management, academic records management, test creation, scoring and grading, student critique, resource scheduling and utilization, and query.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper printouts and electronic storage media.

RETRIEVABILITY:

Retrieved by Social Security Number and course/class number.

SAFEGUARDS:

Access to system is restricted to authorized personnel only with sign-on and password authorization.

RETENTION AND DISPOSAL:

Records are maintained for 40 years then destroyed. However, records on extension courses are maintained for 3 years in current file area, transferred to the records holding area for 2 years then finally retired to the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Training Support Center, Privacy Act Officer, 667 Monroe Avenue, Fort Eustis, VA 26604.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from the individual, DoD staff, Personnel and Training systems, and faculty.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17028 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0030]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings

OSD Federal Register Liaison Officer, Department of Defense.

A0614–100/200 SAIG

SYSTEM NAME:

Inspector General Personnel System (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 3020, Inspector General; Army Regulation 20–1, Inspector General Activities and Procedures and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper files in folders and electronic storage media.''

* * * * *

A0614–100/200 SAIG

SYSTEM NAME:

Inspector General Personnel System.

SYSTEM LOCATION:

U.S. Army Inspector General Agency, Headquarters, Department of the Army, 1700 Army Pentagon, Washington, DC 20310–1700.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person assigned and/or detailed to the Offices of Inspectors General/ Inspector General positions in Department of the Army and certain Department of Defense and Joint activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank/grade, Social Security Number, education, duty position, organization of assignment, date assigned, estimated departure date, job specialty, and relevant career data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 3020, Inspector General; Army Regulation 20–1, Inspector General Activities and Procedures and E.O. 9397 (SSN).

PURPOSE(S):

To manage assignment of members to Inspector General duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files in folders and electronic storage media.

RETRIEVABILITY:

By individual's name or Social Security Number.

SAFEGUARDS:

Files are stored in locked containers accessible only to authorized persons with an official need-to-know. Computer data base access is limited by terminal control and a password system to authorized persons with an official need-to-know.

RETENTION AND DISPOSAL:

Information is retained until individual transfers or is separated; historical data remain in automated media for 4 years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Inspector General, Headquarters, Department of the Army, 1700 Army Pentagon, Washington, DC 20310–1700.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Office of the Inspector General, Headquarters, Department of the Army, 1700 Army Pentagon, Washington, DC 20310–1700.

Individual should provide the full name, address, telephone number, Social Security Number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Office of the Inspector General, Headquarters, Department of the Army, 1700 Army Pentagon, Washington, DC 20310–1700.

Individual should provide the full name, address, telephone number, Social Security Number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports, and other sources providing or containing pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17029 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0025]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Department of the Army is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on August 25, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on July 17, 2008, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals', dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0500–3 DCS

SYSTEM NAME:

Army Disaster Personnel Accountability and Assessment Records (ADPAAS).

SYSTEM LOCATION:

Space and Naval Warfare Systems Center, 53560 Hull Street, San Diego, CA 92152–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army personnel (Military, Civilian, and National Guard) and their family's who are involved in a natural or other man-made disaster; catastrophic event; or in support of the Global War on Terrorism.

CATEGORIES OF RECORDS IN THE SYSTEM:

ADPAAS Personnel Accountability and Needs Assessment Survey information that includes name; home and duty stations addresses; Social Security Number (SSN); home, business, and cell telephone numbers; military/civilian status; date of birth; Unit Identification Code (UIC); Electronic Data Interchange—Personal Identifier (EDI–PI); date of last contact; insurance company; Federal Emergency Management Agency (FEMA) Number; e-mail address; dependent information; travel orders/vouchers; assessment date; needs assessment information; type of event; category classification; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Army; DoD Instruction 3001.02, Personnel Accountability in Conjunction With Natural or Man-made Disasters; Army Regulation 500–3, U.S. Army Continuity of Operations Program Policy and Planning; and E.O. 9397 (SSN).

PURPOSE(S):

To assess disaster-related needs (*i.e.*, status of family members, housing, medical, financial assistance, employment, pay and benefits, transportation, child care, pastoral care/counseling, and general legal matters) of Army personnel (Military, Civilian, and National Guard) and their family who have been involved in a natural, man-made major disaster or catastrophic event. To continue to maintain contact with the family members to ensure they receive all necessary support/assistance.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name, Social Security Number (SSN) and date of birth.

SAFEGUARDS:

Password controlled system, file, and element access is based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Event and recovery assistance records are destroyed two years after all actions are completed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, HQDA G–1, ATTN: DAPE–MPZ–PC, 300 Army Pentagon, Washington, DC 20310–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Chief Staff, HQDA G–1, ATTN: HQDA DAPE–MPZ–PC, 300 Army Pentagon, Washington, DC 20310–0400.

The request should include individual's full name, Social Security Number (SSN), address, date of birth, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Chief Staff, HQDA G–1, ATTN: HQDA DAPE–MPZ–PC, 300 Army Pentagon, Washington, DC 20310–0400.

The request should include individual's full name, Social Security Number (SSN), address, date of birth, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; personnel files; Needs Assessment Survey; Defense Manpower Data Center; and command personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17030 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0042]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Department of the Army is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on August 25, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on July 18, 2008, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals', dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0001–100 OAA

SYSTEM NAME:

Army Gift Donation Program.

SYSTEM LOCATION:

Headquarters, Department of the Army, staff and field operating agencies, major commands, installations and activities receiving gifts and donations pursuant to the Army's gift donation program. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, corporations or agencies that submit donations and gifts to the Army and soldier and family programs. Such programs include the Soldier and Family Assistance Centers, Family Readiness Groups, Child, Youth and Schools' Programs, Soldier and Recreation Programs, and Social Entertainment Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, address, E-mail address, donation amount, type of gift, intended recipient, credit card information such as account number, card security code and expiration date, bank account numbers, affiliation with private organization or company, and disposition of gift or donation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 26 U.S.C. 6041, Information at Source; 10 U.S.C. 2601, Acceptance of Gifts and Services; 10 U.S.C. 2608, Acceptance of Gifts and Services; DoD Financial Management Regulation 7000.14-R, Operation and Use of General Gift Funds of the Department of Defense and Coast Guard; AR 1–100, Gifts and Donations; AR 1–101, Gifts for Distribution to Individuals; and AR 870–20, Army Museums, Historical Artifacts, and Art.

PURPOSE(S):

To approve and facilitate the receipt of gifts and donations to the Army from individuals, corporations or agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media and paper files.

RETRIEVABILITY:

Individual's name.

SAFEGUARDS:

Records are kept in datacenter facilities that are secured 24 hours a day with restricted access. Data access is restricted to specific individuals with a business need-to-know or having an official need therefore. Additionally, all applicable Information Assurance controls are in place to ensure security of the information and non-repudiation.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration has approved retention and disposition of these records, treat as permanent).

SYSTEM MANAGERS(S) AND ADDRESS:

Office of the Administrative Assistant to the Secretary of the Army, ATTN: Army Gift Program, 105 Army Pentagon, Room 3E585, Washington, DC 20310–0105.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Army activity to which the gift or donation was submitted. If unsure you may submit to Office of the Administrative Assistant to the Secretary of the Army, ATTN: Army Gift Program, 105 Army Pentagon, 3E585, Washington, DC 20310–0105.

Individuals or organization must provide name, proof of identification, and details such as the date, amount and designated activity regarding the donation or gift.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Army activity to which the gift or donation was submitted. If unsure you may submit to Office of the Administrative Assistant to the Secretary of the Army, ATTN: Army Gift Program, 105 Army Pentagon, 3E585, Washington, DC 20310–0105.

Individuals or organization must provide name, proof of identification, and details such as the date, amount and designated activity regarding the donation or gift.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 DFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual and from DoD and Army activities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17032 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0035]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0165–1b DACH

SYSTEM NAME:

Chaplain Privileged Counseling/Interview Communication Cases (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM LOCATION:

Army installations. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 3013, Secretary of the Army; 5 U.S.C. 301, Departmental Regulations; Army Regulation 165–1, Chaplain Activities in the United States Army and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in locked file cabinets and electronic storage media.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''The Chief of Chaplains, 2511 Jefferson Davey Highway, Suite 12500, Arlington, VA 22202–3907.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to The Chief of Chaplains, 2511 Jefferson Davey Highway, Suite 12500, Arlington, VA 22202–3907 or the Chaplain at the Army installation where counseling or interview occurred.

Individual should provide their full name, present address and telephone number, and signature.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to The Chief of Chaplains, 2511 Jefferson Davey Highway, Suite 12500, Arlington, VA 22202–3907 or the Chaplain at the Army installation where counseling or interview occurred.

Individual should provide their full name, present address and telephone number, and signature.''

* * * * *

A0165–1b DACH

SYSTEM NAME:

Chaplain Privileged Counseling/Interview Communication Cases.

SYSTEM LOCATION:

Army installations. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army members, their dependents and other individuals who have received pastoral counseling from Army chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memoranda and/or documents resulting from counseling or interview sessions between a chaplain and an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3013, Secretary of the Army; 5 U.S.C. 301, Departmental Regulations; Army Regulation 165–1, Chaplain Activities in the United States Army and E.O. 9397 (SSN).

PURPOSE(S):

To document privileged counseling/interview sessions between Army chaplains and individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in locked file cabinets and electronic storage media.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Information is stored in locked cabinets or desks, and is accessible only to the chaplain maintaining the record.

RETENTION AND DISPOSAL:

Retained for 2 years after the individual case is closed; then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief of Chaplains, 2511 Jefferson Davey Highway, Suite 12500, Arlington, VA 22202–3907.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to The Chief of Chaplains, 2511 Jefferson Davey Highway, Suite 12500, Arlington, VA 22202–3907 or the Chaplain at the Army installation where counseling or interview occurred.

Individual should provide their full name, present address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to The Chief of Chaplains, 2511 Jefferson Davey Highway, Suite 12500, Arlington, VA 22202–3907 or the Chaplain at the Army installation where counseling or interview occurred.

Individual should provide their full name, present address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17008 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0034]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0056–9 TRADOC

SYSTEM NAME:

Marine Qualification Records (October 16, 2000, 65 FR 61150).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Director, Office of the Chief of Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; Army Regulation 56–9, Watercraft; and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file folders and electronic storage media.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in locked file cabinets in a secure building and are accessible only to authorized personnel.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, Office of the Chief Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Office of the Chief Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Office of the Chief Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.''

* * * * *

A0056–9 TRADOC

SYSTEM NAME:

Marine Qualification Records.

SYSTEM LOCATION:

Director, Office of the Chief of Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian employees of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Marine Service Record (DA Form 3068–1), individual's request for examination, test results, character and suitability statements, physical qualification reports, experience qualifications and evaluations, commander's recommendation, Marine Qualification Board recommendation and final action thereon, U.S. Army Marine Licenses (DA Forms 4309 and 4309–1), and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 56–9, Watercraft; and E.O. 9397 (SSN).

PURPOSE(S):

To evaluate and recommend appropriate action concerning the issuance, denial, suspension, or revocation of U.S. Army Marine Licenses; to award certification to individuals passing the marine qualification examination; to monitor test content and procedures to ensure that tests are valid and current; to award Special Qualification Identifiers to appointed Marine Qualification Field Examiners; to review marine casualty reports, incident reports, and investigations to re-evaluate qualifications of persons involved; and to maintain Marine Service Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The U.S. Coast Guard, Department of Transportation may be furnished information concerning certification and licensing of individuals.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's surname and Social Security Number.

SAFEGUARDS:

Records are maintained in locked file cabinets in a secure building and are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

DA Form 3068–1 and related records are maintained for 40 years then destroyed. Registers are destroyed 40 years after the date of the last entry in the register.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of the Chief Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Office of the Chief Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Office of the Chief Transportation, 705 Read Street, Room 231, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, military and civilian personnel records and reports, civilian maritime records, U.S. Coast Guard, commanders and vessel masters, and other appropriate sources able to furnish relevant information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17009 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0033]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0351b TRADOC

SYSTEM NAME:

Army Correspondence Course Program (ACCP) (December 1, 2000, 65 FR 75252).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; AR 350–10, Management of Army Individual Training Requirements and Resources; and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Electronic Storage Media.''

* * * * *

RETENTION AND DISPOSAL:

Student records indicating courses attended, course length, extent of completion, results, aptitudes and personal qualities, grade, rating attained

and related information destroy after 40 years. Cut off annually. Records of extension courses, however, will be held for 3 years in current file area and 2 years in records holding area before retirement to National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100.

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.''

* * * * *

A0351b TRADOC

SYSTEM NAME:

Army Correspondence Course Program (ACCP).

SYSTEM LOCATION:

Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Army, Navy, Marine Corps, and Air Force, Reserve Officer Training Corps and National Defense Cadet Corps students, Department of Defense civilian employees, and approved foreign military personnel enrolled in a non-resident course administered by the Army Institute for Professional Development.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain name, grade/rank, Social Security Number, address, service component, branch, personnel classification, military occupational specialty, credit hours accumulated, examination and lesson grades, student academic status, curricula, course description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; AR 350–10, Management of Army Individual Training Requirements and Resources; and E.O. 9397 (SSN).

PURPOSE(S):

To record lessons and/or exam grades; maintain student academic status; course and subcourse descriptions; produce course completion certificates and reflect credit hours earned; and produce management summary reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

By name and Social Security Number.

SAFEGUARDS:

Use of individual user identification and passwords are required to access the system. Access is granted to designated personnel at the Army Institute for Professional Development responsible for the administration and processing of non-resident students. Access is also granted to students and former students for the purpose of enrolling, testing, monitoring status, and reviewing academic history.

RETENTION AND DISPOSAL:

Student records indicating courses attended, course length, extent of completion, results, aptitudes and personal qualities, grade, rating attained, and related information destroy after 40 years. Cut off annually. Records of extension courses, however, will be held for 3 years in current file area and 2 years in records holding area before retirement to National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army Training Support Center, 667 Monroe Avenue, Fort Eustis, VA 23604–5040.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, 3308 Wilson Avenue, Fort Eustis, VA 23604–5166.

Individual should provide full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting content, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From individual upon enrollment, from class records and instructors, and from graded examinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17011 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0041]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record

systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0190–9 DAMO

SYSTEM NAME:

Absentee Case Files (March 4, 2002, 67 FR 9718).

CHANGES:

Change System Identifier to ''A0190–9 OPMG''.

* * * * *

A0190–9 OPMG

SYSTEM NAME:

Absentee Case Files.

SYSTEM LOCATION:

U.S. Army Personnel Control Facility, U.S. Army Desert Information Point, Building 1481, Fort Knox, KY 40121–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Army, U.S. Army Reserve on active duty or in active duty training status, and Army National Guard personnel on active duty, absent without authority from their place of duty, listed as absentee, and/or who have been designated as a deserter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, grade, reports and records which document the individual's absence; notice of unauthorized absence from U.S. Army which constitutes the warrant for arrest; notice of return to military control or continued absence in hands of civil authorities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army, Army Regulation 190–9, Absentee Deserter Apprehension Program and Surrender of Military Personnel to Civilian Law Enforcement Agencies; Army Regulation 630–10, Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings; and E.O. 9397 (SSN).

PURPOSE(S):

To enter data in the FBI National Crime Information Center 'wanted person' file; to ensure apprehension actions are initiated/terminated promptly and accurately; and to serve management purposes through examining causes of absenteeism and developing programs to deter unauthorized absences.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Department of Veterans Affairs for assistance in determining whereabouts of Army deserters through the Veterans and Beneficiaries Identification and Records Locator Subsystem.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and the record copy of the Arrest Warrant are maintained in the Official Military Personnel Files; verified desertion data are stored on the Deserter Verification Information System at the U.S. Army Deserter Information Point.

RETRIEVABILITY:

Manually, by name; automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

SAFEGUARDS:

Access is limited to authorized individuals having a need-to-know. Records are stored in facilities manned 24 hours, 7 days a week. Additional controls which meet the physical, administrative, and technical safeguard requirements of Army Regulation 380–19, Information Systems Security, are in effect.

RETENTION AND DISPOSAL:

Automated records are erased when individual returns to military custody, is discharged, or dies. Paper or microform records remain a permanent part of the individual's Official Military Personnel File.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Operations and Plans, ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the U.S. Army Deserter Information Point, U.S. Army Enlisted Records Center, Indianapolis, IN 42649–5301.

Individual should provide the full name, Social Security Number and/or Army serial number, address, telephone number and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the U.S. Army Deserter Information Point, U.S. Army Enlisted Records Center, Indianapolis, IN 46249–5301.

Individual should provide the full name, Social Security Number and/or Army serial number, address, telephone number and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Unit commander, first sergeants, subjects, witnesses, military police, U.S. Army Criminal Investigation Command personnel and special agents, informants, Department of Defense, federal, state, and local investigative and law enforcement agencies,

departments or agencies of foreign governments, and any other individuals or organizations which may furnish pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. E8–17013 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0026]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0190–14 DAMO

SYSTEM NAME:

Registration and Permit Files (February 22, 1993, 58 FR 10002).

CHANGES:

Change System Identifier to ''A0190–14 OPMG''.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Department of the Army; Army Regulation 190–14, Carrying of Firearms and Use of Force for Law Enforcement Security Duties; and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file folders and electronic storage media''.

* * * * *

A0190–14 OPMG

SYSTEM NAME:

Registration and Permit Files (February 22, 1993, 58 FR 10002).

SYSTEM LOCATION:

Army installations. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any citizen registering restricted items of property on a military installation or desiring to engage in restricted activities on a military installation. Items/activities include but are not limited to privately owned firearms/weapons, pets and hunting and fishing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Registration form for items of restricted property; permit application for restricted activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Department of the Army; Army Regulation 190–14, Carrying of Firearms and Use of Force for Law Enforcement Security Duties; and E.O. 9397 (SSN).

PURPOSE(S):

To assist the commander in carrying out effective law enforcement, troop safety, and crime prevention programs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is furnished to criminal justice elements outside the Department of Defense for investigation and prosecution when such cases fall within their jurisdiction or concurrent jurisdiction is applicable. These include: Federal Bureau of Investigation; U.S. Customs Services; Bureau of Alcohol, Tobacco and Firearms; U.S. District Courts; U.S. Magistrates; state and local law enforcement, wildlife conservation and public health agencies; and, in overseas areas, host government law enforcement agencies.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Only authorized personnel have access to files. Physical security measures include locked containers/storage areas, controlled personnel access, and continuous presence of authorized personnel.

RETENTION AND DISPOSAL:

Destroyed upon removal of the restricted property from the military installation or upon expiration of the permit.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Operations and Plans, ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Chief of Staff for Operations and Plans,

ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

Individual should provide the full name, Social Security Number, and other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Chief of Staff for Operations and Plans, ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

Individual should provide the full name, Social Security Number, and other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Any citizen desiring/required to register firearms/weapons, pets, etc. that will be maintained within or desiring to hunt/fish within the confines of any Army installation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(2), as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. E8–17014 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0040]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0190–40 DAMO

SYSTEM NAME:

Serious Incident Reporting Files (February 22, 1993, 58 FR 10002).

CHANGES:

Change System Identifier to ''A0190–45b OPMG''.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013; Secretary of the Army; AR 190–45, Law Enforcement Reporting and E.O. 9397 (SSN).''

* * * * *

A0190–45b DAMO

SYSTEM NAME:

Serious Incident Reporting Files.

SYSTEM LOCATION:

PRIMARY LOCATION:

Office of the Deputy Chief of Staff for Operations and Plans, ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440. Segments are maintained at the installation initiating the report and at the respective major Army command.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any citizen identified as the subject or victim of a serious incident reportable to Department of the Army in accordance with Army Regulation 190–40, Serious Incident Report. This includes in general any criminal act or other incident which, because of its sensitivity or nature, publicity or other considerations should be brought to the attention of Headquarters, Department of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the initial report of the incident plus any supplemental reports, including reports of final adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013; Secretary of the Army; AR 190–45, Law Enforcement Reporting and E.O. 9397 (SSN).

PURPOSE(S):

To provide the military chain of command with timely information regarding serious incidents to permit a valid early determination of possible implication; to provide an early indication of acts or conditions which may have widespread adverse publicity; to provide a means of analysis of crime and conditions conducive to crime on which to base crime prevention policies and programs; and to meet the general needs of Department of the Army staff agencies for information regarding selected incidents which impact on their respective areas of responsibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's name, Social Security Number, and installation number.

SAFEGUARDS:

Buildings employ security guards and control access. Distribution and access to files are based on strict need-to-know. Records are contained in locked safes when not under personal supervision of authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 1 year after final report is completed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Operations and Plans, ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Chief of Staff for Operations and Plans, ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

Individual should provide the full name, Social Security Number, current address and telephone number, other information verifiable from the record itself, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy of Staff for Operations and Plans, ATTN: DAMO–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

Individual should provide the full name, Social Security Number, current address and telephone number, other information verifiable from the record itself, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Subjects, witnesses, victims, military police and U.S. Army Criminal Investigation Command personnel and special agents, informants, various Department of Defense, federal, state and local investigative and law enforcement agencies, departments or agencies of foreign governments, and any other individuals or organizations which may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(j)(2), as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. E8–17015 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0029]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0351–17a USMA

SYSTEM NAME:

U.S. Military Academy Candidate Files (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 4331, Establishment; Superintendent; faculty; 10 U.S.C. 4332, Departments and Professors: Titles; 10 U.S.C. 4334, Command and Supervision; Army Regulation 351–17, U.S. Military Academy and U.S. Military Academy Preparation School Admissions Program; and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file folders and electronic storage media.''

RETRIEVABILITY:

By candidate's surname; by source of nomination, current status, and special categories.

RETENTION AND DISPOSAL:

Delete entry and replace with ''For accepted candidates, records become part of the Cadet's Personnel Record. Records on candidates not accepted for admission are destroyed either on expiration of age eligibility or after 3 years, whichever is later.''

* * * * *

A0351–17a USMA

SYSTEM NAME:

U.S. Military Academy Candidate Files.

SYSTEM LOCATION:

U.S. Military Academy, West Point, NY 10996–1797.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential and actual candidates for entrance to the U.S. Military Academy for the current and previous 2 years.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entrance examination results, Personal Data Record (DD Form 1867), Candidate Activities Report (DD Form 1868), Prospective Candidate Questionnaire (DD Form 1908), Interview Sheets, School Official's Evaluation (DD Form 1869), Employer's Evaluation of Candidate, Scholastic Aptitude Examination scores, American College Testing Program Scores, High School and College/University transcripts, physical aptitude examination, Candidate Summary Sheets, Nominating Letter, naturalization or adoption papers, birth certificate, Oath 50950, special orders, all correspondence to/from and about candidate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 4331, Establishment; Superintendent; faculty; 10 U.S.C. 4332, Departments and Professors: Titles; 10 U.S.C. 4334, Command and Supervision; Army Regulation 351–17, U.S. Military Academy and U.S. Military Academy Preparation School Admissions Program; and E.O. 9397 (SSN).

PURPOSE(S):

To evaluate a candidate's academic, leadership, and physical aptitude potential for the U.S. Military Academy, to conduct management studies of admissions criteria and procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to Members of Congress to assist them in nominating candidates.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By candidate's surname; by source of nomination, current status, and special categories.

SAFEGUARDS:

All information is stored in locked rooms with restricted access to authorized personnel. Automated data are further protected by a user identification and password convention.

RETENTION AND DISPOSAL:

For accepted candidates, records become part of the Cadet's Personnel Record. Records on candidates not accepted for admission are destroyed either on expiration of age eligibility or after 3 years, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Military Academy, West Point, NY 10996–1797.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Superintendent, U.S. Military Academy, West Point, NY 10996–1797.

Individual should provide the full name, current address, year of application, source of nomination, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Superintendent, U.S. Military Academy, West Point, NY 10996–1797.

Individual should provide the full name, current address, year of application, source of nomination, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Members of Congress, school transcripts, evaluations from former employer(s), medical reports/physical examination results, U.S. Military Academy faculty evaluations, American College Testing Service, Educational Testing Service, and similar relevant documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5), (k)(6), or (k)(7), as applicable.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. E8–17016 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0039]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0190–45a DAMO

SYSTEM NAME:

Local Criminal Intelligence Files (March 21, 2002, 67 FR 13128).

CHANGES:

Change System Identifier to ''A0190–45a OPMG''.

* * * * *

A0190–45a OPMG

SYSTEM LOCATION:

At all designated Army commands, installations and activities. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual suspected or involved in criminal activity directed against or involving the United States Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports and supporting documents of criminal activity directed against or involving the U.S. Army. Information includes subject's name, aliases,

addresses, phone number, date of birth, source of investigation, risk analysis, reports, threat assessments, retention control sheets, victims' names, names of informants, names of law enforcement officers and investigators, and subject's group affiliations, if any.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 380–13, Acquisition and Storage of Information Concerning Non-Affiliated Persons and Organizations; Army Regulation 190–45, Law Enforcement Reporting; Army Regulation 195–2, Criminal Investigation Activities; and E.O. 9397 (SSN).

PURPOSE(S):

To enable designated Army officials, commanders, or civil criminal justice agencies to meet their responsibilities maintaining law and order through investigation and possible judicial action. To identify individuals in an effort to anticipate, prevent or monitor possible criminal activity directed against or involving the U.S. Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tape/disc, and on electronic storage media.

RETRIEVABILITY:

By individual's name, Social Security Number, and/or date of birth.

SAFEGUARDS:

Only authorized personnel have access to files. Physical security measures include locked containers/storage areas, controlled personnel access, and continuous presence of authorized personnel.

RETENTION AND DISPOSAL:

Criminal intelligence reports and cross-index cards belonging to the Headquarters, Criminal Investigation Division, are maintained in the current file area and are destroyed when no longer needed, except for reports of current operational value. These reports are reviewed yearly for continued retention, not to exceed 20 years, and then destroyed. The records maintained at the Regional Headquarters are destroyed after 5 years. Records maintained at District field office and elements designated by region commanders are destroyed after 3 years or when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Operations and Plans, Military Operations, 400 Army Pentagon, Washington, DC 20310–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Chief of Staff for Operations and Plans, Military Operations, 400 Army Pentagon, Washington, DC 20310–0400.

Individual should provide their full name, Social Security Number, date of birth, and address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Chief of Staff for Operations and Plans, Military Operations, 400 Army Pentagon, Washington, DC 20310–0400.

Individual should provide their full name, Social Security Number, date of birth, and address.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Subjects, witnesses, victims, Military Police and U.S. Army Criminal Investigation Command personnel and special agents, informants, various Department of Defense, federal, state and local investigative and law enforcement agencies, departments or agencies of foreign governments, and any other individuals or organizations which may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. E8–17017 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0038]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Army, PA/FOIA Division, 7701 Telegraph Road, Alexandria, VA 22315.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0601–210b USAREC

SYSTEM NAME:

Recruiter Impropriety Case Files (February 22, 1993, 58 FR 10002).

CHANGES:

Change system ID to ''A0601–210b TRADOC''.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Departmental Regulations; AR 601–210, Active and Reserve Components Enlisted Program and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file cabinets and electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''By surname.''

SAFEGUARDS:

Correct spelling of therefor to ''therefore''.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Commander, U.S. Army Recruiting Command, Fort Knox, KY 40121–2725.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Recruiting Command, ATTN: Director, Personnel, Administration and Logistics, Building 1307, 3rd Avenue, Fort Knox, KY 40121–2725.

Requests should contain full name, address, telephone number, military status, and sufficient details concerning the event or incident to permit locating the records.

In addition, the requester must provide a notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format:

If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

If an unsworn declaration is executed outside the United States, it shall read ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Recruiting Command, ATTN: Director, Personnel, Administration and Logistics, Building 1307, 3rd Avenue, Fort Knox, KY 40121–2726.

Requests should contain full name, address, telephone number, military status, and sufficient details concerning the event or incident to permit locating the records.

In addition, the requester must provide a notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format:

If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

If an unsworn declaration is executed outside the United States, it shall read ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

* * * * *

A0601–210b TRADOC

SYSTEM NAME:

Recruiter Impropriety Case Files.

SYSTEM LOCATION:

U.S. Army Recruiting Command, Fort Knox, KY 40121–5000. Segments exist at recruiting brigades and divisions, the addresses of which may be obtained from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recruiters against whom improprieties or irregularities have been alleged.

CATEGORIES OF RECORDS IN THE SYSTEM:

Recruiter's name, Social Security Number, duty station; report of alleged impropriety or misconduct; report of investigation; findings, recommendations; decisional documents; resultant personnel actions; similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Departmental Regulations; AR 601–210, Active and Reserve Components Enlisted Program and E.O. 9397 (SSN).

PURPOSE(S):

To review recruiter improprieties and determine appropriate and necessary action, including reassignment, MOS reclassification, and/or disciplinary measures. Statistical information is used as a basis for modifying recruiting policies and practices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets and electronic storage media.

RETRIEVABILITY:

By surname.

SAFEGUARDS:

Records are maintained in secured areas accessible only to designated individuals having official need therefore, within buildings protected by security guards.

RETENTION AND DISPOSAL:

Records at the U.S. Army Recruiting Command are destroyed after 3 years; those at recruiting brigade and division levels are destroyed after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Recruiting Command, Fort Knox, KY 40121–2725.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Recruiting Command, ATTN: Director, Personnel, Administration and Logistics, Building 1307, 3rd Avenue, Fort Knox, KY 40121–2725.

Requests should contain full name, address and telephone number, military status, sufficient details concerning the event or incident to permit locating the records.

In addition, the requester must provide a notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format:

If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read ''I declare (or certify, verify, or state) under penalty of perjury that the

foregoing is true and correct. Executed on (date). (Signature).''

If an unsworn declaration is executed outside the United States, it shall read ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Recruiting Command, ATTN: Director, Personnel, Administration and Logistics, Building 1307, 3rd Avenue, Fort Knox, KY 40121–2726.

Requests should contain full name, address and telephone number, military status, sufficient details concerning the event or incident to permit locating the records.

In addition, the requester must provide a notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format:

If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

If an unsworn declaration is executed outside the United States, it shall read ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From U.S. Army Criminal Investigation Command reports of investigation; other Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17018 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0037]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0190–5 DAMO

SYSTEM NAME:

Vehicle Registration System (VRS) (February 22, 1993, 58 FR 10002).

CHANGES:

Change System Identifier to ''A0190–5 OPMG.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file folders and electronic storage media.''

* * * * *

SYSTEM MANAGER:

Delete entry and replace with ''Deputy Chief of Staff for Personnel, ATTN: OPMG–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.''

* * * * *

A0190–5 OPMG

SYSTEM NAME:

Vehicle Registration System.

SYSTEM LOCATION:

Decentralized to Army installation which created the vehicle registration/driver record. A cross-reference index in either manual or automated media may exist at intermediate and higher command levels. In addition, information is stored on computer media at the four Army Information Processing Centers located at: Chambersburg, PA 17201–4150; Huntsville, AL 35898–7340; Rock Island, IL 61299–7210; and, St. Louis, MO 63120–1798.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel (active, reserve, retired), civilian employees, contractor personnel, vendors, visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained on the DA Form 3626 may be provided by paper record, the automated VRS, or the automated Vehicle Registration System/Installation Support Module (VRS/ISM). Information entered into the VRS or VRS/ISM from the DA Form 3626 is used to create a master edit file and master registration file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013; Status of Forces Agreement between the United States of America and the host country in which U.S. Forces are located and E.O. 9397 (SSN).

PURPOSE(S):

To assist the commander in carrying out effective law enforcement, traffic safety, and crime prevention programs; to ensure compliance with Highway Safety Program Standards (23 U.S.C. 402) applicable to federally administered areas; to provide management data on which to base crime prevention, selective enforcement, and improved driving safety.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C.

552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information in this system may be disclosed to state law enforcement and motor vehicle departments for ascertaining or disclosing driver information and/or accident reports, and, in overseas areas, to the host country as required by the Status of Forces Agreement between the United States of America and the host country.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By surname/Social Security Number.

SAFEGUARDS:

Information is stored in locked containers or storage areas within buildings which are secured, and the system is accessed by designated persons having an official need for the information.

Regional Data Centers are contractor-operated under an Army approved security program. Contractor personnel participate in a security education program under the Regional Data Security Officer. Regional Data Centers are connected through a communications network to data processing centers at Army installations. Technical, physical, and administrative safeguards required by Army Regulation 380–19, Information Systems Security, are enforced at the installation data processing centers. Data are available only to installation personnel responsible for system operation and maintenance. Terminals not in the data processing center are under the supervision of a terminal area security office at each remote location protecting these terminals from unauthorized use. Access to information is also controlled by a system of assigned passwords for authorized users of terminals.

RETENTION AND DISPOSAL:

Destroyed on transfer or separation of parking permit holder, or when permit is superseded or revoked, whichever occurs first. Traffic law enforcement records are destroyed 2 years after closing of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, ATTN: OPMG–ODL, Headquarters, Department of the Army, Washington, DC 20310–0440.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Provost Marshal at the installation where vehicle registration or accident occurred.

Individual should provide the full name, Social Security Number, current address, and other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Provost Marshal at the installation where vehicle registration or accident occurred.

Individual should provide the full name, Social Security Number, current address, and other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, participants in car pools, military or civilian police reports, investigative and law enforcement agencies, third parties who provide relevant information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(j)(2), as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. E8–17019 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0027]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0190–13 DAMO

SYSTEM NAME:

Security/Access Badges (May 10, 2002, 67 FR 31790).

CHANGES:

Change System Identifier to ''A0190–13 OPMG''.

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file folders and electronic storage media.''

* * * * *

A0190–13 OPMG

SYSTEM NAME:

Security/Access Badges.

SYSTEM LOCATION:

Headquarters, Department of the Army staff, field operating agencies, states' adjutant general offices, and Army installations, activities, offices world-wide that issue security badges

authorized by Army Regulation 190–13, The Army Physical Security Program. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals issued a security/access badge, authorized members of the Uniformed Services, civilian Department of Defense and contract employees and visitors entering Department of Defense properties, stations, forts, depots, arsenals, plants (both contractor and Government operated), hospitals, terminals, and other mission facilities and restricted areas, primarily used for military purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application for security/access badge on appropriate Department of Defense and Army forms; individual's photograph, finger print record, special credentials, allied papers, registers, logs reflecting sequential numbering of security/access badges may also contain other relevant documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 190–13, The Army Physical Security Program and E.O. 9397 (SSN).

PURPOSE(S):

To provide a record of security/access badges issued; to restrict entry to installations and activities; to ensure positive identification of personnel authorized access to restricted areas; to maintain accountability for issuance and disposition of security/access badges.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's name, Social Security Number, and/or security/access badge number.

SAFEGUARDS:

Data maintained in secure buildings accessed only by personnel authorized access. Computerized information protected by alarms and established access and control procedures.

RETENTION AND DISPOSAL:

Security identification applications are maintained for 3 months after turn-in of badge or card then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the issuing office where the individual obtained the identification card or to the system manager.

Individual should provide the full name, number of security/access badge, current address, phone number and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the issuing officer at the appropriate installation.

Individual should provide the full name, number of security/access badge, current address, phone number and signature.

CONTESTING RECORD PROCEDURES:

The Army rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17022 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0031]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0140 DAJA

SYSTEM NAME:

JAGC Reserve Components Officer Personnel Records (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''1777 N. Kent Street, DAJA–PT, Rosslyn, VA 22209.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''All Judge Advocate General Corps (JAGC) U.S. Army Reserve officers, not serving on extended active duty; and officers seeking appointment, branch transfer, or Federal Recognition to the JAGC without concurrent call to active duty.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 10204, Personnel Records; Army Regulation 140–1, Mission, Organization, and Training and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Electronic Storage Media.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Office of the Judge Advocate General, Personnel, Plans and Training Office, 1777 N. Kent Street, Rosslyn, VA 22209.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Office of the Judge Advocate General, Personnel, Plans and Training Office, 1777 N. Kent Street, Rosslyn, VA 22209.

Individual must provide his/her name, Social Security Number, sufficient details to permit locating pertinent records, and signature.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Office of the Judge Advocate General, Personnel, Plans and Training Office, 1777 N. Kent Street, Rosslyn, VA 22209.

Individual must provide his/her name, Social Security Number, sufficient details to permit locating pertinent records, and signature.''

* * * * *

A0140 DAJA

SYSTEM NAME:

JAGC Reserve Components Officer Personnel Records.

SYSTEM LOCATION:

1777 N. Kent Street, DAJA–PT, Rosslyn, VA 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Judge Advocate General Corps (JAGC) U.S. Army Reserve officers, not serving on extended active duty; and officers seeking appointment, branch transfer, or Federal Recognition to the JAGC without concurrent call to active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, application for appointment, active duty training, constructive credit, mobilization designee position, educational courses completed, home and business addresses and telephone numbers, grade, promotion eligibility date, primary military occupational specialty, date of birth, sex, basic date of mandatory removal, unit assignment and address, employer, job title, specialty and awards, correspondence between the Army and the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 10204, Personnel Records; Army Regulation 140–1, Mission, Organization, and Training and E.O. 9397 (SSN).

PURPOSE(S):

To schedule Judge Advocate General Corps reserve officer training; select officers for reserve unit command positions; identify individual reservists in need of training; determine mandatory retirement dates; provide full background information on individuals applying for mobilization designee positions, constructive credit for training courses and/or active duty for training, to document background of applicants for appointment in the Judge Advocate General Corps or branch transfer consistent with prerequisites required for type of appointment/branch transfer and to establish eligibility for appointment/branch transfer. Records are also used for management and statistical studies and reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tape/disc.

RETRIEVABILITY:

By individual's surname, Social Security Number.

SAFEGUARDS:

All records are maintained in secured areas, accessible only to designated officials. Automated records require password for access.

RETENTION AND DISPOSAL:

Records are retained until individual officer retires from the Reserves, held 2 additional years, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Personnel, Plans and Training Office, 1777 N. Kent Street, Rosslyn, VA 22209.

NOTIFICATION PROCEDURE:

Office of the Judge Advocate General, Personnel, Plans and Training Office, 1777 N. Kent Street, Rosslyn, VA 22209.

Individual must provide his/her name, Social Security Number, sufficient details to permit locating pertinent records, and signature.

RECORD ACCESS PROCEDURES:

Office of the Judge Advocate General, Personnel, Plans and Training Office, 1777 N. Kent Street, Rosslyn, VA 22209.

Individual must provide his/her name, Social Security Number, sufficient details to permit locating pertinent records, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; official personnel documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17023 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0036]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice

in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 25, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Short at (703) 428–6508.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 17, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

A0600–55 DAMO

SYSTEM NAME:

Motor Vehicle/Equipment Operator Permit Files (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Deputy Chief of Staff, G–3/5/7, ATTN: DAMO–TRI, Headquarters, Department of the Army, Washington, DC 20310–0400.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's permit (OF 346) or other authorization for operating vehicles or equipment such as enumerated in the preceding paragraph; register of such individuals; qualifications records; similar relevant documents and reports.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations, Army Regulation 600–55, The Army Driver and Operator Standardization Program (Selection, Training, Testing, and Licensing) and E.O. 9397 (SSN).''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records in file folders and electronic storage media.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Deputy Chief of Staff, G–3/5/7, ATTN: DAMO–TRI, Headquarters, Department of the Army, Washington, DC 20310–0400.''

* * * * *

A0600–55 DAMO

SYSTEM NAME:

Motor Vehicle/Equipment Operator Permit Files.

SYSTEM LOCATION:

Deputy Chief of Staff, G–3/5/7, ATTN: DAMO–TRI, Headquarters, Department of the Army, Washington, DC 20310–0400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel authorized to operate Government motor vehicles and/or certain categories of equipment such as generators, air compressors, gas generators, construction equipment, materials handling equipment, locomotives, guided missile hydraulic elevators, mobile floating assault bridges, fueled heaters and stoves, amphibious crafts, and mine detecting equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's permit (OF 346) or other authorization for operating vehicles or equipment such as enumerated in the preceding paragraph; register of such individuals; qualifications records; similar relevant documents and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, Army Regulation 600–55, The Army Driver and Operator Standardization Program (Selection, Training, Testing, and Licensing) and E.O. 9397 (SSN).

PURPOSE(S):

To determine qualifications of the individuals and issue authorization for operation of Government motor vehicles and/or equipment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in secured areas/cabinets accessible only to designated officials having need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Destroyed 3 years from date of issue or earlier if revoked by proper authority.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, G–3/5/7, ATTN: DAMO–TRI, Headquarters, Department of the Army, Washington, DC 20310–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Motor Vehicle/Equipment Examiner or Provost Marshal at the installation where permit or authorization was issued.

Individual should provide the full name, Social Security Number, and other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Motor Vehicle/Equipment Examiner or Provost Marshal at the installation where permit or authorization was issued.

Individual should provide the full name, Social Security Number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations

are contained in Army Regulations 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17035 Filed 7–24–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Department of the Army; Corps of Engineers

Availability of Information Bulletin, for a Replacement Lock, Sault Locks Complex, Sault Sainte Marie, MI

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Detroit District, is issuing this notice to announce the availability of an Information Bulletin for a proposed Replacement Lock, Sault Locks Complex, Sault Sainte Marie, MI. This bulletin provides information on the National Environmental Policy Act (NEPA) review of the project that was presented in the Great Lakes Connecting Channels and Harbors Final Interim Feasibility Report and Environmental Impact Statement (EIS), 1986 and a Record of Environmental Consideration, 2000. Based upon the review of current site conditions and project plans, it appears that no new environmental impacts or issues have been identified since the 1986 FEIS and the 2000 Record of Environmental Consideration for the project. The planned construction of a second large lock at Sault Sainte Marie, MI, has been adequately assessed in accordance with NEPA and a Record of Decision (ROD) should be signed to allow construction to begin. The Bulletin is being provided for information and to solicit comments on any changed conditions or anticipated impacts that may effect the decision to sign the ROD.

DATES: The Information Bulletin will be available for public review from July 25, 2008 through August 25, 2008. Written comments must be received by September 2, 2008.

ADDRESSES: You may request a copy of the Information Bulletin from Ms. Florence Bissell, Environmental Analysis Branch, U.S. Army Corps of Engineers, Detroit District, 477 Michigan Avenue, P.O. Box 1027, Detroit, MI 48231–1027.

FOR FURTHER INFORMATION CONTACT: Ms. Florence Bissell at (313) 226–3510 or at *florence.k.bissell@usace.army.mil.* Written comments are to be provided to Ms. Bissell.

SUPPLEMENTARY INFORMATION: Construction of a replacement lock at the U.S. Army Corps of Engineers Sault Locks Complex on the St. Mary's River, Michigan was proposed following a 1976 resolution of the Senate Public Works Committee to determine the advisability of providing additional lockage facilities. It was recommended that a lock of greater dimensions replace two smaller locks, the Davis and Sabin Locks, which were constructed during World War I. The proposed lock would be capable of handling the Great Lakes System's largest vessels (Class C) which account for more than half of the potential carrying capacity of the Great Lakes fleet and currently are limited to lockage through the Poe Lock. A disruption of the Poe Lock would result in significant national economic consequences therefore a second lock of the Poe Lock dimensions is needed. Congress has provided, in the Water Resources Development Act of 2007 that such a lock be constructed at Federal expense and funding has been appropriated to initiate construction.

Dated: July 18, 2008.

Les E. Weigum,

Chief, Environmental Analysis Branch.

[FR Doc. E8–17073 Filed 7–24–08; 8:45 am]

BILLING CODE 3710–GA–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for Nebraska; Department of Roads Nebraska Highway 12 Niobrara East and West Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is preparing an Environmental Impact Statement (EIS) to analyze the direct, indirect and cumulative effects of a proposed Nebraska State Highway project, Nebraska Highway 12 Niobrara East and West Project (project), by the Nebraska Department of Roads (NDOR). The project will provide a safe regional transportation corridor that meets Nebraska State Highway design standards. The project is needed due to interrupted use, high maintenance, roadway stability issues, driver safety during high water events, and the importance of maintaining Nebraska Highway 12 as a regional transportation corridor. Alternatives under consideration include: (1) Taking no action; (2) re-construction on existing alignment; (3) providing a new two-lane highway on new alignment; (4) reducing or eliminating existing flooding through evaluation of methods to reduce Lewis and Clark Lake elevation through operations and/or maintenance. NDOR and Corps have not selected a project alternative but will be exploring a range of alternatives through the National Environmental Policy Act (NEPA) process. Additional alternatives will be considered during the NEPA process. Construction of the project is expected to result in temporary and permanent impacts to jurisdictional waters of the United States, thereby requiring a Clean Water Act section 404 permit.

The Corps has prepared a scoping document to familiarize other agencies, the public and interested organizations with the preliminary project alternatives and potential environmental issues that may be involved. The scoping document includes a description of the problems that create the need for the project, a preliminary list of project alternatives, and various environmental/resource issues that will be addressed in the EIS. Copies of the scoping document will be available at the public scoping meeting or can be requested by mail. The EIS will be prepared according to the Corps' procedures for implementing the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4332(2)(c), and consistent with the Corps' policy to facilitate public understanding and review of agency proposals.

DATES: A public scoping meeting will be held on August 28, 2008, from 6 p.m. to 8:30 p.m.

ADDRESSES: The public scoping meeting will be held at the WFLA Conference Center located on Spruce and Park Avenue in, Niobrara, NE 68760.

FOR FURTHER INFORMATION CONTACT: Questions regarding the proposed action and EIS should be addressed to Matt Wray, Project Manager, U.S. Army Corps of Engineers, Nebraska Regulatory Office, Wehrspann Field Office, 8901 S. 154th Street, Omaha, NE 68138–3621 or at (402) 896–0896; *Matt.T.Wray@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Nebraska Department Roads (NDOR) is

responsible for providing a safe, efficient, affordable, environmentally compatible and coordinated statewide transportation system for the movement of people and goods. NDOR has identified two segments of Nebraska Highway 12 that have experienced flooding and damage due to high water levels associated with the Missouri River. Segment 1 is approximately 6.4 miles long and extends from just east of Verdel on the west end to 2 miles west of the bridge over the Niobrara River. Segment 2 is approximately 6 miles long and extends from just east of Spruce Avenue in Niobrara to approximately 1 mile east of S–54D. Problems associated with this portion of Nebraska Highway 12 include high maintenance, driver safety, and disruption in use. The following summarizes the issues that create these problems:

Roadway Stability: Due to high water levels and overtopping of Nebraska Highway 12 in the project area, the stability of the roadway is threatened. Gavin's Point Dam on the Missouri River was built in the 1950's near Yankton, South Dakota, creating Lewis and Clark Lake (lake). The lake has caused the water table adjacent to the Missouri River to rise. Nebraska Highway 12, which runs parallel to the Missouri River, is affected where it crosses into the Missouri River floodplain east and west of Niobrara, Nebraska. About eight miles of Nebraska Highway 12 runs through the floodplain. About half of this length is located to the east and half to the west of Niobrara, in Knox County, Nebraska. The distance between Nebraska Highway 12 and the Missouri River bank differs, but some areas are as close as two to three thousand feet. Due to the location of Nebraska Highway 12, the following road related issues are present:

(1) *Roadway inundation:* When high water events occur on the Missouri River, portions of Nebraska Highway 12 are under water. This jeopardizes the integrity of the roadway due to saturation of the roadway bed. This can create roadway sloughing and potential for failure. Bazile Creek enters the river east of Niobrara, NE where it intersects Nebraska Highway 12. During high water events on Bazile Creek, Nebraska Highway 12 becomes flooded. The flooding has occurred numerous times in the past.

(2) *Roadway saturation:* High water levels adjacent to Nebraska Highway 12 are the result of the lake. The lake is a man-made reservoir located behind Gavin's Point dam. The lake has contributed to the rising water table throughout the floodplain where Nebraska Highway 12 is located. In addition, system releases from upstream reservoirs as part of the Missouri River mainstem system, can provide constant water levels. Additionally, large releases of water can sometimes last for many months causing roadway saturation. The increased silt load coming into the lake from the Missouri River tributaries, primarily the Niobrara River and Bazile Creek also contributes to roadway saturation. The confluence of the Niobrara River and the Missouri River is just west of the town of Niobrara. The water from these tributaries slows as they enter the Missouri River and sediment is deposited creating a fill area that restricts the channel and raises the bed of the river. This causes the area of the lake to increase in dimension as well as raising the water table. High water levels create conditions of long-term saturation of the roadway embankment, thus creating the potential for roadway embankment erosion.

Driver Safety: Portion of Nebraska Highway 12 are exposed to regular flooding. Roadway flooding is a concern for driver safety because even if the road is marked closed, motorists may choose to drive through flooded roadways. Nebraska Highway 12 in this location does not have lighting and the inherent dangers of driving through flooded roadways exist. In 1995, the Corps implemented an interim fix by raising the gradeline of Nebraska Highway 12 by several feet on two short highway segments to alleviate the immediate flooding problems. The resultant roadway is narrow with shoulders that are not adequate in width, and steep foreslopes. Cable guardrail was installed to help protect vehicles from running off the road and into the water. Due to the narrow roadway, the cable guardrail is close to the edge of the driving lane.

A public scoping meeting will be held (see **DATES**) to describe why the project is needed, preliminary alternatives, the NEPA compliance process and to solicit input on the issues and alternatives to be evaluated and other related matters. Written comments will also be requested. The Corps has invited the U.S. Environmental Protection Agency, National Park Service, U.S. Fish and Wildlife Service, and Knox County to be cooperating agencies in the formulation of the EIS.

John L. Moeschen,

Nebraska State Program Manager, Regulatory Branch.

[FR Doc. E8–17077 Filed 7–24–08; 8:45 am]

BILLING CODE 3710–62–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability of the Draft Supplemental Environmental Impact Statement (DSEIS) for the Nourishment of 25,000 Feet of Beach in Topsail Beach, Pender County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Wilmington District, Wilmington Regulatory Field Office has received a request for Department of the Army authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, from the Town of Topsail Beach to conduct a one-time interim beach fill project to protect oceanfront development and infrastructure until such time that a federally authorized shore protection project can be implemented. While federal budget priorities have made it difficult to obtain funds for civil works projects in general and beach protection projects in particular, the projected earliest construction date for the federal project is 2012. A Draft General Reevaluation Report—Environmental Impact Statement (GRR–EIS) has been prepared by the USACE and was released for public review and comment in June 2006 (USACE, 2006). Given the current status of the GRR–EIS and the need for Congressional authorization, funding, preparation of plans and specifications, and right-of-way acquisition, the federal project may not be implemented until Fiscal Year 2012, or possibly later. Accordingly, the Town would like to construct an interim project to protect its development and infrastructure during the period between now and the time the federal project is constructed. In order to account for any possible delays in the construction of the federal project, a construction date of 2016 was used in the development of the alternatives and economic analysis for the interim project. This would maintain the baseline conditions described in the Draft GRR and EIS.

ADDRESSES: Copies of comments and questions regarding the DSEIS may be addressed to: U.S. Army Corps of Engineers, Wilmington District, Regulatory Division. ATTN: File Number SAW–2006–40848–071, Post Office Box 1890, Wilmington, NC 28402–1890.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DSEIS can be directed to Mr. Dave Timpy, Wilmington Regulatory Field Office, telephone: (910) 251–4634.

SUPPLEMENTARY INFORMATION:

1. *Project Description.* The fill placement area will occur between Godwin Avenue on the south to a point 2,000 feet northeast of Topsail Beach/Surf City town limits, a total ocean shoreline length of approximately 25,000 feet. The fill would consist of three sections, a 1,000-foot transition on the south beginning at a point opposite Godwin Avenue, a 22,000-foot main fill section that would extend to the Topsail Beach/Surf City town limits, and a 2,000-foot northern transition (Figure 1). The beach fill would have a variable width berm constructed to an elevation of +6.0 feet NAVD. The volume of material for the emergency project is based on providing erosion protection until such time a federal storm damage reduction project is implemented.

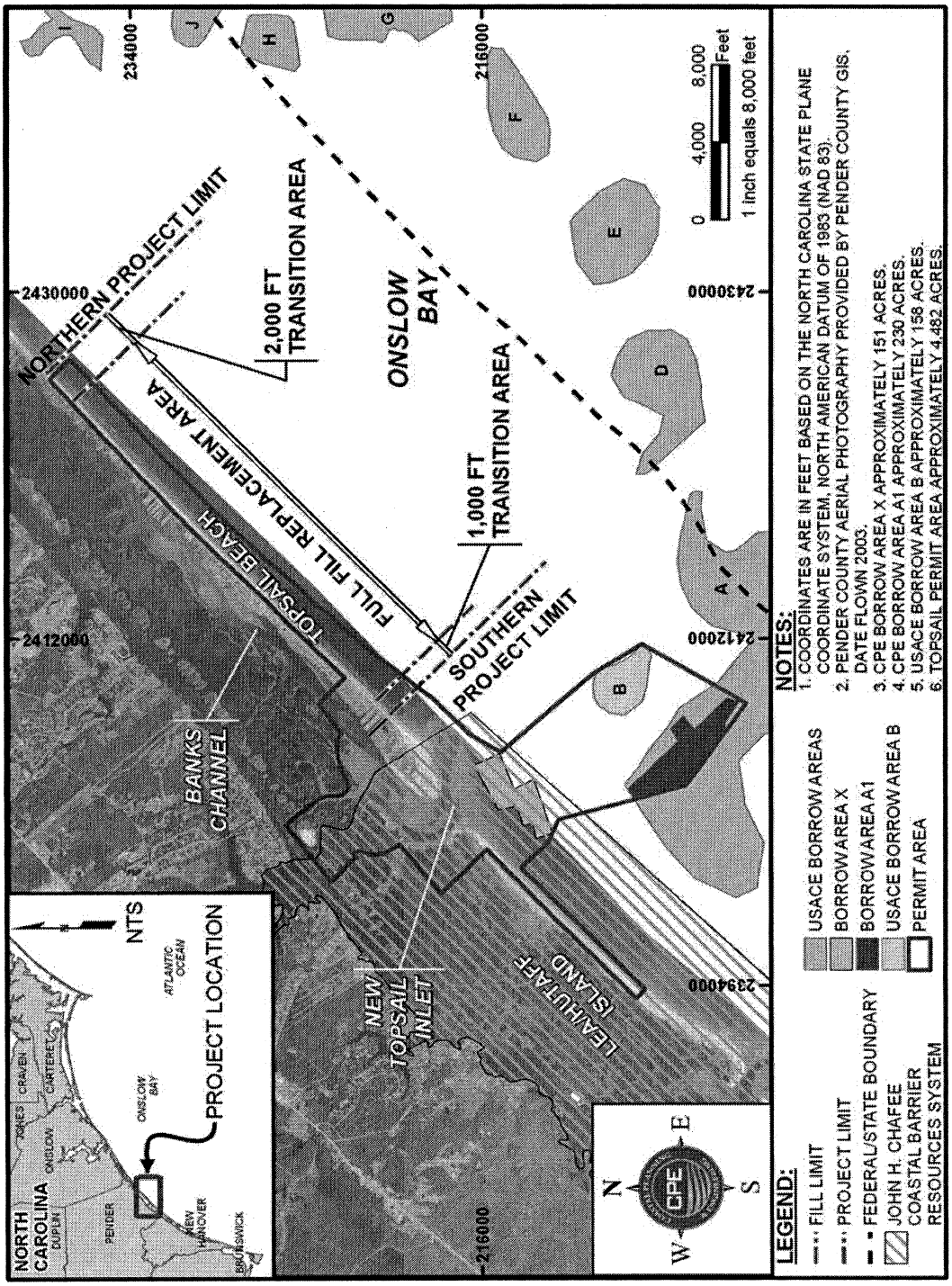

Figure 1 – Topsail Beach Interim (Emergency) Beach Fill Project – Permit Request Location Map

The volume of beach fill material could range from a minimal amount needed to counter long-term erosion losses during the interim period (approximately 5 years) to a maximum amount that would include a contingency volume to account for possible storm related erosion losses during the time period. The material to construct the emergency project would be derived from an offshore borrow site or a combination of borrow sites. The potential borrow sites include a portion of Borrow Area A (Borrow Area A1) identified by the USACE in the Draft GRR/EIS with the area considered for the emergency project shown in Figure 1. Borrow Area A1 contains a total volume of approximately 2.0 million cy. The second potential borrow area, designated as Borrow Area X in Figure 1, was developed specifically for the interim project and lies offshore of New Topsail Inlet outside the areas investigated by the USACE. Borrow Area X also contains approximately 2.0 million cy. Borrow Area B (Figure 1) is considered as a possible source for the interim project, however the volume of material available in Borrow Area B is an estimated total volume of 820,000 gross cy with an overfill factor of 1.23 resulting in a potential net volume of suitable beach fill material of 660,000 cy. The superposition of the 500 m buffer around the probable hardbottom areas located close to Borrow Area B eliminated approximately 54% of the area. The remaining area of Borrow Area B lying outside the 500 m buffer contains approximately 230,000 cy of relatively fine grained material (0.19 mm mean grain size) in a shallow deposit (2 to 3 ft). The shallow nature of the deposit in Borrow Area B would not render it economical to dredge with a cutterhead pipeline dredge. Ultimately, the small volume of material that could reasonably be obtained from Borrow Area B compared to the increase in potential environmental resources associated with the placement of pipeline around probable hardbottom or use of a hopper dredge resulted in its elimination as a viable borrow source for the Topsail Beach Interim Beach Fill Project. In addition to the borrow areas discussed above, the USACE identifies an additional five (5) offshore borrow areas in Section 7.04 of the Draft GRR/EIS (USACE, 2006). These offshore borrow areas, Borrow Areas A, C, D, E, and F, lie seaward of the 3-mile state territorial limit and would require permits from the U.S. Minerals Management Service (MMS). Usage of the USACE offshore borrow areas located beyond the 4.8 km (3 mi) state territorial limit would not meet the purpose and need of the project. In particular, the acquisition and utilization of beach compatible material for shore protection project no later than March 31, 2009.

A possible fourth source of borrow material, Banks Channel located behind Topsail Beach, was considered a potential alternative however it has not been evaluated in detail due to the small volume of material that could be removed from within the limits of the authorized navigation channel. A recent maintenance operation in Banks Channel and Old Topsail Creek, completed in fall 2007, removed approximately 160,000 cy of shoal material and deposited the material along 4,000 feet of shoreline extending north of the Sea Vista Hotel/Condominium. This operation further reduced the quantity of material that could be used for the interim project that would be available from the existing navigation channels. Upland borrow sources are not an economical option for the emergency project. Cost estimates for truck haul material from upland borrow areas located near the Town of Wallace, NC determined the unit cost for the material was non-competitive. Accordingly, upland borrow sources were not evaluated in detail for the proposed emergency project.

Beach fill alternatives evaluated in detail for the interim project are listed below and include constructing the project using Borrow Area A1, Borrow Area X, or a combination of Borrow Areas X and A1. For the combined use of Borrow Areas X and A1, only the two seaward most dredge cuts of Borrow Area X would be used. This particular portion of Borrow Area X contains an estimated 784,000 cy of material. The Applicant's Preferred Alternative includes the use of Borrow Area X which contains an estimated 2.0 million cy of material. Two dredging methods were also evaluated; ocean certified cutter-suction pipeline dredge (pipeline dredge) and hopper dredge using direct pumpout (hopper dredge).

The naming convention for the various beach fill alternatives is as follows:

Alternative 3a: Borrow Area A1 with pipeline dredge.

Alternative 3b: Borrow Area X with pipeline dredge.

Alternative 3c: Borrow Areas X and A1 with pipeline dredge.

Alternative 3d: Borrow Area A1 with hopper dredge.

Alternative 3e: Borrow Area X with hopper dredge.

Alternative 3f: Borrow Areas X and A1 with hopper dredge.

Based on the goals, needs and objectives of the emergency project, Alternative 3b is the Applicant's Preferred Alternative. The proposed construction timeframe for the interim beach fill activities will occur in early calendar year 2009.

Beach Fill Surveys & Design. Typical cross-sections of the beach along the Topsail Beach project area will be surveyed. Nearshore profiles will extend seaward to at least the −30-foot NAVD depth contour. The total volume of beach fill to be placed in front of the existing development and infrastructure will be based on an evaluation of erosion of the project area from 2002 through the expected construction date of the Federal project. Additional offshore and inshore data for Lea/Hutaff Island were also obtained along the northern 5,000 feet of the island. This data was used in the evaluation of possible impacts associated with the removal of sediment from the selected offshore borrow area and for future impact evaluations following project implementation through the use of numerical modeling.

Geotechnical Investigations. The offshore sand search investigations have included bathymetric surveys, sidescan sonar surveys, seismic surveys, cultural resource surveys, vibracore collection and analysis, and ground-truth diver surveys to verify existence or non-existence of hard bottoms. The results of the offshore investigations coupled with the compatibility of the sand resource area and native beach sand were assessed to define the borrow area. All sediment compatibility assessments were based on State of North Carolina sediment compatibility standards that went into effect in February 2007.

Environmental Resource Coordination & Permitting. The USACE prepared a General Reevaluation Report—Environmental Impact Statement (GRR–EIS) for the larger federal shore protection project (June 2006). The next step for the West Onslow Project is for the USACE to release the Final GRR and EIS for public and agency review and comment in summer 2008. The interim beach fill project will be subject to Section 10 of the Rivers and Harbors Act, Section 404 of the Clean Water Act and the North Carolina Environmental Policy Act (NCEPA).

Preliminary coordination with the USACE-Wilmington District resulted in a determination that a Department of the Army Application for an Individual Permit will be needed for project compliance with Sections 10 and 404.

Similarly, coordination with the North Carolina Division of Coastal Management (NCDCM) determined that the project would require a State EIS developed in accordance with NCEPA; as well as a Major Permit under the Coastal Area Management Act.

2. *Proposed Action.* The scope of activities for the proposed interim beach fill project included: (a) Vibracores in the identified borrow area, (b) side scan sonar surveys of the ocean bottom, (c) in-water investigations of potential near shore hardbottom resources identified by the side scan sonar survey, and (d) beach profile surveys. Offshore investigations included bathymetric surveys, sidescan sonar surveys, seismic and cultural resource surveys, as well as vibracore collection and analysis. The results of the offshore investigations coupled with the compatibility of the sand resource area and native beach sand were assessed to define the borrow area.

3. *Issues.* There are several potential environmental issues that are addressed in the DSEIS. Additional issues may be identified during the public review process. Issues initially identified as potentially significant include:

a. Potential impact to marine biological resources (benthic organisms, passageway for fish and other marine life) and Essential Fish Habitat, particularly hardbottoms.

b. Potential impact to threatened and endangered marine mammals, birds, fish, and plants.

c. Potential impacts to water quality.

d. Potential increase in erosion rates to adjacent beaches.

e. Potential impacts to navigation, commercial and recreational.

f. Potential impacts to private and public property.

g. Potential impacts on public health and safety.

h. Potential impacts to recreational and commercial fishing.

i. The compatibility of the material for nourishment.

j. Potential economic impacts.

4. *Alternatives.* Several alternatives are being considered for the proposed project. These alternatives were further formulated and developed during the scoping process and an appropriate range of alternatives, including the No Action and Non Structural alternative, are considered in the Draft Supplemental EIS.

5. *Scoping Process.* Project Delivery Team meetings were held to receive comments and assess concerns regarding the appropriate scope and preparation of the DSEIS. Federal, state, and local agencies and other interested organizations and persons participated in these Project Delivery Team meetings.

The COE is also consulting with the U.S. Fish and Wildlife Service under the Endangered Species Act and the Fish and Wildlife Coordination Act, and with the National Marine Fisheries Service under the Magnuson-Stevens Act and Endangered Species Act. Additionally, the Draft Supplemental EIS has assessed the potential water quality impacts pursuant to Section 401 of the Clean Water Act, and is being coordinated with NCDCM to determine the projects consistency with the Coastal Zone Management Act. The USACE will closely work with NCDCM through the DSEIS to ensure the process complies with all North Carolina Environmental Policy Act (NCEPA) requirements. It is the USACE and NCDCM's intentions to consolidate both NEPA and NCEPA processes to eliminate duplications.

6. *Availability of the Draft Supplemental EIS.* The DSEIS has been published and circulated, and a public hearing will be held August 26, 2008 at the Historical Society Assembly Building, 720 Channel Blvd., Topsail Beach, NC at 6 p.m.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–17079 Filed 7–24–08; 8:45 am]

BILLING CODE 3710–GN–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 21, 2008.

Sheila Carey,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of English Language Acquisitions

Type of Review: New.

Title: Foreign Language Assistance Program for Local Educational Agencies: Annual Performance Report.

Frequency: Semi-Annually.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 127.

Burden Hours: 6,350.

Abstract: The purpose is to implement a data collection process for a new semi-annual reporting for Government Performance and Results Act (GPRA) purposes for the Foreign Language Assistance Program (FLAP) for Local Educational Agencies (LEAs). These data are necessary to assess the performance of the FLAP for LEAs in meeting its stated goals and objectives and report to ED's Budget Service.

Requests for copies of the information collection submission for OMB review

may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3021. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–17058 Filed 7–24–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: Acting Leader, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, *e.g.*, ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. Acting Leader, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 22, 2008.

Sheila Carey,

Acting Leader, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Title: Application Package for Graduate Assistance in Areas of National Need (GAANN) Program (1894–0001) (KM).

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 325;

Burden Hours: 13432.

Abstract: This information collection provides the U.S. Department of Education with information needed to evaluate, score, and rank the quality of the projects proposed by institutions of higher education applying for a grant. Title VII, Part A of the Higher Education Act of 1965, as amended, requires the collection of specific data that are necessary for applicant institutions to receive an initial competitive grant and non-competing continuations grants for the second and third years.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3762. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–17116 Filed 7–24–08; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8698–1]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: The U.S. Environmental Protection Agency is proposing to enter into an Administrative Settlement and Order on Consent for Removal Response Action, Docket No. CERC–03–2008–0092DC (''Proposed AOC''), relating to the Bally TCE Superfund Site (''Site''), located in Bally, Berks County, Pennsylvania. EPA is entering into this AOC with Respondent, American Household, Inc., formerly known as Sunbeam Corporation, pursuant to Sections 106(a) and 122(a) and (h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9606(a) and 9622(a) and (h)(1).

The Proposed AOC requires Respondent to perform a response action to address risks presented by vapor intrusion of Site-related hazardous substances at the Site. Pursuant to the Proposed AOC, in consideration of Respondent's

performance of this response work, EPA shall provide Respondent with a covenant not to sue for reimbursement of oversight costs incurred by EPA with respect to this Settlement Agreement.

DATES: Comments must be provided within thirty (30) days from publication.

ADDRESS: Comments should be addressed to Lydia Guy, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and should refer to the Malvern TCE Superfund Site, East Whiteland Township, Chester County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Joan A. Johnson (3RC41), 215/814–2619, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

A copy of the Proposed AOC can be obtained from Joan A. Johnson, U.S. Environmental Protection Agency, Region III, Office of Regional Counsel, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, or by contacting Joan A. Johnson at (215) 814–2619.

Dated: July 17, 2008.

Donald S. Welsh,

Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. E8–17085 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0393; FRL–8697–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal); EPA ICR No. 1750.05; OMB Control No. 2060–0393

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 25, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0393, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Moore, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5460; fax number: (919) 541–3470; e-mail address: *moore.bruce@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 15, 2008 (73 FR 28112), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2008–0393 which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation 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 Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal).

ICR numbers: EPA ICR No. 1750.05, OMB Control No. 2060–0393.

ICR Status: This ICR is scheduled to expire on July 31, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. 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 information collection includes initial reports and periodic recordkeeping necessary for EPA to ensure compliance with Federal standards for volatile organic compounds in architectural coatings. Respondents are manufacturers, distributors, and importers of consumer products. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information.

Burden Statement: The annual public reporting and recordkeeping burden for

this collection of information is estimated to average 33 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers and importers of architectural coatings.

Estimated Number of Respondents: 500.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 16,641 hours.

Estimated Total Annual Cost: $1,224,507. This includes $1,224,507 in labor costs and no capital or O&M costs.

Changes in Estimates: There is a reduction of 6,120 hours in the total estimated respondent burden compared with that identified in the OMB Inventory of Approved ICR Burdens. This reduction is a result of revised estimates of number of exceedance fee reports and tonnage exemption reports to be submitted. These revised estimates were updated based on actual reports received in 2007 and 2008 in accordance with OMB's terms of clearance when the existing ICR was previously renewed in 2005. The estimated total annual costs decrease by $375,200 as a result.

Dated: July 21, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–17090 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8696–9]

Award of United States-Mexico Border Program Grants Authorized by the Consolidated Appropriations Act, 2008, and Grant Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of a memorandum and accompanying guidance on how the Environmental Protection Agency (EPA) will award and administer the United States-Mexico Border Program grant funds appropriated in the State and Tribal Assistance Grants (STAG) account of the Agency's fiscal year (FY) 2008 appropriations. In the memorandum, the Agency identifies the portion of the available funds that are subject to the accompanying guidance. The grant guidance, which specifies how EPA Region 6 and Region 9 will award and administer these funds, will not be reissued annually. Each grant recipient will receive a copy of the memorandum and grant guidance from EPA. Requests for any materials referenced in the guidance document should be directed to the Regional project officers.

FOR FURTHER INFORMATION CONTACT: Kellie Kubena, Acting Chief, Municipal Assistance Branch, Municipal Support Division, Office of Wastewater Management (4204M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566–0448; e-mail address: *Kubena.Kellie@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

The subject notice and associated documents may be viewed and downloaded from EPA's homepage, *http://www.epa.gov/owm/mab/owm0331.pdf* and *http://www.epa.gov/owm/mab/owm0332.pdf.*

Dated: July 8, 2008.

Judy Davis,

Acting Director, Office of Wastewater Management.

[FR Doc. E8–17087 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–OW–2008–0214; FRL–8697–8]

Massachusetts Marine Sanitation Device Standard—Notice of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Determination.

SUMMARY: The Regional Administrator of the Environmental Protection Agency—New England Region, has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the state waters of Cape Cod Bay in the municipalities of Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Dennis, Yarmouth, Barnstable, Sandwich and Bourne.

ADDRESSES: *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 electronically in *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ann Rodney, U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Telephone: (617) 918–0538. Fax number: (617) 918–1505. E-mail address: *rodney.ann@epa.gov*.

SUPPLEMENTARY INFORMATION:

On May 22, 2008, EPA published a notice that the Commonwealth of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the state waters of Cape Cod Bay in the municipalities of Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Dennis, Yarmouth, Barnstable, Sandwich and Bourne. Two comments were received on this petition.

The petition was filed pursuant to Section 312(f)(3) of Public Law 92–500, as amended by Public Laws 95–217 and 100–4, for the purpose of declaring these waters a No Discharge Area (NDA).

Section 312(f)(3) states: After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

This Notice of Determination is for the state waters of Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Dennis, Yarmouth, Barnstable, Sandwich and Bourne, collectively referred to as Cape Cod Bay. The NDA includes:

Waterbody/general area	Latitude	Longitude
Eastern Landward Boundary—Line of longitude		70°10′00″ W.
Northeastern Seaward Boundary—West along State Territorial line	42°08′00″ N	70°10′00″ W.
Northwestern Landward Boundary—State Line intersection with Mean High Water line	42°09′00″ N	70°42′00″ W.

The NDA boundary includes the municipal waters of Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Dennis, Yarmouth, Barnstable, Sandwich and Bourne and extends to the boundary between state and federal waters. Cape Cod Bay is bordered on three sides by the geographic landforms of Cape Cod and the South Shore of Massachusetts.

The information submitted to EPA by the Commonwealth of Massachusetts certifies that there are eight pumpout facilities located within this area. A list of the facilities, with phone numbers, locations, and hours of operation is appended at the end of this determination.

Based on the examination of the petition, its supporting documentation, and information from site visits conducted by EPA New England staff, EPA has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area covered under this determination.

This determination is made pursuant to Section 312(f)(3) of Public Law 92–500, as amended by Public Laws 95–217 and 100–4.

PUMPOUT FACILITIES WITHIN THE NO DISCHARGE AREA

Name	Location	Contact info.	Hours	Mean low water depth (ft)
Sandwich Marina	Sandwich	(508) 833–0808 VHF 9, 16	8 a.m.–5 p.m., 7 days a week	5
Barnstable Town Marina	Barnstable	(508) 790–6272 VHF 9, 16	8 a.m.–4 p.m., 7 days a week	4.5
Northside Marina	East Dennis	(508) 385–3936 VHF 7	8 a.m.–5 p.m., 7 days a week	8
Orleans Town Pier at Rock Harbor	Orleans	(508) 240–3755 VHF 16, 66	8 a.m.–4 p.m., 7 days a week	4
Town of Wellfleet Marina	Wellfleet	(508) 349–0320 VHF 9	8 a.m.–6 p.m., 7 days a week	6
Provincetown Harbor	Provincetown	(508) 487–7030 VHF 9, 16	10 a.m.–4 p.m., 7 days a week	6
Dennis	Dennis	(508) 385–5555 VHF 9, 68	7 days a week	5
Provincetown	Provincetown	(508) 489–7030 VHF 68	7 days a week	5

Dated: July 7, 2008.

Robert W. Varney,

Regional Administrator, New England Region.

[FR Doc. E8–17101 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8697–4; Docket ID No. EPA–HQ–ORD–2008–0543]

The Development of Land-Use Scenarios Consistent With Climate Change Emissions Storylines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a 30-day public comment period for the draft document entitled, ''The Development of Land-Use Scenarios Consistent with Climate Change Emissions Storylines'' (EPA/600/R–08/076). The document was prepared by the National Center for Environmental Assessment within EPA's Office of Research and Development.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information-quality guidelines. This document has not been formally disseminated by EPA. It does not represent, and should not be construed to represent, any Agency policy or determination. EPA will consider any public comments submitted in accordance with this notice when revising the document.

DATES: The 30-day public comment period begins July 25, 2008, and ends August 25, 2008. Technical comments should be in writing and must be received by EPA by August 25, 2008.

ADDRESSES: The draft is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*. A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, your mailing address, and the document title, ''The Development of Land-Use Scenarios Consistent with Climate Change Emissions Storylines.''

Comments may be submitted electronically via *http://www.regulations.gov*, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions

provided in the ''Supplementary Information'' section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov*.

For technical information, contact Britta Bierwagen, NCEA; telephone: 703–347–8613; facsimile: 703–347–8694; or e-mail: *bierwagen.britta@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Information About the Project/Document

This draft report describes the modeling methodology used to create scenarios of housing density changes across the contiguous United States for each decade from the year 2000 to 2100 that are consistent with socio-economic storylines used by climate change modelers. The method consists of adapting the four main storylines used in the reports by the Intergovernmental Panel on Climate Change (IPCC) to the United States, then running a demographic model for the United States at the county level that is consistent with these storylines, and distributing new housing at a 100-meter scale using a spatial allocation model that translates the population projections to housing.

The scenarios not only reflect different assumptions about fertility rates and domestic and international migration, but also assumptions about the allocation of housing on the landscape from more compact to less compact forms of growth. The draft report also describes the methods used to convert housing density into impervious surface cover—an output that will facilitate future assessments of changes in water quality, aquatic ecosystems, air quality, and human health. The draft report concludes with recommendations for future modifications to the model to integrate climate change variables and for further analyses using the present results.

II. How to Submit Technical Comments to the Docket at http://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD 2008–0543, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *ORD.Docket@epa.gov*.
- Fax: 202–566–1753.
- Mail: Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- Hand Delivery: The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2008–0543. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov*, including any personal information provided, unless a 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*.

Docket: Documents in the docket are listed in the *http://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 materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: July 16, 2008.

Rebecca Clark,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. E8–17086 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8584–1]

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 202–564–7146. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2008 (73 FR 19833).

Draft EISs

EIS No. 20080181, ERP No. D–FAA–F51051–OH, Port Columbus International Airport/(CMH) Project, Replacement of Runway 10R/28L, Development of a New Passenger Terminal and other Associated Airport Projects, Funding, City of Columbus, OH.

Summary: EPA expressed environmental concerns about particulate matter and noise and recommended using energy efficiency and sustainability principles. Rating EC2.

EIS No. 20080202, ERP No. D–COE–F09805–WI, Wisconsin Power and Light 300 MW Power Plant, Construction and Operation of a 300

Megawatt (MW) Baseload Coal-Fired Electric Generating Unit, Nelson Dewey Generating Station, near Cassville, Grant County, WI.

Summary: EPA expressed environmental concerns about surface water quality, ground water hydrology and air emission impacts, and recommends additional information on effects of the lateral collector well; impacts from dredging for a new barge facility; air emissions control technology; and cumulative impacts on water and air quality. Rating EC2.

EIS No. 20080229, ERP No. D–AFS–K65341–AZ, Black River Exchange Project, Proposal to Exchange Federal and Non-Federal Lands, Apache-Sitgreaves National Forests, Apache County, AZ.

Summary: EPA has no objections to the proposed project. Rating LO.

Final EISs

EIS No. 20080055, ERP No. F–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 continues to have environmental concerns about monitoring goals, and adaptive management.

EIS No. 20080205, ERP No. FR–FHW–G40178–TX, Grand Parkway/TX–99 Segment F–1 Highway Construction, U.S. 290 to TX–249, Funding and US Army COE Section 404 Permit Issuance, Harris, Montgomery, Fort Bend, Liberty, Brazoria, Galveston and Chambers Counties, TX.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20080158, ERP No. FS–IBR–K39079–CA, Environmental Water Account (EWA) Project, Preferred Alternative is Fixed Purchase Alternative, Provide an Evaluation of 2004 Final EIS/EIR Environmental Water Account (EWA) and Effects Associated with Extending the Current EWA's through 2011, CA.

Summary: While EPA continues to have environmental concerns about the proposal, EPA concurs with a short-term and adaptable approach to the Environmental Water Account Project.

Dated: July 22, 2008.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E8–17098 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8583–9]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements.

Filed 07/14/2008 Through 07/18/2008.

Pursuant to 40 CFR 1506.9.

EIS No. 20080279, Draft EIS, FRC, PA, Holtwood Hydroelectric Project (Docket No. P–1881–050) Application for an Amendment License to Increase the Installed Capacity, Susquehanna River, Lancaster and York Counties, PA, Comment Period Ends: 09/08/2008, Contact: Patricia Schaub 1–866–208–3372.

EIS No. 20080280, Final EIS, AFS, WY, Winter Elk Management Programs, Long-Term Special Use Authorization for Wyoming Game and Fish Commission to use National Forest System Land within the Bridger-Teton National Forest at Alkali Creek, Dog Creek, Fall Creek, Fish Creek, Muddy Creek, Patrol Cabin, and Upper Green River, Jackson and Sublette, WY, Wait Period Ends: 08/25/2008, Contact: Greg Clark 307–276–3375.

EIS No. 20080281, Draft EIS, NRC, 00, Generic—In-Situ Leach Uranium Milling Facilities (NUREG–1910), Construction, Operation, Aquifer Restoration and Decommissioning, Potentially Location in Portions of WY, NE, SD and NM, Comment Period Ends: 09/26/2008, Contact: James Park 301–415–6935.

EIS No. 20080282, Draft EIS, UPS, CA, Aliso Viejo Incoming Mail Facility, Proposed Construction and Operation of a Mail Processing Facility on a 25-Acre Parcel, Aliso Viejo, Orange County, CA, Comment Period Ends: 09/08/2008, Contact: Emmy Andrews 650–615–7200.

EIS No. 20080283, Draft Supplement, AFS, MN, Glacier Project, Updated Information to Develop and Analyze a Fourth Alternative, 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, Comment Period Ends: 09/08/2008, Contact: Susan Duffy 218–365–3097.

EIS No. 20080284, Final Supplement, USA, 00, Programmatic—Army Growth and Force Structure Realignment, Evaluation of Alternatives for Supporting the Growth, Realignment, and Transformation of the Army to Support Operations in the Pacific Theater, Implementation, Continental United States and Pacific Region of Alaska and Hawaii, Wait Period Ends: 08/25/2008, Contact: Mike Ackerman 410–436–2522.

Amended Notices

EIS No. 20080217, Second Draft Supplement, COE, CA, Pacific Los Angeles Marine Terminal Crude Oil Marine Terminal, Construction and Operation of a New Marine Terminal from Pier 400, Berth 408 Project, U.S. Army COE Section 10 and 404 Permits, Port of Los Angeles, Los Angeles County, CA, Comment Period Ends: 08/13/2008, Contact: Dr. Spencer D. MacNeil 805–585–2152. Revision of FR Notice Published 06/06/2008: Extending Comment from 07/29/2008 to 08/13/2008.

EIS No. 20080262, Draft EIS, SFW, NV, Desert National Wildlife Refuge Complex, Ash Meadows, Desert, Moapa Valley and Pahranagat National Wildlife Refuges, Comprehensive Conservation Plan, Clark, Lincoln and Nye Counties, NV, Comment Period Ends: 09/09/2008, Contact: Cynthia Martinez 702–515–5450. Revision to FR Notice Published: Correction Comment Period from 08/25/2008 to 09/09/2008.

Dated: July 22, 2008.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E8–17097 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8697–9]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of a Public Advisory Committee Meeting of the CASAC Oxides of Nitrogen Primary NAAQS Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee's (CASAC) Oxides of Nitrogen Primary NAAQS Review

Panel (Panel) to conduct a peer review of the EPA's *Risk and Exposure Assessment to Support the Review of the NO^2 Primary National Ambient Air Quality Standard: Second Draft.*

DATES: The meeting will be held from 8:30 a.m. (Eastern Time) on Tuesday, September 9, 2008 through 2 p.m. (Eastern Time) on Wednesday, September 10, 2008.

ADDRESSES: The September 9–10, 2008 meeting will take place at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703, telephone (919) 941–6200.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to submit a written or brief oral statement (five minutes or less) or wants further information concerning this meeting must contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9981; fax (202) 233–0643; or e-mail at *nugent.angela@epa.gov.* General information concerning the CASAC and the CASAC documents cited below can be found on the EPA Web site at *http://www.epa.gov/casac.*

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including oxides of nitrogen (NO_X). EPA is in the process of reviewing the primary NAAQS for nitrogen dioxide (NO_2) as an indicator for NO_X. Primary standards set limits to protect public health, including the health of ''sensitive'' populations such as asthmatics, children, and the elderly.

CASAC has previously provided consultative advice on EPA's *Integrated Review Plan for the Primary National Ambient Air Quality Standard for Nitrogen Dioxide* (August 2007) and conducted peer review of the first and second drafts of EPA's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria.* CASAC also provided consultative advice on EPA's *Nitrogen Dioxide Health Assessment Plan: Scope and Methods for Exposure and Risk Assessment* and conducted peer review of EPA's *Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft.* The CASAC advisory reports are available on the EPA Web site at *http://www.epa.gov/casac.* The purpose of this meeting is for CASAC to conduct a peer review of the *Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Second Draft.*

Technical Contact: Any questions concerning EPA's *Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Second Draft* should be directed to Dr. Scott Jenkins, OAR (by telephone (919) 541–1167, or e-mail *jenkins.scott@epa.gov.*

Availability of Meeting Materials: EPA–OAR's *Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Second Draft* will be accessible via the Agency's Office of Air Quality Planning and Standards Web site at *http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr_rea.html* on or about August 12, 2008. Agendas and materials supporting the meeting will be placed on the EPA Web site at *http://www.epa.gov/casac* before the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail) by September 2, 2008 at the contact information noted above to be placed on the public speaker list for this meeting.

Written Statements: Written statements for the public meeting should be received by Dr. Angela Nugent at the contact information above by September 2, 2008, so that the information may be made available to the Panel for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature (optional), and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Nugent at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: July 21, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–17093 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Notice of Submission for OMB Review; Final Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Information Collection—Uniform Guidelines on Employee Selection Procedures.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission hereby gives notice that it is submitting the information collection described below to the Office of Management and Budget for a three-year authorization.

DATES: Written comments on this final notice must be submitted on or before August 25, 2008.

ADDRESSES: The Request for Clearance (SF 83–I) and supporting statement submitted to OMB for review may be obtained from: Carol R. Miaskoff, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. Comments on this final notice must be submitted to Chandana Achanta, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503, or electronically mailed to: *Chandana_L._Achanta@omb.eop.gov.*

Copies of comments should be submitted to the EEOC using one of the following methods:

- By the Federal eRulemaking Portal: *http://www.regulations.gov.* After accessing this Web site, follow its instructions for submitting comments.

• By mail to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th floor, 1801 ''L'' Street, NW., Washington, DC 20507; or by facsimile (''FAX'') machine to (202) 663–4114. (This is not a toll free number.) Only comments of six or fewer pages will be accepted via FAX transmittal, in order to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTD). (These are not toll free numbers).

All comments received by the EEOC will be posted without change to the Federal rulemaking portal, *http://www.regulations.gov*, including any personal information provided.

Copies of the comments also will be available for inspection in the EEOC Library, FOIA Reading Room, by advance appointment only, from 9 a.m. to 5 p.m., Monday through Friday except legal holidays, from August 25, 2008 until this item is finalized. To schedule an appointment to inspect the comments at the EEOC Library, FOIA Reading Room, contact the EEOC Library by calling (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll free numbers). Persons who schedule an appointment in the EEOC Library, FOIA Reading Room, and need assistance to view the comments, will be provided with appropriate aids upon request, such as readers or print magnifiers.

FOR FURTHER INFORMATION CONTACT: Carol R. Miaskoff, Assistant Legal Counsel, 1801 L Street, NW., Washington, DC 20507; (202) 663–4638 (voice) or (202) 663–7026 (TTY). This notice is also available in the following formats: large print, Braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: A notice that the Equal Employment Opportunity Commission (EEOC or Commission) would be submitting the Uniform Guidelines on Employee Selection Procedures (UGESP or Uniform Guidelines) to the Office of Management and Budget (OMB), for a three-year approval under the Paperwork Reduction Act of 1995 (PRA), was published in the **Federal Register** on March 25, 2008, allowing for a 60-day public comment period. 73 FR 15754 (Mar. 25, 2008). At that time, the EEOC announced that it would submit the Uniform Guidelines without change from its original form as adopted in 1978, and without change in the original interpretive Qs & As adopted in 1979 and 1980. The Uniform Guidelines continue to provide fundamental and consistent federal guidance for all Title VII-covered employers about the use of employment selection procedures.

Nine parties submitted written comments in response to the March 2008 notice: five federal agencies (including two sister UGESP agencies concurring with the proposal) and four other parties, including representatives of federal contractors and businesses generally, a civil rights organization, and an economic consultant. Three parties focused their comments on responding to the PRA's mandatory questions about data utility and burden. Of these parties, two agreed that the UGESP recordkeeping requirements were necessary and useful for the EEOC's performance of its enforcement responsibilities and also accepted the EEOC's burden estimate. One commenter found the data collection was unnecessary and burdensome, and disagreed with the EEOC's burden estimate. The EEOC's burden calculation is based on contemporary, publicly-available data. It reflects the ongoing burden of collecting and storing demographic data for job applicants. Because UGESP remains unchanged, the burden estimate does not reflect the cost of new information systems or software.

Five commenters agreed with the EEOC's decision to submit UGESP for PRA authorization without change, including the Department of Labor and the Office of Personnel Management, sister UGESP agencies. The reasons include preserving consistency in regulation, preserving a necessary data tool, and not disturbing the now-standard business practice of collecting demographic data from applicants. As an enforcement agency, the EEOC believes that UGESP is a necessary recordkeeping tool, which also provides fundamental and consistent federal guidance for all Title VII-covered employers about the use of employment selection procedures.

Most commenters supported the decision not to finalize the UGESP agencies' proposed March 2004 subregulatory Qs and As. These proposed Qs and As defined electronic applicant for purposes of implementing the Uniform Guidelines. 69 FR 10152 (Mar. 4, 2004). Several parties cited the 2005 internet applicant regulation issued by Department of Labor's (DOL) OFCCP, the agency responsible for enforcement of Executive Order 11246, and two parties urged the Commission to consider alternative guidance after further study of the issues. Another party stated that UGESP and its existing Qs and As, without change, were sufficient. DOL's OFCCP concurred in the decision not to finalize the proposed Qs and As, and to submit UGESP without change to OMB. Maintaining UGESP in its current form is the appropriate course at this time.

Overview of This Information Collection

Collection Title: Recordkeeping Requirements of the Uniform Guidelines on Employee Selection Procedures, 29 CFR part 1607, 41 CFR part 60–3, 28 CFR part 50, 5 CFR part 300.

OMB Number: 3046–0017.

Form Number: None.

Frequency of Report: None.

Type of Respondent: Businesses or other institutions; federal government; state or local governments and farms.

North American Industry Classification System (NAICS) Code: Multiple.

Standard Industrial Classification Code (SIC): Multiple.

Description of Affected Public: Any employer, government contractor, labor organization, or employment agency covered by the federal equal employment opportunity laws.

Respondents: 846,156.

Responses: 846,156.

Cost to Respondents: $182,164,775.20.

Recordkeeping Hours: 14,822,194.89.

Number of Forms: None.

Federal Cost: 0.

Abstract: The records addressed by UGESP are used by respondents to assure that they are complying with Title VII and Executive Order 11246; by the Federal agencies that enforce Title VII and/or Executive Order 11246 to investigate, conciliate and litigate charges of employment discrimination; and by complainants to establish violations of Federal equal employment opportunity laws.

Burden Statement: There are no reporting requirements associated with UGESP. The burden being estimated is the cost of collecting and storing a job applicant's gender, race and ethnicity data. The only paperwork burden derives from this recordkeeping.

Only employers covered by Title VII and Executive Order 11246 are subject to UGESP. For the purpose of burden calculation, employers with 15 or more employees are counted. The number of such employers is estimated at 846,156, which combines estimates from private employment, the public sector, colleges and universities, and referral unions.

This burden assessment is based on an estimate of the total number of job applications submitted to all Title VII-

covered employers in one year, including both paper-based and electronic applications. The total number of job applications submitted every year to covered employers is estimated to be 1,778,663,387, which is based on a National Organizations Survey average of 35.225 applications for every hire and a Bureau of Labor Statistics data estimate of 50,490,000 annual hires. It also includes 153,137 applicants for union membership reported on the EEO–3 form for 2006.

The employer burden associated with collecting and storing applicant demographic data is based on the following assumptions: applicants would need to be asked to provide three pieces of information—sex, race/ethnicity, and an identification number (a total of approximately 13 keystrokes); the employer would need to transfer information received to a data base either manually or electronically; and the employer would need to store the 13 characters of information for each applicant. Recordkeeping costs and burden are assumed to be the cost of entering 13 keystrokes.

Assuming that the required recordkeeping takes 30 seconds per record, and assuming a total of 1,778,663,387 paper and electronic applications per year, the resulting UGESP burden hours would be 14,822,194.89. Based on a wage rate of $12.29 per hour for the individuals entering the data, the collection and storage of applicant demographic data would come to approximately $182,164,775.20 per year for Title VII-covered employers.

Dated: July 17, 2008.

For the Commission.

Naomi C. Earp,

Chair.

[FR Doc. E8–17070 Filed 7–24–08; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

July 21, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 25, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B. Herman@fcc.gov*, Federal Communications Commission, or an e-mail to *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1094.

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

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,500 respondents; 12,726 responses.

Estimated Time per Response: .25–5 hours average burden per response.

Frequency of Response: On occasion and one-time reporting requirements, recordkeeping requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 8,457 hours.

Total Annual Cost: $266,666.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The revised information collection requirements provides that information provided pursuant to the new requirement shall not be disclosed to additional parties except to the extent necessary to ensure compliance with the rule.

Needs and Uses: The Commission will submit this information collection (IC) to the OMB as a revision during this comment period to obtain the full three-year clearance from them.The FCC adopted and released a Fourth Memorandum Opinion and Order (*2008 Order*) in FCC 08–83, which proposes to extend and modify existing reporting and third party disclosure requirements such that licensees will, pursuant to Section 27.1221(f) of the Commission's rules, be required to provide the geographic coordinates, the height above ground level of the center of radiation for each transmit and receive antenna, and the date transmissions commenced for each of the base stations in its Geographic Service Area (GSA) within 30 days of receipt of a request from a co-channel, neighboring Broadband Radio Service/Educational Broadband Service (BRS/EBS) licensee. This information will be used to prevent harmful interference to licensees' BRS/EBS operations. Since BRS/EBS licensees will be providing this technical information to a third party, the information will not be used by the Commission unless submitted by the parties pursuant to an interference complaint. This additional requirement will add an additional .50 hours per licensee for reporting and recordkeeping requirements with an average of up to 250 responses to the current information collection burden for wireless service providers. Finally, the Commission is removing the requirement for the MVPD Opt Out (Waiver Request) provision that was approved by OMB the last time this

collection was submitted to the OMB for approval. This voluntary deadline for filing waiver requests ended on April 30, 2007. Therefore, the Commission is reporting −3 hours in annual burden and −$6,668 in annual costs (program change reductions) to remove this requirement from this information collection.

OMB Control Number: 3060–1039.

Title: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act—Review Process, WT Docket No. 03–128.

Form Nos.: FCC Forms 620 and 621.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 12,000 respondents; 12,000 responses.

Estimated Time per Response: .50–10 hours average burden per response.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 123,888 hours.

Total Annual Cost: $9,253,296.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: This information collection in general requires no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites. (*See* 16 U.S.C. Section 470w–3.)

Needs and Uses: The Commission will submit this information collection (IC) to the OMB as a revision during this comment period to obtain the full three-year clearance from them. There has been no change in the estimated number of respondents/responses, burden hours or annual costs.

The Commission is currently revising this form to make it available in electronic format or developing a means of filing these forms electronically via the Tower Construction Notification System (TCNS). The Commission has conducted extensive public outreach sessions for the revised forms and screen designs. While the outreach did not result in specific changes to the forms, we did streamline some of our screen design and add clarifications to the forms. In this latest revision, to alleviate numerous attachments, the Commission is adding the following data elements to the FCC Form 620:

- Consultant FCC Registration Number (FRN).
- TCNS Notification Number.
- Site Name of Structure.
- Tribal/NHO Involvement.
- Historic Properties.
- Local Government Involvement.
- Other Consulting Parties.
- Designation of SHPO/THPO.

The following data elements are being added to the FCC Form 621:

- Consultant FCC Registration Number (FRN).
- TCNS Notification Number.
- Secondary TCNS Notification Number.
- Site Name of Structure.
- Tribal/NHO Involvement.
- Historic Properties.
- Local Government Involvement.
- Other Consulting Parties.
- Designation of SHPO/THPO.

The data is used by FCC staff, State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO) and the Advisory Council on Historic Preservation (ACHP) to take such action as may be necessary to ascertain whether a proposed action may affect historic properties that are listed or eligible for listing in the National Register as directed by Section 106 of the NHPA and the Commission's rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–17100 Filed 7–24–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE & TIME: Monday, July 28, 2008 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

Items to be Discussed

Correction and Approval of Minutes.

Draft Advisory Opinion 2007–33: Club for Growth PAC, by Carol A. Laham, Esq. and D. Mark Renaud, Esq.

Draft Advisory Opinion 2008–05: Holland & Knight, LLP, by Christopher DeLacy, Esq.

Management and Administrative Matters.

Person to Contact for Information: Robert Biersack, Press Officer Telephone: (202) 694–1220

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mary Dove, Commission Secretary, at (202) 694–1040, at least 72 hours prior to the hearing date.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. E8–17012 Filed 7–24–08; 8:45 am]

BILLING CODE 6715–01–M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FTR 08–06]

Federal Travel Regulation (FTR); Relocation Allowances—Standard Mileage Rate for Moving Purposes

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of a bulletin.

SUMMARY: On December 11, 2007, the General Services Administration (GSA) published FTR Amendment 2007–06 in the **Federal Register** (72 FR 70234) specifying that the Internal Revenue Service (IRS) Standard Mileage Rate for moving purposes would be the rate at which agencies will reimburse an employee for using a privately-owned vehicle for relocation on a worldwide basis. The amendment indicated that the change to the IRS Standard Mileage Rate for moving purposes applied to relocations on and after September 25, 2007, and that GSA would publish a bulletin announcing any changes to that rate made by the IRS thereafter. On June 23, 2008, the IRS announced that as of July 1, 2008, the relocation mileage rate would increase to $0.27 per mile for the 6 month period ending on December 31, 2008. FTR Bulletin 08–06, is attached. FTR Bulletin 08–06 and all other FTR Bulletins may be found at *www.gsa.gov/federaltravelregulation*.

DATES: This notice is effective July 1, 2008 and applies to relocations performed on or after July 1, 2008 until December 31, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Davis, Office of Governmentwide Policy (M), Office of Travel, Transportation, and Asset Management (MT), General Services Administration at (202) 208–7638 or via e-mail at *ed.davis@gsa.gov*. Please cite FTR Bulletin 08–06.

Dated: July 1, 2008.

Kevin Messner,

Acting Associate Administrator, Office of Governmentwide Policy.

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FTR 08–06]

TO: Heads of Federal Agencies

SUBJECT: Relocation Allowances—Standard Mileage Rate for Moving Purposes

1. **What is the purpose of this bulletin?** This bulletin informs agencies that on June 23, 2008, the IRS announced an eight cent increase in the Standard Mileage Rate for moving purposes from 19 cents to 27 cents per mile. This new Standard Mileage Rate for moving purposes is effective July 1, 2008, through December 31, 2008, and applies to relocations undertaken by Federal employees during this time period.

2. **What is the background of this bulletin?** On December 11, 2007, GSA published FTR Amendment 2007–06 in the **Federal Register** (72 FR 70234) specifying that the IRS Standard Mileage Rate for moving purposes would be the rate at which agencies will reimburse an employee for using a privately owned vehicle (POV) for relocation worldwide. The amendment indicated that the change to the IRS Standard Mileage Rate for moving purposes applied to relocations on and after September 25, 2007, and that GSA would publish a bulletin announcing any changes to that rate made by the IRS thereafter.

3. **Who should I call for further information?** For further information, contact Mr. Ed Davis, Office of Governmentwide Policy (M), Office of Travel, Transportation, and Asset Management (MT), General Services Administration at (202) 208–7638 or via e-mail at *ed.davis@gsa.gov*.

By delegation of the Administrator of General Services,

Kevin Messner,

Acting Associate Administrator, Office of Governmentwide Policy.

[FR Doc. E8–17091 Filed 7–24–08; 8:45 am]

BILLING CODE 6820–14–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10166, CMS–10182, and CMS–846–849, 854, 10125, 10126, and 10269]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections 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.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Payment Error Rate Measurement in Medicaid and the State Children's Health Insurance Program (SCHIP); *Use:* The Improper Payments Information Act (IPIA) of 2002 requires CMS to produce national error rates for Medicaid and State Children's Health Insurance Program (SCHIP). To comply with the IPIA, CMS will engage a Federal contractor to produce the error rates in Medicaid and SCHIP.

The states will be requested to submit, at their option, test data which include full claims details to the contractor prior to the quarterly submissions to detect potential problems in the dataset to and ensure the quality of the data. These states will be required to submit quarterly claims data to the contractor who will pull a statistically valid random sample, each quarter, by strata, so that medical and data processing reviews can be performed. State-specific error rates will be based on these review results.

CMS needs to collect the claims data, medical policies, and other information from states as well as medical records from providers in order for the contractor to sample and review adjudicated claims in those states selected for review. Based on the reviews, state-specific error rates will be calculated which will serve as the basis for calculating national Medicaid and SCHIP error rates.

This revision of the currently approved collection contains minor revisions to the information collection requirements. There is a 10-hour increase in burden per state per program as part of a new process. Based on the past experience in PERM operation, the adjustment is made to ensure the quality of the data will comply with the data requirement during the measurement. *Form Number:* CMS–10166 (OMB# 0938–0974); *Frequency:* Quarterly, Yearly; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 34; *Total Annual Responses:* 4,080; *Total Annual Hours:* 28,560.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Model Creditable Coverage Disclosure Notices; *Use:* Section 1860D–1 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and implementing regulations at 42 CFR 423.56 require that entities that offer prescription drug benefits under any of the types of coverage described in 42 CFR 423.56(b) provide a disclosure of creditable coverage status to all Medicare Part D eligible individuals covered under the entity's plan informing them whether such coverage meets the actuarial requirements specified in guidelines provided by CMS.

These disclosure notices must be provided to Part D eligible individuals, at minimum, at the following times: (1) Prior to an individual's initial enrollment period for Part D, as described under § 423.38(a); (2) prior to the effective date of enrollment in the entity's coverage, and upon any change in creditable status; (3) prior to the commencement of the Part D Annual Coordinated Election Period (ACEP) which begins on November 15 of each year, as defined in § 423.38(b); and (4) upon request by the individual. In an effort to reduce the burden associated with providing these notices, our final regulations allow most entities to provide notices of creditable and non-creditable status with other information materials that these entities distribute to beneficiaries.

This collection has been updated by eliminating the separate Model Personalized Disclosure Notice. CMS has incorporated the personalized information into the Model Creditable Disclosure Notice and the Model Non-Creditable Disclosure Notice for use by the public. *Form Number:* CMS–10182 (OMB# 0938–0990); *Frequency:* Yearly and Semi-annually; *Affected Public:* Federal Government, Business or Other For-Profits and Not-for-Profit Institutions, and State, Local or Tribal Governments; *Number of Respondents:* 1,225,173; *Total Annual Responses:* 1,225,173; *Total Annual Hours:* 522,204.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Durable Medical

Equipment Medicare Administrative Contractors (MAC), Certificates of Medical Necessity; *Use:* The certificate of medical necessity (CMN) collects information required to help determine the medical necessity of certain items. CMS requires CMNs where there may be a vulnerability to the Medicare program. Each initial claim for these items must have an associated CMN for the beneficiary. Suppliers (those who bill for the items) complete the administrative information (*e.g.*, patient's name and address, items ordered, etc.) on each CMN. The 1994 Amendments to the Social Security Act require that the supplier also provide a narrative description of the items ordered and all related accessories, their charge for each of these items, and the Medicare fee schedule allowance (where applicable). The supplier then sends the CMN to the treating physician or other clinicians (*e.g.*, physician assistant, LPN, etc.) who completes questions pertaining to the beneficiary's medical condition and signs the CMN. The physician or other clinician returns the CMN to the supplier who has the option to maintain a copy and then submits the CMN (paper or electronic) to CMS, along with a claim for reimbursement. *Form Number:* CMS–846–849, 854, 10125, 10126, 10269 (OMB# 0938–0679); *Frequency:* Occasionally; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 59,200; *Total Annual Responses:* 6,480,000; *Total Annual Hours:* 1,296,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *September 23, 2008:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 18, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–17117 Filed 7–24–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1396–N]

Medicare Program; Announcement of Three New Members to the Advisory Panel on Ambulatory Payment Classification (APC) Groups

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: This notice announces three new members selected to serve on the Advisory Panel on Ambulatory Payment Classification (APC) Groups (the Panel). The purpose of the Panel is to review the APC groups and their associated weights and to advise the Secretary, DHHS (the Secretary), and the Administrator, CMS (the Administrator), concerning the clinical integrity of the APC groups and their associated weights. We will consider the Panel's advice as we prepare the annual updates of the hospital outpatient prospective payment system (OPPS).

FOR FURTHER INFORMATION CONTACT: For inquiries about the Panel, please contact the Designated Federal Official (DFO): Shirl Ackerman-Ross, DFO, CMS, CMM, HAPG, DOC, 7500 Security Boulevard, Mail Stop C4–05–17, Baltimore, MD 21244–1850. Phone (410) 786–4474.

APC Panel E-Mail Address: The E-mail address for the Panel is as follows: *CMS APCPanel@cms.hhs.gov.*

Note: There is NO underscore in this e-mail address; there is a SPACE between CMS and APCPanel.

News Media Contact: News media representatives must contact our Public Affairs Office at (202) 690–6145.

CMS Advisory Committees Hotlines: The CMS Federal Advisory Committee Hotline is 1–877–449–5659 (toll free) and (410) 786–9379 (local) for additional Panel information.

Web Sites: For additional information regarding the APC Panel membership, meetings, agendas, and updates to the Panel's activities, please search our Web site at the following Uniform Resource Locator (URL): *http://www.cms.hhs.gov/FACA/05_AdvisoryPanelonAmbulatoryPaymentClassificationGroups.asp#TopOfPage*.

Note: There is an underscore after FACA/05 (like this _); there is no space.

The public may also access the following URL for the Federal Advisory Committee Act Web site to obtain APC Panel information: *https://www.fido.gov/facadatabase/logon.asp*. A copy of the Panel's Charter and other pertinent information are on both Web sites mentioned above. You may also e-mail the Panel DFO at the above e-mail address for a copy of the Charter.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary is required by section 1833(t)(9)(A) of the Social Security Act (the Act), as amended and redesignated by sections 201(h) and 202(a)(2) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113), to consult with an expert outside advisory Panel regarding the clinical integrity of the APC groups and relative payment weights that are components of the Medicare hospital OPPS.

The APC Panel meets up to three times annually. The Charter requires that the Panel must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed. The Panel consists of up to 15 members, who are representatives of providers, and a Chair. Each Panel member must be employed full-time by a hospital, hospital system, or other Medicare provider subject to payment under the OPPS. The Secretary or Administrator selects the Panel membership based upon either self-nominations or nominations submitted by Medicare providers and other interested organizations. All members must have technical expertise to enable them to participate fully in the work of the Panel. This expertise encompasses hospital payment systems; hospital medical-care delivery systems; provider billing systems; APC groups, Current Procedural Terminology codes, and alpha-numeric Healthcare Common Procedure Coding System codes; and the use and payment of drugs and medical devices in the outpatient setting, as well as other forms of relevant expertise.

The Charter requires that all members have a minimum of 5 years experience

in their area(s) of expertise, but it is not necessary that any member be an expert in all of the areas listed above. For purposes of this Panel, consultants, independent contractors, and individuals in private practice are not considered as being full-time employees of hospitals, hospital systems, or other Medicare providers that are paid under the Medicare hospital OPPS. Panel members serve up to 4-year terms. A member may serve after the expiration of his or her term until a successor has been sworn in. All terms are contingent upon the renewal of the Panel's Charter by appropriate action before its termination. The Secretary re-chartered the APC Panel effective November 21, 2006.

II. Announcement of New Members

The Panel may consist of a Chair and up to 15 Panel members who serve without compensation, according to an advance written agreement. Travel, meals, lodging, and related expenses for the meeting are reimbursed in accordance with standard Government travel regulations. We have a special interest in ensuring that women, minorities, representatives from various geographical locations, and the physically challenged are adequately represented on the Panel.

The Secretary, or his designee, appoints new members to the Panel from among those candidates determined to have the required expertise. New appointments are made in a manner that ensures a balanced membership.

The Panel presently consists of the following 15 members and a Chair: (The asterisk [*] indicates a Panel member whose term expires on 06/30/2008, and the double asterisk [**] indicates Panel members whose terms expire on 09/30/2008.)

- Edith Hambrick, M.D., J.D., Chair
- Gloryanne Bryant, B.S., R.H.I.A., R.H.I.T., C.C.S.
- Patrick Grusenmeyer, Sc.D., M.P.A., F.A.C.H.
- Hazel Kimmel, R.N., C.C.S., C.P.C.*
- Michael D. Mills, Ph.D., M.S.P.H.
- Thomas M. Munger, M.D., F.A.C.C.
- Agatha L. Nolen, D.Ph., M.S.
- Beverly Khnie Philip, M.D.
- Louis Potters, M.D., F.A.C.R.**
- Russ Ranallo, M.S.
- James V. Rawson, M.D.
- Michael A. Ross, M.D., F.A.C.E.P.
- Judie S. Snipes, R.N., M.B.A., F.A.C.H.E.**
- Patricia Spencer-Cisek, M.S., A.P.R.N.–BC, A.O.C.N.®
- Kim Allan Williams, M.D., F.A.C.C., F.A.B.C.
- Robert Matthew Zwolak, M.D., Ph.D., F.A.C.S.

On February 22, 2008, we published the notice titled ''Request for Nominations to the Advisory Panel on Ambulatory Payment Classification Groups'' (CMS–1395–N) in the **Federal Register** (FR) requesting nominations to the Panel replacing Panel members whose terms would expire prior to or on September 30, 2008. As a result of that FR notice, we are announcing three new members to the Panel. One new 4-year appointment commences on August 1, 2008, and two new 4-year appointments commence on October 1, 2008, as indicated below:

New panel members	Terms
• Kathleen M. Graham, RN, MSHA, CPHQ	08/01/2008–07/31/2012
• Randall A. Oyer, MD	10/01/2008–09/30/2012
• Judith T. Kelly, BSHA, RHIT, RHIA, CCS	10/01/2008–09/30/2012

Note: Ms. Graham replaces Ms. Kimmel whose term expires 06/30/2008 when she retires. Dr. Oyer will replace Dr. Potters, and Ms. Kelly will replace Ms. Snipes. Ms. Snipes' and Dr. Potters' terms expire on 09/30/2008.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 9, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E8–17169 Filed 7–24–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1558–N]

Medicare Program; Request for Nominations and Meeting of the Practicing Physicians Advisory Council, August 18, 2008

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice invites all organizations representing physicians to submit nominations for consideration to fill two seats on the Practicing Physicians Advisory Council (the Council) that will be vacated by current Council members in 2009. This notice also announces a quarterly meeting of the Council. The Council will meet to discuss certain proposed changes in regulations and manual instructions related to physicians' services, as identified by the Secretary of Health and Human Services (the Secretary). This meeting is open to the public.

DATES: *Meeting Date:* Monday, August 18, 2008, from 8:30 a.m. to 5 p.m. e.d.t.

Deadline for Registration Without Oral Presentation: Thursday, August 14, 2008, 12 noon, e.d.t.

Deadline for Registration of Oral Presentations: Friday, August 1, 2008, 12 noon, e.d.t.

Deadline for Submission of Oral Remarks and Written Comments: Wednesday, August 6, 2008, 12 noon, e.d.t.

Deadline for Requesting Special Accommodations: Monday, August 11, 2008, 12 noon, e.d.t.

Deadline for Submitting Nominations: Friday, September 12, 2008, 5 p.m. e.d.t.

ADDRESSES: *Meeting Location:* The meeting will be held in the Multi-purpose Room, 1st floor, at the CMS Central Office, 7500 Security Boulevard, Baltimore, Maryland 21244.

Submission of Testimony: Testimonies should be mailed to Kelly Buchanan, Designated Federal Official (DFO), Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail stop C4–13–07, Baltimore, MD 21244–1850, or contact the DFO via e-mail at *PPAC_hhs@cms.hhs.gov*.

Submission of Nominations: Mail or deliver nominations to the Centers for Medicare and Medicaid Services, Center for Medicare Management, Division of Provider Relations and Evaluations, Attention: Kelly Buchanan, Designated Federal Official, Practicing Physicians Advisory Council, 7500 Security Boulevard, Mail Stop C4–13–07, Baltimore, Maryland 21244–1850.

FOR FURTHER INFORMATION CONTACT: Kelly Buchanan, DFO, (410) 786–6132, or e-mail *PPAC_hhs@cms.hhs.gov*. News media representatives must contact the CMS Press Office, (202) 690–6145. Please refer to the CMS Advisory Committees' Information Line (1–877–

449–5659 toll free), (410) 786–9379 (local) or the Internet at *http://www.cms.hhs.gov/home/regsguidance.asp* for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces the quarterly meeting of the Practicing Physicians Advisory Council (the Council). The Secretary is mandated by section 1868(a)(1) of the Social Security Act (the Act) to appoint a Practicing Physicians Advisory Council based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and manual instructions related to physician services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the Council's consultation must occur before **Federal Register** publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) not later than December 31 of each year.

The Council consists of 15 physicians, including the Chair. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members of the Council must be physicians as described in section 1861(r)(1) of the Act; that is, State-licensed doctors of medicine or osteopathy. The remaining 4 members may include dentists, podiatrists, optometrists, and chiropractors. Members serve for overlapping 4-year terms.

Section 1868(a)(2) of the Act provides that the Council meet quarterly to discuss certain proposed changes in regulations and manual issuances that relate to physicians' services, identified by the Secretary. Section 1868(a)(3) of the Act provides for payment of expenses and per diem for Council members in the same manner as members of other advisory committees appointed by the Secretary. In addition to making these payments, the Department of Health and Human Services and CMS provide management and support services to the Council. The Secretary will appoint new members to the Council from among those candidates determined to have the expertise required to meet specific agency needs in a manner to ensure appropriate balance of the Council's membership.

The Council held its first meeting on May 11, 1992. The current members are: Vincent J. Bufalino, M.D., Chairperson; M. Leroy Sprang, M.D.; Karen S. Williams, M.D.; Joseph A. Giaimo, D.O.; Jonathan E. Siff, M.D., MBA; John E. Arradondo, M.D., MPH; Fredrica E. Smith, M.D.; Pamela A. Howard, M.D.; Tye J. Ouzounian, M.D.; Christopher J. Standaert, M.D.; Arthur D. Snow, Jr., M.D.; Gregory J. Przybylski, M.D.; Jeffrey A. Ross, DPM, M.D.; Roger L. Jordan, O.D.; and Janice A. Kirsch, M.D.

II. Nomination Requirements

Nominations must be submitted by medical organizations representing physicians. Nominees must have submitted at least 250 claims for physician services under the Medicare program in the previous year. Each nomination must state that the nominee has expressed a willingness to serve as a Council member and must be accompanied by a short resume or description of the nominee's experience. All candidates are advised to consider the time commitment of 1 full-day meeting, quarterly. If a candidate's current responsibilities preclude this level of commitment, we urge the individual to reconsider his or her nomination.

To permit an evaluation of possible sources of conflicts of interest, potential candidates will be asked to provide detailed information concerning financial holdings, consultant positions, research grants, and contracts. Consideration will be given to each nominee with regard to his or her leadership credentials, geographic and demographic factors, and projected PPAC needs. Final selections will incorporate these criteria to maintain a committee membership that is fairly balanced in terms of points of view represented and the committee's function. Selections will be made by February 2009 with new members sworn in during the May 2009 meeting.

Nominations to fill vacancies on the Council will be considered if received at the address listed in the **ADDRESSES** section of the notice, no later than the date listed in the **DATES** section of this notice. All nominating organizations will be notified in writing of those candidates selected for committee membership.

III. Meeting Format and Agenda

The meeting will commence with the Council's Executive Director providing a status report, and the CMS responses to the recommendations made by the Council at the May 19, 2008 meeting, as well as prior meeting recommendations. Additionally, an update will be provided on the Physician Regulatory Issues Team. In accordance with the Council charter, we are requesting assistance with the following agenda topics:

- Physician Fee Schedule Proposed Rule
- Recovery Audit Contractor (RAC) Update
- Demonstration Projects
- DME Update
- Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Proposed Rules
- Medicare Contractor Provider Satisfaction Survey (MCPSS)

For additional information and clarification on these topics, contact the DFO as provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual physicians or medical organizations that represent physicians wishing to present a 5-minute oral testimony on agenda issues must register with the DFO by the date listed in the **DATES** section of this notice. Testimony is limited to agenda topics only. The number of oral testimonies may be limited by the time available. A written copy of the presenter's oral remarks must be submitted to the DFO for distribution to Council members for review before the meeting by the date listed in the **DATES** section of this notice. Physicians and medical organizations not scheduled to speak may also submit written comments to the DFO for distribution by the date listed in the **DATES** section of this notice.

IV. Meeting Registration and Security Information

The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at (410) 786–6132 by the date specified in the **DATES** section of this notice.

Since this meeting will be held in a Federal Government Building, the CMS Central Office, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. To gain access to the building, participants will be required to show a government-issued photo identification (for example, driver's license, or passport), and must be listed on an approved security list before persons are permitted entrance. Persons not registered in advance will not be permitted into the CMS Central Office

and will not be permitted to attend the Council meeting.

All persons entering the building must pass through a metal detector. In addition, all items brought to the CMS Central Office, whether personal or for the purpose of presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for the purpose of presentation.

Individuals requiring sign language interpretation or other special accommodation must contact the DFO via the contact information specified in the **FOR FUTHER INFORMATION CONTACT** section of this notice by the date listed in the **DATES** section of this notice.

Authority: Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a)).

Dated: July 8, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E8–17057 Filed 7–24–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Advisory Board to the National Center for Toxicological Research; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Science Advisory Board (SAB) to the National Center for Toxicological Research (NCTR).

General Function of the Committee: The Board advises the Director, NCTR, in establishing, implementing and evaluating the research programs that assist the Commissioner of Food and Drugs in fulfilling his responsibilities. The Board provides an extra-agency review in ensuring that the research programs at NCTR are scientifically sound and pertinent.

Date and Time: The meeting will be held on August 12, 2008, from 8:30 a.m. to 4:30 p.m. and on August 13, 2008, from 8 a.m. to 1 p.m.

Location: August 12, 2008, NCTR SAB Conference Room B–12, 3900 NCTR Dr., Jefferson, AR 72079. August 13, 2008, University of Arkansas for Medical Sciences, Stevens Spine Center, Hamlin Board Room, 501 Jack Stevens Dr., Little Rock, AR 72205.

Contact Person: Margaret Miller, Designated Federal Official, National Center for Toxicological Research (HFT–10), Food and Drug Administration, 5600 Fishers Lane, rm. 9C–05, Rockville, MD 20857, 301–827–6693, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 301–451–2559. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On August 12, 2008, the SAB will hear presentations from the NCTR Divisions that will update them on ongoing research activities. The SAB will be presented with the responses to two evaluations, one of the Division of Microbiology and one of the Division of Biochemical Toxicology. The evaluation of the Division of Microbiology was the product of an on-site review visit conducted of the Division in August 2007. The evaluation of the Division of Biochemical Toxicology was the product of an on-site review in April 2008. The responses will address the issues raised and recommendations made by the site visit teams. On August 13, 2008, the NCTR Director will provide a Center-wide update on scientific endeavors and will discuss the NCTR realignment and strategic focus.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2008 and scroll down to the appropriate advisory committee link.

Procedure: On August 12, 2008, from 8:30 a.m. to 4:30 p.m., and August 13, 2008, from 8 a.m. to 10:30 a.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before August 5, 2008. Oral presentations from the public will be scheduled on August 12, 2008, between approximately 12:30 p.m. to 1:30 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 1, 2008. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 4, 2008.

Closed Committee Deliberations: On August 13, 2008, from approximately 11 a.m. to 1 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c) (6)). This portion of the meeting will be closed to permit discussion of issues related to personnel progress and promotion.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Margaret Miller at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 17, 2008.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E8–17136 Filed 7–24–08; 8:45 am]

BILLING CODE 4160–01–S

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.

T-Cell Enumeration Using Dried Blood Spots as a Surrogate for CD4+ T-Cell Counts To Monitor HIV+ Patients

Description of Technology: Available for licensing and commercial development is a novel method for enumerating T-cells in HIV+ patients using dried blood spots, avoiding the need for fresh blood samples. The method relies on the distinctive nature of the TCR–β gene, which undergoes a rearrangement during T-cell development that is required to produce a functional T-cell receptor protein. Since only mature T-cells contain a rearranged TCR–β gene, the method quantifies the number of T-cells in a patient sample by quantifying the number of cells that contain a rearranged TCR–β gene. In addition to dried blood spots, the assay can be also used with a wide variety of sample types from which T-cell counts were previously impossible to obtain, such as swabs and tissue slides. In addition, this method can be used for monitoring of a variety of T-cell leukemias/lymphomas, and easily adapted to monitor B-cell levels found in B-cell leukemias/lymphomas.

The assay was found to accurately predict TCR–β levels ($r=0.985$, $p<0.0001$), and to correlate well with known CD4 counts ($r=0.670$, $p<0.0001$). Therefore, this novel method can be used to monitor HIV infection in order to determine antiretroviral therapy (ART) initiation and monitoring. A large international effort has been made to provide ART to the more then 33 million HIV+ people worldwide, but significant hurdles remain to large-scale implementation due to the lack of medical and laboratory infrastructure found in the developing world, where the majority of HIV+ individuals are found. In particular, a CD4 count, which requires fresh whole blood, a reliable cold-transport chain, and an expensive FACS based reader, is required to monitor patients and determine ART initiation. This requirement has become one of the largest impediments to expanding ART around the world. Therefore, this novel method provides a superior functional assay for HIV disease staging that does not require cold storage or fresh sample processing. Dried blood spots are an ideal sample collection method for large scale monitoring in the developing world due to the relatively simple manner in which samples can be obtained and the high stability of the sample in the absence of refrigeration. This method provides an easier and less expensive method for HIV monitoring for the developing world, and could be also used as an at home monitoring system for HIV-infected patients in developed countries.

Development Status: Fully developed and testing in HIV+ subjects has been performed with successful results.

Inventors: Andrew D. Redd and Thomas C. Quinn (NIAID).

Relevant Publication: A manuscript describing the above technology will be available as soon as it is accepted for publication.

Patent Status: U.S. Provisional Patent Application No. 61/131,954, filed 12 June 2008, entitled ''Monitoring TCR–β to Determine HIV Therapy and Disease Progression'' (HHS Reference No. E–203–2008/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Cristina Thalhammer-Reyero, PhD, MBA; 301–435–4507; *thalhamc@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases, Laboratory of Immunoregulation, International HIV and STD Unit, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize TCR–β enumeration to monitor HIV+ patients, as well as other diseases or syndromes in which T-cell monitoring is commonly performed. Please contact Andrew Redd, PhD, at 410–614–0813 or *aredd2@jhmi.edu* for more information.

Metabolic Biomarkers Indicate Exposure to Gamma Radiation

Description of Technology: Available for licensing and commercial development are methods of diagnosing exposure to gamma radiation in a mammal. Gamma radiation has both short-term and long-term adverse health effects including cancer. Urine samples collected from exposed mouse models irradiated at 0, 3, and 8 Gy (2.57 Gy/min) were analyzed by ultra-performance liquid chromatography-time of flight mass spectrometry (UPLC–TOFMS). Statistical analysis revealed that the following metabolomic markers were associated with exposure: 2′-deoxyxanthosine, xanthosine, 2′-deoxyuridine, 2′-deoxycytidine, N-hexanoylglycine and P-thymidine are urinary biomarkers of 3 and 8 Gy exposure. 3-hydroxy-2-methylbenzoic acid 3-O-sulfate and xanthine are elevated in urine of mice exposed to 3 but not 8 Gy, and taurine is elevated after 8 but not 3 Gy exposure.

Applications: Radiation Exposure; Metabolomics.

Inventors: Frank J. Gonzalez (NCI), John Tyburski (NCI), Kristopher Krausz (NCI), Andrew Patterson (NIGMS), *et al.*

Publications:

1. Patterson AD, Li H, Eichler GS, Krausz KW, Weinstein JN, Fornace AJ, Gonzalez FJ, Idle JR. UPLC–ESI–TOFMS-based metabolomics and gene expression dynamics inspector self-organizing metabolomic maps as tools for understanding the cellular response to ionizing radiation. Anal Chem. 2008 Feb 1;80(3):665–674.
2. Tyburski JB, Patterson AJ, Krausz KW, Slavk J, Fornace AJ, Gonzalez FJ, Idle JR. Radiation metabolomics: Identification of minimally invasive urine biomarkers for gamma radiation exposure in mice. Radiat Res. 2008 Jul;170(1):1–14.

Patent Status: U.S. Patent Application No. 12/121,208 filed 15 May 2008 (HHS Reference No. E–070–2008/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Laboratory of Metabolism, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the development of

biomarkers for radiation gamma exposure and cell damage. Please contact John D. Hewes, PhD, at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Dated: July 17, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–17021 Filed 7–24–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Prolactin Receptor Antibodies as a Diagnostic Marker and Therapeutic Agent for Cancer

Description of Technology: Prolactin is a key hormone in the normal breast development and plays a role in the growth and development of other major organs such as the prostate. The biologic function of prolactin is mediated by specific receptors on the cell surface, with breast cancer cells containing more receptors than normal tissue. The prolactin receptor, a member of the large class-1 cytokine receptor superfamily, has three major isoforms that are cell associated. The specific isoform concentration and distribution determines biological activity and may determine susceptibility to antiprolactin drugs.

This technology describes several antibodies, both polyclonal and monoclonal, to the prolactin receptor. These include antibodies to the three major isoforms: the long isoform (LF), two short isoforms (SF1a and SF1b), and the secreted form, prolactin receptor Δ7–11. These antibodies can be used for the diagnosis of prolactin sensitive tumors. Furthermore, the presence of the secreted prolactin receptor Δ7–11 may provide a blood test for prolactin responsive tumors.

Applications:

- Diagnostic tool for the detection of prolactin sensitive tumors.
- Antibodies as a serum diagnostic in high-throughput assays.
- Conjugated antibodies used in targeted therapy of cancer.

Market:

- In the U.S. over 2 million women have been treated for breast cancer and with more than 200,000 women diagnosed in the year 2007 alone. Breast cancer is the second leading cause of cancer death in women.
- Prostate cancer is the most common type of cancer found in American men, and it has been estimated that there were more than 230,000 new cases in the U.S. in 2007. Prostate cancer is also the second leading cause of cancer death in men.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Barbara Vonderhaar, Erika Ginsburg, Paul Goldsmith (NCI).

Patent Status: HHS Reference No. E–232–2008/0—Research Material. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing.

Licensing Contact: Whitney A. Hastings; 301–451–7337; *hastingw@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Mammary Biology and Tumorigenesis Laboratory is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize isoform specific antibodies to the human prolactin receptor. Please contact John D. Hewes, PhD, at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Mouse Embryonic Stem Cell-Based Functional Assay To Evaluate Mutations in BRCA2

Description of Technology: Mutations in breast cancer susceptibility genes BRCA1 and BRCA2 have up to an 80% life time risk in developing breast cancer. There are no ''mutation hot spots'' and to date, more than 1,500 different mutations have been identified in BRCA2. The absence of tumor cell lines expressing various mutant BRCA2 alleles has hindered evaluations to determine the functional differences between different mutations.

A simple, versatile and reliable mouse embryonic stem cell and bacterial artificial chromosome based assay to generate cell lines expressing mutant human BRCA2 has been developed and it has been used to classify 17 sequence variants. Available for licensing are a wild-type and eleven mutant BRCA2 cell lines developed from this assay that have either truncations or point mutations. These cell lines may be used to evaluate the effect of DNA damaging agents, genotoxins and chemotherapeutic efficacy.

Applications:

- Research tool to generate and study BRCA2 mutations.
- Method to screen for chemotherapeutics.
- Method to evaluate DNA damaging agents.

Advantages: Ready to use portfolio of BRCA2 mutant cell lines to study BRCA2 mutant functional analysis.

Market: An estimated 180,510 new cases of breast cancer will be diagnosed and may cause 40,480 deaths in the U.S. in 2008.

Inventors: Shyam K. Sharan and Sergey Kuznetsov (NCI).

Publication: SG Kuznetsov *et al.* Mouse embryonic stem cell-based functional assay to evaluate mutations in BRCA2. Nat Med. 2008, in press. Published online 11 July 2008, doi:10.1038/nm.1719.

Patent Status: HHS Reference No. E–261–2007/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Status: Available for biological materials licensing only.

Licensing Contact: Jennifer Wong; (301) 435–4633; *wongje@mail.nih.gov*.

Collaborative Research Opportunity: The Mouse Cancer Genetics Program, Center for Cancer Research, National Cancer Institute, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize mouse embryonic stem cell lines suitable for functional analysis of BRCA2 variants. Please contact John D. Hewes, PhD, at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Dated: July 17, 2008.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–17031 Filed 7–24–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; ITMA/ITSP Conflicts.

Date: July 28, 2008.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892, 301–443–1959, *csarampo@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Summer AIDS T32s.

Date: July 31, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Henry J Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; AIDS Center Supplement.

Date: August 4, 2008.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 18, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–17033 Filed 7–24–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; K99 Member Conflict.

Date: August 7, 2008.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; R25 Review Panel.

Date: August 12, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Embassy Row, Washington, DC, 2100 Massachusetts Avenue, NW., Washington, DC 20008.

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DER/SRB, 6001 Executive Boulevard; Msc 9529, Neuroscience Center; Room 3203, Bethesda, MD 20892–9529, (301) 496–5388, *wiethorp@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Epilepsy Clinical Trial.

Date: August 22, 2008.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: William C. Benzing, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3204, Msc 9529, Bethesda, MD 20892, (301) 496–0660, *benzingw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 18, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–17053 Filed 7–24–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket Number: DHS–2007–0040]

Privacy Act of 1974; U.S. Customs and Border Protection—Border Crossing Information, Systems of Records

AGENCY: Privacy Office; Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) gives notice that it is establishing a distinct System of Records, Border Crossing Information (BCI). BCI will receive and maintain border crossing information on travelers who are admitted or paroled into the United States, this information includes: Certain biographical information; a photograph; certain itinerary information provided by air and sea carriers and any other forms of passenger transportation, including rail, which is or may subsequently be mandated, or is or may be provided on a voluntary basis; and the time and location of the border crossing. Previously, maintenance of this border crossing information was covered by the Treasury Enforcement Communications System (TECS) ''system of records notice.'' See 66 FR 52984, dated October 18, 2001. As part of DHS's ongoing effort to increase transparency regarding the collection of information at the Department, as well as its efforts to specifically review the personally identifiable information maintained on the TECS information technology platform, DHS and CBP have identified different data sets that call for individual notice so as to provide appropriate routine uses, retention, and exemptions to the Privacy Act.

This system of records notice does not identify or create any new collection of information, rather, the Department is providing additional notice and transparency with respect to the handling of an existing collection of information, by separately noticing its collection as a distinct system of records.

DATES: Comments must be provided prior to August 25, 2008. The new system of records will be effective August 25, 2008.

ADDRESSES: You may submit comments, identified by docket number DHS–2007–0040 by one of the following methods:

- Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 1–866–466–5370.
- Mail: Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.
- Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Laurence E. Castelli (202–572–8790), Chief, Privacy Act Policy and Procedures Branch, U.S. Customs and Border Protection, Office of International Trade, Regulations & Rulings, Mint Annex, 1300 Pennsylvania Ave., NW., Washington, DC 20229. For privacy issues contact: Hugo Teufel III (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The priority mission of U.S. Customs and Border Protection (CBP) is to prevent terrorists and terrorists' weapons from entering the country while facilitating legitimate travel and trade. BCI will maintain border crossing information on travelers who are admitted or paroled into the United States, this information includes: Certain biographical information; a photograph (if available); certain itinerary information provided by air and sea carriers and any other forms of passenger transportation, including rail, which is or may subsequently be mandated, or is or may be provided on a voluntary basis; and the time and location of the border crossing. Previously, maintenance of this information was covered by the Treasury Enforcement Communications System (TECS) ''system of records notice.'' See 66 FR 52984, dated October 18, 2001. As part of DHS's ongoing effort to increase transparency regarding the collection of information at the Department, as well as its efforts to specifically review the personally identifiable information maintained on the TECS information technology platform, DHS and CBP have identified different data sets that call for individual notices so as to provide appropriate routine uses, retention, and exemptions to the Privacy Act.

This system of records notice does not identify or create any new collection of information; rather, the Department is providing additional notice and transparency with respect to the handling of an existing collection of information, by separately noticing it as a distinct system of records.

CBP is the agency responsible for collecting and reviewing border crossing information from travelers entering and departing the United States. This is consistent with CBP's overall border security and enforcement missions. Upon arrival in the United States, all individuals crossing the border are subject to CBP processing. As part of this clearance process, each traveler entering the United States must first establish his or her identity, nationality, and admissibility to the satisfaction of a CBP officer. Additionally, CBP creates a record of the fact that the individual has been admitted or paroled into the United States at a particular time and port of entry. This record was previously covered by TECS system of records notice and will now be maintained in accordance with the privacy rules of this newly created Privacy Act System of Records Notice, BCI.

The border crossing information identified below may be collected in a number of different ways. For example, information may be collected: (1) From the travel documents presented by the individual at CBP Ports of Entry, such as foreign passports, where no advance notice of the border crossing has been provided to CBP; (2) from carriers who submit information in advance of travel, through the Advance Passenger Information System (APIS) (See DHS/CBP–005, August 23, 2007, 72 FR 48346); (3) from a DHS system that validates a Trusted Traveler Program card, I–551 Permanent Resident Card, or immigration document; (4) from non-federal governmental authorities that have issued valid travel documents approved by the Secretary of the Department of Homeland Security, such as an Enhanced Driver's License (EDL); or (5) from another Federal Agency that has issued a valid travel document, such as Department of State Visa, Passport including Passport Card, or Border Crossing Card data. When a traveler is admitted or paroled into the U.S., a traveler's biographical information, photograph, where available, and crossing details (time and location) will be maintained in accordance with this BCI system of records. The information collected in BCI is authorized pursuant

to the Enhanced Border Security and Visa Reform Act of 2002 (Pub. L. 107–173), Aviation and Transportation Security Act of 2001 (Pub. L. 107–71), the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458), the Immigration and Naturalization Act, as amended (8 U.S.C. 215), and the Tariff Act of 1930, as amended (19 U.S.C. 66, 1433, 1454, 1485, 1624 and 2071) and much of the information can be found on routine travel documents that persons, passengers, and crewmembers currently provide to CBP when entering and departing the United States.

BCI shall contain border crossing information, as that term is explained above, for all individuals who are admitted or paroled into the United States, regardless of method or conveyance, and information for all individuals who depart the United States by air or sea and, in certain circumstances, by land. In certain circumstances in the land environment, CBP will collect the individual's biographic data, either directly from an approved travel document presented by the traveler and/or by verifying the traveler's border crossing information against electronic records supporting certain documents, such as EDLs, determined by the Secretary of DHS to denote citizenship and identity in conformance with IRTPA. For certain air and sea carriers and any other forms of passenger transportation, including rail, which are or may subsequently be mandated to provide APIS, or provide such information on a voluntary basis, CBP will confirm the individual's data against such information previously submitted by carriers.

For information collected from certain travel documents, for example a foreign or U.S. Passport, the CBP Officer will swipe the Machine Readable Zone (MRZ) to populate the border crossing record for an individual.

For records first collected through APIS, the BCI record will contain all the data of the APIS record (including complete name, date of birth, travel document type (e.g., passport), travel document number and travel document country of issuance) as well as information pertaining to the instance of the border crossing (for example, airport or place of embarkation, where the person began their travel to the United States; for persons destined for the U.S., the location where the person underwent CBP clearance). Such data will also be maintained in accordance with the APIS SORN, DHS/CBP–005 August 23, 2007 72 FR 48349.

For records first collected through the Non-Federal Entity Data System (NEDS), a new system of records being published concurrently in today's **Federal Register**, biographic data elements and photographs collected by the authority issuing the travel document will be transferred from NEDS, displayed in TECS, and then recorded in BCI as border crossing information at the time an individual is admitted or paroled into the United States. In the instance of data being transferred from NEDS, the biographical data and photograph will be first collected from the traveler by the issuing authority of the respective travel document and then provided to CBP, which will store a copy of that data in the system of records described by the NEDS SORN. At the time of arrival at the border, the travel document, either through a CBP Radio Frequency Identification (RFID) Reader reading a unique RFID number from the RFID chip contained in the travel document, or through the CBP Machine Reader reading the MRZ of the travel document, will be used to retrieve the biographical data and photograph associated with the travel document from NEDS and populate a record in BCI, following admission/parole, to permit CBP to electronically verify identity and citizenship, to perform law enforcement queries to identify security risks to the United States and to expedite CBP processing upon arrival in and prior to departure from the United States. Upon admission/parole of the individual by CBP at the United States border or its functional equivalent, a record of the crossing will be created in BCI. Prior to admission/parole and during the process of inspecting the individual, information relating to identity and citizenship is compiled by the CBP in TECS, as part of the screening process to determine admissibility.

For records where traveler-specific information is accessed from a non-federal authority's travel document database at the time of the traveler's crossing, the biographical data and photograph will be first collected from the traveler by the issuing authority of the respective travel document and the issuing authority will maintain its own travel document database; the data from such issuing authorities will not reside in NEDS. At the time of arrival at the border, the travel document, either through a CBP RFID Reader reading the RFID number from the RFID chip contained in the travel document, or through the CBP Machine Reader reading the MRZ of the travel document, will be used to access that traveler's biographic data and photograph, displaying it in TECS; upon admission to the United States, that data will be recorded in BCI. CBP also uses this information to perform law enforcement queries to identify security risks to the United States and to expedite CBP border processing.

For records where the information is provided by another component of DHS or another federal government authority, such as the State Department's Visa and Passport database or USCIS Permanent Resident Card data, the information will be transferred from the federal authority's or DHS's system of records, displayed in TECS, and then used to create a record in BCI at the time of admission or parole into the United States. Technically, in the case of information obtained from the Department of State and Citizenship and Immigration Services (CIS), the information is maintained on the TECS IT Platform to improve the efficiency of the processing time at the border, but the information follows the State Department's or USCIS's system of records notices until the individual is admitted or paroled into the United States, at which point the information will by handled consistent with the BCI system of records notice, or that of any other DHS systems (such as TECS) in which it may be recorded.

BCI does not constitute a new collection of biographic information by DHS or CBP. DHS and CBP are providing additional notice and transparency with respect to the functionality of an existing operational process. The information storage functions of BCI were previously handled as a sub-module within TECS and covered by the TECS ''system of records notice.'' See 66 FR 52984.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. DHS extends administrative Privacy Act protections to all persons where information is maintained in the same system on U.S. citizens, lawful permanent residents, and non-immigrant aliens. BCI involves the

collection of information that will be maintained in a system of records.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that apply to each system to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist the individual to more easily find such files within the agency.

DHS is hereby publishing a description of the Border Crossing Information, system of records. In accordance with 5 U.S.C. 552a(r), a report concerning this record system has been sent to the Office of Management and Budget and to the Congress.

DHS/CBP–007

SYSTEM NAME:

Border Crossing Information (BCI).

SYSTEM LOCATION:

This computer database is located at the U.S. Customs and Border Protection (CBP) National Data Center currently, but will move to a DHS Data Center in the future. Access to the border crossing data is available from locations throughout the Department of Homeland Security and other locations at which DHS authorized personnel may be posted to facilitate DHS's mission. Terminals may also be located at appropriate facilities for other participating government agencies, which have obtained system access pursuant to a Memorandum of Understanding.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by BCI consist of persons, including U.S. Citizens, Lawful Permanent Residents, and non-immigrant aliens who lawfully cross the United States border by air, land or sea, regardless of method of transportation or conveyance.

CATEGORIES OF RECORDS IN THE SYSTEM:

The database is comprised of personally identifiable information pertaining to persons, including travelers and crew members who arrive in and are admitted/paroled, and, in certain circumstances, depart from (when departure information is available) the United States (including those entering the United States only for purposes of transiting through the country). The information that may be stored in BCI includes:

- Full name (First, Middle, and Last)
- Date of birth
- Gender
- Travel document type (e.g., passport information, permanent resident card, Trusted Traveler Program card, etc.), number, issuing country or entity, and expiration date
- Photograph (where available)
- Country of citizenship
- RFID tag number(s) (if land/sea border crossing)
- Date/time of crossing
- Lane for clearance processing
- Location of crossing
- Secondary Examination Status
- License Plate number (or Vehicle Identification Number (VIN), if no plate exists; only for land border crossings)

Where applicable, information derived from an associated APIS transmission, will be stored with an individual's border crossing record including: The airline carrier code, flight number, vessel name, vessel country of registry/flag, International Maritime Organization number or other official number of the vessel, voyage number, date of arrival/departure, foreign airport/port where the passengers and crew members began their air/sea transportation to the United States; for passengers and crew members destined for the United States, the location where the passenger and crew members will undergo customs and immigration clearance by CBP; and for passengers and crew members that are transiting through (and crew on flights over flying) the United States and not clearing CBP, the foreign airport/port of ultimate destination, and status on board (whether an individual is crew or non-crew); and for passengers and crew departing the United States, the final foreign airport/port of arrival. To the extent APIS may be transmitted by private aircraft operators and carriers operating in the land border environment, either voluntarily or pursuant to a future legal mandate, similar information may also be recorded in BCI with regard to such travel. In the land border environment for both arrival and departure (when departure information is available), the License Plate number of the conveyance (or VIN number where no plate exists) is also collected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The legal authority for BCI is the Enhanced Border Security and Visa Reform Act of 2002, Pub. L. No. 107–173, 116 Stat. 543 (2002), Aviation and Transportation Security Act of 2001, Pub. L. No. 107–71, 115 Stat. 597 (2001), Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108–458, 118 Stat. 3638 (2004), The Immigration and Nationality Act, 8 U.S.C. 1185 and 1354 and The Tariff Act of 1930, as amended, 19 U.S.C. 66, 1433, 1454, 1485, 1624 and 2071.

PURPOSE:

CBP collects and maintains this information to assist in screening persons arriving in or departing from the United States to determine identity, citizenship, and admissibility and identify persons who may be or are suspected of being a terrorist or having affiliations to terrorist organizations, have active warrants for criminal activity, are currently inadmissible or have been previously deported from the United States, or have been otherwise identified as potential security risks or raise a law enforcement concern. For non-immigrant aliens, the information is also collected and maintained in order to ensure that the information related to a particular border crossing is available for providing any applicable benefits related to immigration or other enforcement purposes. Lastly, CBP maintains this information in BCI to retain a historical record of persons crossing the border for law enforcement, counterterrorism, and benefits processing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To appropriate Federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where CBP believes the information would assist enforcement of civil or criminal laws or regulations;

B. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal proceedings;

C. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance

of the official duties of the officer making the disclosure;

D. To an agency, organization, or individual for the purposes of performing audit or oversight operations as authorized by law; but only such information as is necessary and relevant to such audit or oversight function.

E. To a Congressional office, for the record of an individual in response to an inquiry from that Congressional office made at the request of the individual to whom the record pertains;

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal government, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees;

G. To an organization or individual in either the public or private sector, either foreign or domestic, where there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life or property and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure;

H. To the United States Department of Justice (including United States Attorney offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation: (1) DHS, or (2) any employee of DHS in his/her official capacity, or (3) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent said employee, or (4) the United States or any agency thereof;

I. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. Sections 2904 and 2906;

J. To an appropriate Federal, state, local, tribal, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request;

K. To appropriate Federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, for purposes of assisting such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or for combating other significant public health threats;

L. To Federal and foreign government intelligence or counterterrorism agencies or components where CBP becomes aware of an indication of a threat or potential threat to national or international security, or where such use is to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure;

M. To appropriate Federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, under the terms of a memorandum of understanding or agreement, where CBP is aware of a need to utilize relevant data for purposes of testing new technology and systems designed to enhance border security or identify other violations of law;

N. To appropriate agencies, entities, and persons when (1) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, harm to the security or integrity of this system or other systems or programs (whether maintained by CBP or another agency or entity), or harm to the individual that rely upon the compromised information; and (3) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with the CBP's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

O. To the news media and the public and as appropriate, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of or is necessary to demonstrate the accountability of officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The data is stored electronically at the CBP Data Center and in the future at a DHS Data Center for current data and offsite at an alternative data storage facility for historical logs and system backups.

RETRIEVABILITY:

The data is retrievable by name or personal identifier from an electronic database.

SAFEGUARDS:

All BCI records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include all of the following: Restricting access to those with a ''need to know''; using locks, alarm devices, and passwords; compartmentalizing databases; auditing software; and encrypting data communications.

BCI information is secured in full compliance with the requirements of the DHS IT Security Program Handbook as part of the TECS information technology platform. This handbook establishes a comprehensive program, consistent with federal law and policy, to provide complete information security, including directives on roles and responsibilities, management policies, operational policies, and application rules, which will be applied to component systems, communications between component systems, and at interfaces between component systems and external systems.

One aspect of the DHS comprehensive program to provide information security involves the establishment of rules of behavior for each major application, including BCI, which is maintained on the TECS IT platform. These rules of behavior require users to be adequately trained regarding the security of their systems. These rules also require a periodic assessment of technical, administrative and managerial controls to enhance data integrity and accountability. System users must sign statements acknowledging that they have been trained and understand the

security aspects of their systems. System users must also complete annual privacy awareness training to maintain current access.

BCI transactions are tracked and can be monitored. This allows for oversight and audit capabilities to ensure that the data is being handled consistent with all applicable federal laws and regulations regarding privacy and data integrity. Data exchange, which will take place over an encrypted network between CBP and other DHS components that have access to the BCI data, is limited and confined only to those entities that have a need for the data in the performance of official duties. These encrypted networks comply with standards set forth in the Interconnection Security Agreements required to be executed prior to external access to a CBP computer system.

RETENTION AND DISPOSAL:

BCI data is subject to a retention requirement. CBP will be working with NARA to develop the appropriate retention schedule based on the information below. The information, as collected and maintained in BCI, is used for the purposes described above. For persons CBP determines to be U.S. Citizens (USC) and Lawful Permanent Residents (LPR), information in BCI that is related to a particular border crossing is maintained for fifteen years from the date that the traveler was admitted or paroled into the U.S., at which time it is deleted from BCI. For non-immigrant aliens, the information will be maintained for seventy-five (75) years from the date of admission/parole into the U.S. in order to ensure that the information related to a particular border crossing is available for providing any applicable benefits related to immigration or for other law enforcement purposes. For non-immigrant aliens who become United States citizens or LPRs following a border crossing that leads to the creation of a record in BCI, the information related to border crossings prior to that change in status will follow the 75-year retention period, but all information regarding border crossing by such persons following their change in status will follow the 15-year retention period applicable to USCs and LPRs. However, for all travelers, BCI records that are linked to active law enforcement lookout records, CBP matches to enforcement activities, and/or investigations or cases will remain accessible for the life of the primary records for the law enforcement activities to which they may be or become related, to the extent retention for such purposes exceeds the normal retention period for such data in BCI.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Automated Systems, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURES:

DHS allows persons (including foreign nationals) to seek administrative access under the Privacy Act to information maintained in BCI. To determine whether BCI contains records relating to you, write to the CBP Customer Service Center (Rosslyn, VA), 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Telephone (877) 227–5511; or through the ''Questions'' tab at *http://www.cbp.gov.xp.cgov/travel/customerservice*.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, date of birth, and travel document (type and number) used for the crossing. You must sign your request, and your signature must either be notarized or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records, and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

Requests for notification or access must be in writing and should be addressed to the CBP Customer Service Center (Rosslyn VA), 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Telephone (877) 227–5511; or through the ''Questions'' tab at *http://www.cbp.gov.xp.cgov/travel/customerservice*. Requests should conform to the requirements of 6 CFR part 5, subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS and can be found at *http://www.dhs.gov.* The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

CONTESTING RECORD PROCEDURES:

Requests to amend a record must be in writing and should be addressed to the CBP Customer Service Center (Rosslyn VA), 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Telephone (877) 227–5511; or through the ''Questions'' tab at *http://www.cbp.gov.xp.cgov/travel/customerservice.* Requests should conform to the requirements of 6 CFR part 5, subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS and can be found at *http://www.dhs.gov/foia.* The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

If individuals are uncertain what agency handles the information, they may seek redress through the DHS Traveler Redress Program (''TRIP'') (See 72 FR 2294, dated January 18, 2007). DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs—like airports, seaports and train stations or at U.S. land borders. Through DHS TRIP, a traveler can request correction of erroneous data in other DHS databases through one application. Redress requests should be sent to: DHS Traveler Redress Inquiry Program (TRIP), 601 South 12th Street, TSA–901, Arlington, VA 22202–4220 or online at *http://www.dhs.gov/trip.*

RECORD SOURCE CATEGORIES:

The system contains certain data received concerning individuals who arrive in, depart from, or transit through the United States. This system also contains information collected from carriers that operate vessels, vehicles, aircraft and/or trains that enter or exit the United States, including private aircraft operators.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

No exemption shall be asserted with respect to information maintained in the system at it relates to the border crossing, to the extent that such information was provided by the individual or carrier or an issuing authority in connection with a border crossing.

This system, however, may contain records or information pertaining to the accounting of disclosures made from BCI to other law enforcement or intelligence agencies (Federal, State, Local, Foreign, International or Tribal) in accordance with the published routine uses or statutory basis for disclosure under 5 U.S.C. 5(b). For the accounting of these disclosures only, in accordance with 5 U.S.C. 552a(j)(2), and (k)(2), DHS will claim the original exemptions for these records or information from subsection (c)(3), (e)(8), and (g) of the Privacy Act of 1974, as amended, as necessary and appropriate to protect such information.

Dated: July 18, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8–17123 Filed 7–24–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket Number: DHS–2007–0016]

Privacy Act of 1974; U.S. Customs and Border Protection—Non-Federal Entity Data System, Systems of Records

AGENCY: Privacy Office; Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, U.S. Customs and Border Protection, Department of Homeland Security proposes to add the following system of records to its inventory of records systems, the Non-Federal Entity Data System. Certain States, Native American Tribes, Canadian Provinces and Territories, and other non-Federal Governmental Authorities may make available travel documents, such as Enhanced Driver's Licenses (EDLs), that may be deemed by the Secretary of DHS as denoting identity and citizenship for purposes of the Western Hemisphere Travel Initiative (WHTI), upon implementation, as mandated by the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458, 118 Stat. 3638 (2004). It is anticipated that all such documents will utilize facilitative technology such as Radio Frequency Identification (RFID), and contain a Machine Readable Zone (MRZ) using Optical Character Recognition (OCR) technology. In certain instances, other non-federal and foreign government authorities may provide to CBP biographical information and photographs that have been voluntarily submitted to the issuing entity by individuals choosing to apply for such travel documents, with the understanding that this information will be provided to DHS and CBP. DHS will use this information to facilitate the validation of travel documents when an individual crosses the border.

DATES: Comments must be provided by August 25, 2008. The new system of records will be effective August 25, 2008.

ADDRESSES: You may submit comments, identified by docket number DHS–2008–0016 by one of the following methods:

- Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: 1–866–466–5370.
- Mail: Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.
- Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Laurence E. Castelli (202–572–8790), Chief, Privacy Act Policy and Procedures Branch, U.S. Customs and Border Protection, Office of International Trade, Regulations & Rulings, Mint Annex, 1300 Pennsylvania Ave., NW., Washington, DC 20229. For privacy issues contact: Hugo Teufel III (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The priority mission of U.S. Customs and Border Protection (CBP) is to prevent terrorists and terrorist weapons from entering the country while facilitating legitimate travel and trade. In response to this mission, Congressionally mandated, and as part of its efforts to secure the border, CBP and the Department of Homeland Security (DHS) plan to implement the Western Hemisphere Travel Initiative (WHTI), which eliminates a historical exemption that allowed certain travelers, notably U.S. and Canadian citizens, to enter the United States from within the Western Hemisphere without presenting a valid passport or other approved travel document. In advance of full WHTI implementation, DHS is working to close existing security gaps at the earliest possible opportunity, such as the implementation of new procedures for U.S. and Canadian citizens entering the U.S. that became effective January 31, 2008, and to prepare new secure travel document requirements that are expected to go into effect upon full WHTI implementation on June 1, 2009.

To facilitate border crossing for their citizens, certain states, Native American tribes, Canadian provinces and territories and other non-federal governmental authorities may make available to CBP biographical information and photographs associated with travel documents, such as Enhanced Driver's Licenses (EDLs). EDLs utilize facilitative technology such as RFID and contain a Machine Readable Zone (MRZ) using Optical Character Recognition (OCR) technology; they denote both identity and citizenship for border-crossing purposes. In certain instances, non-federal governmental authorities are choosing to provide to CBP biographical information and photographs that applicants for EDLs or similar travel documents have provided voluntarily to the issuing entity, with the understanding that such information will be stored by CBP for purposes of facilitating the document holder's crossing of the border. When a traveler presents such a document for purposes of entering the United States, CBP may validate this document and the information provided by the traveler, against the information provided to CBP by the issuing authority. Therefore, in accordance with the Privacy Act of

1974, the Department of Homeland Security, U.S. Customs and Border Protection, proposes to add the following system of records to its inventory of records systems, the Non-Federal Entity Data System (NEDS).

II. Current Process for Border Crossing

Upon arrival, all individuals crossing the border are required to submit to inspection and be cleared for admission by CBP. As part of this clearance process, each traveler entering the United States must first establish his or her identity, nationality/citizenship, and admissibility to the satisfaction of a CBP officer. Additionally, CBP records the fact that the individual has been admitted or paroled into the United States. This record is maintained in a newly created Privacy Act System of Records, Border Crossing Information (BCI), which is being concurrently published in today's **Federal Register**. DHS has determined that certain border crossing travel documents enabled with RFID, MRZ and OCR technology will be accepted as proof of identity and citizenship and, further, may be accepted as WHTI-compliant travel documents upon implementation of WHTI.

The purpose of the Non-Federal Entity Data System (NEDS) is to have available to the CBP officer at the border the data related to certain border crossing travel documents. This will enable the CBP officer to quickly access the traveler's biographic information and photograph, when the traveler presents his or her border crossing travel document, to validate the authenticity of the travel document. Certain non-federal governmental authorities will choose to provide CBP with a copy of information derived from their EDL (or other traveler document) database, that denotes identity and citizenship, and can be used by CBP to validate the travel document. The datasets from each issuing authority will be kept separately such that information from one issuing authority is not commingled with another's information.

CBP may electronically validate the following information, where available, and record this information as part of the traveler's border crossing record: Full name (first, middle, and last), date of birth, gender, travel document type (e.g., EDL) and number or identifier, expiration date, issuing country or jurisdiction, country of citizenship, and photograph (when available). Where the issuing entity provides CBP with an advance copy of information from their travel document database, that data will be maintained in NEDS.

Upon arrival at the border, a person presenting proof of identity or citizenship issued by a non-federal governmental authority will have the identifier associated with her or his border crossing travel document read by the appropriate technology, such as an RFID reader, or the document information will be read using the MRZ or will be entered manually by the CBP officer. The identifier associated with this travel document will be transmitted through secure CBP computer networks to NEDS, where the unique number will be associated with the respective biographic information and photograph held in that system. The associated biographic information and photograph is then transmitted back through secure CBP computer networks to the port of entry and inspection terminal where the border crossing travel document was first read for confirmation that the document is a valid document and belongs to the person presenting the document to the CBP officer.

In cases where a traveler presents a federally issued travel document, such as a Visa, Passport or Passport card, or Border Crossing Card (BCC) issued by Department of State, or an I–551 Permanent Resident Card issued by U.S. Citizenship and Immigration Services (USCIS), DHS will validate the travel document through the use of systems or databases other than NEDS. NEDS is only employed when the travel document is issued by a non-federal government authority and that authority has provided CBP with advance information for purposes of validating such documents at the time of a U.S. border crossing. The data housed in NEDS is then used to populate biographical data fields contained in two other CBP systems, BCI (to record the entry of a traveler into the United States) and, where applicable, the Treasury Enforcement Communications System (TECS) (in the event some enforcement action is taken with regard to that traveler).

The traveler information held in NEDS is used by CBP to facilitate implementation of its mandates pursuant to the Enhanced Border Security and Visa Reform Act of 2002, Aviation and Transportation Security Act of 2001, the Intelligence Reform and Terrorism Prevention Act of 2004, the Tariff Act of 1930, as amended (19 U.S.C. 66, 1433, 1459, 1624, and 2071), and the Immigration and Nationality Act, as amended (8 U.S.C. 1185).

The information held within NEDS will be maintained and used in accordance with the individual memorandum of understanding/agreement with each issuing authority.

III. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. DHS extends administrative Privacy Act protections to all persons, whether they are U.S. citizens, lawful permanent residents, or non-immigrant aliens. The Non-Federal Entity Data System involves the collection of information that will be maintained in a system of records.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are applicable to each system to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist the individual to more easily find such files within the agency.

In consideration of privacy, CBP has limited the sharing of NEDS data to the statutory disclosures permitted under 5 U.S.C. 552a(b) of the Privacy Act, and has chosen not to publish any routine uses pursuant to 5 U.S.C. 552a(b)(3). This provides an individual possessing an approved travel document, such as EDL, whose data is shared with CBP prior to crossing the border with a similar level of privacy as the individual whose data is shared at the time of crossing with CBP.

DHS is hereby publishing a description of the Non-Federal Entity Data System, system of records. In accordance with 5 U.S.C. 552a(r), a report concerning this record system has been sent to the Office of Management and Budget and to the Congress.

DHS/CBP–008

SYSTEM NAME:

Non-Federal Entity Data System (NEDS).

SYSTEM LOCATION:

These datasets are located at the U.S. Customs and Border Protection (CBP)

National Data Center. Computer terminals receiving the data are located at customhouses, border ports of entry, airport inspection facilities under the jurisdiction of the Department of Homeland Security and other locations at which DHS authorized personnel may be posted to facilitate DHS's mission. Terminals may also be located at appropriate facilities for other participating government agencies, which have obtained system access pursuant to a Memorandum of Understanding.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by NEDS consist of persons, including U.S. Citizens and Canadian Citizens who have been issued Enhanced Driver's Licenses (EDL) or certain other travel documents by participating authorities, such as certain States, Native American Tribes, and Canadian Provinces and Territories, where the issuing authority has chosen to provide CBP with advance information from their databases regarding the EDL or other travel document. Individuals holding travel documents issued by authorities that do not provide CBP with a copy of this information (or only provide CBP with real-time access to document-specific information in their databases at the time such document is presented for border crossing purposes) are not covered by NEDS, as the information underlying their travel document has not been provided in advance to CBP.

CATEGORIES OF RECORDS IN THE SYSTEM:

NEDS will contain the following information, to the extent provided to CBP by the participating document-issuing authority:

- Full Name (first, middle, and last)
- Date of birth
- Gender
- Citizenship
- Digital Image (Photograph)
- Travel document type, e.g. Enhanced Driver's License (EDL)
- Issuing jurisdiction
- Expiration date
- Optical character read (OCR) identifier
- RFID tag number(s)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The legal authority for NEDS is the Enhanced Border Security and Visa Reform Act of 2002, Pub. L. 107–173, 116 Stat. 543 (2002), Aviation and Transportation Security Act of 2001, Pub. L. 107–71, 115 Stat. 597 (2001), Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458, 118 Stat. 3638 (2004), The Immigration and Nationality Act, 8 U.S.C. 1185 and 1354, and The Tariff Act of 1930, as amended, 19 U.S.C. 66, 1433, 1459, 1624 and 2071, as well as the memoranda of understanding/agreement entered into with participating issuing authorities who are providing the data with which NEDS is populated.

PURPOSE:

CBP collects this information to expedite CBP processing upon an individual's arrival in and, in certain instances, prior to the individual's departure from the United States. This information will allow CBP, upon presentation of the travel document at the border, to electronically verify identity and citizenship, determine admissibility and perform law enforcement queries to identify security risks to the United States. This information is maintained in accordance with this system of records notice and applicable memoranda of understanding/agreement with the issuing authorities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The use of this information is limited, principally to the verification of travel document information used to denote identity and citizenship so as to determine admissibility to the United States. To the extent data derived from NEDS is subsequently transferred to other systems of record (e.g., upon presentment of a travel document in conjunction with a border crossing), that data may be used in a manner consistent with the system of records notice published for the receiving system of records.

In consideration of privacy, CBP has limited the sharing of NEDS data to the statutory disclosures permitted under 5 U.S.C. 552a(b) of the Privacy Act, and has chosen not to publish routine uses pursuant to 5 U.S.C. 522a(b)(3). This provides an individual possessing an approved travel document, such as EDL, whose data is shared with CBP prior to crossing the border with a similar level of privacy protection as the individual whose data is shared with CBP at the time of such crossing.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The data is stored electronically at the CBP Data Center for current data and offsite at an alternative data storage facility for historical logs and system backups.

RETRIEVABILITY:

The data is retrievable by name, optical character recognition identifier, RFID tag number, or personal identifier from an electronic set of data.

SAFEGUARDS:

All NEDS records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include all of the following: Restricting access to those with a ''need to know''; using locks, alarm devices, and passwords; compartmentalizing databases; auditing software; and encrypting data communications.

NEDS information is secured in full compliance with the requirements of the DHS IT Security Program Handbook. This handbook establishes a comprehensive program, consistent with federal law and policy, to provide complete information security, including directives on roles and responsibilities, management policies, operational policies, and application rules, which will be applied to component systems, communications between component systems, and at interfaces between component systems and external systems.

One aspect of the DHS comprehensive program to provide information security involves the establishment of rules of behavior for each major application, including NEDS. These rules of behavior require users to be adequately trained regarding the security of their systems. These rules also require a periodic assessment of technical, administrative and managerial controls to enhance data integrity and accountability. System users must sign statements acknowledging that they have been trained and understand the security aspects of their systems. System users must also complete annual privacy awareness training to maintain current access.

NEDS transactions are tracked and can be monitored. This allows for oversight and audit capabilities to ensure that the data is being handled consistent with all applicable federal laws and regulations regarding privacy and data integrity. Data exchange, which will take place over an encrypted network between CBP and other DHS components that may be authorized to have access to NEDS data, is limited and confined only to those entities that have a need for the data in the performance of official duties.

RETENTION AND DISPOSAL:

NEDS data is subject to a retention requirement. The information collected and maintained in NEDS is used for border crossing purposes and is retained in NEDS for the duration of the validity of the travel document, that is from the date of issuance by the issuing authority until the date of expiration on the document, or, to the extent more restrictive, in accordance with the terms of any memorandum of understanding/agreement between CBP and the issuing authority. Information contained in NEDS will be retained and updated as information is provided by the issuing authority, so as to ensure timeliness, relevancy, accuracy, and completeness.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Automated Systems, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURES:

DHS allows persons (including foreign nationals) to seek administrative access under the Privacy Act to information maintained in NEDS. To determine whether NEDS contains records relating to you, write to the CBP Customer Service Center (Rosslyn VA), 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Telephone (877) 227–5511; or through the ''Questions'' tab at *http://www.cbp.gov.xp.cgov/travel/customerservice.*

RECORD ACCESS PROCEDURES:

Requests for notification or access must be in writing and should be addressed to the CBP Customer Service Center (Rosslyn, VA), 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Telephone (877) 227–5511; or through the ''Questions'' tab at *http://www.cbp.gov.xp.cgov/travel/customerservice.* Requests should conform to the requirements of 6 CFR part 5, Subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS and can be found at *http://www.dhs.gov.* The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

While DHS provides this mechanism for seeking notification and access to such information, requesters are encouraged in the first instance to contact the authority which issued the travel document to request access to this information, as DHS may nonetheless be required to coordinate any release with such authorities.

CONTESTING RECORD PROCEDURES:

Requests to amend records must be in writing and should be addressed to the CBP Customer Service Center (Rosslyn, VA), 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Telephone (877) 227–5511; or through the ''Questions'' tab at *http://www.cbp.gov.xp.cgov/travel/customerservice.* Requests should conform to the requirements of 6 CFR part 5, subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS and can be found at *http://www.dhs.gov/foia.* The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

If individuals are uncertain what agency handles the information, they may seek redress through the DHS Traveler Redress Program (''TRIP'') (See 72 FR 2294, dated January 18, 2007). TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs—such as, airports, seaports and train stations or at U.S. land borders. Through TRIP, a traveler can request correction of erroneous information stored in other DHS databases through one application. Redress requests should be sent to: DHS Traveler Redress Inquiry Program (TRIP), 601 South 12th Street, TSA–901, Arlington, VA 22202–4220 or online at *http://www.dhs.gov/trip.*

Additionally, while DHS provides this mechanism for contesting records, requesters are encouraged in the first instance to contact the authority which issued the travel document to request access to this information, as DHS may nonetheless be required to coordinate any requests with such authorities.

RECORD SOURCE CATEGORIES:

The system contains certain data received on individuals who have chosen to obtain a travel document that is designated by the Secretary of Homeland Security as denoting identity and citizenship for purposes of entering the United States and has been issued by an authority which has provided CBP with advance information from its relevant travel document database.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: July 18, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8–17126 Filed 7–24–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–817, Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form I–817, Application for Family Unity Benefits; OMB Control No. 1615–0005.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 13, 2008, at 73 FR 27549, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 25, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *oira_submission@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control

Number 1615–0005 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

(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 submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Family Unity Benefits.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–817; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected will be used to determine whether the applicant meets the eligibility requirements for benefits under 8 CFR part 245A, Subpart C.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 6,000 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://www.regulations.gov/search/index.jsp.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: July 21, 2008.

Stephen Tarragon,

Management Analyst, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–17036 Filed 7–24–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–140, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–140, Immigrant Petition for Alien Worker; OMB Control Number 1615–0015.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 9, 2008, at 73 FR 26404 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 25, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *oira_submission@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0015 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

(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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Immigrant Petition for Alien Worker.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–140, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* U.S. Employers. The information furnished on Form I–140 will be used by U.S. Citizenship and Immigration Services to classify aliens under section 203(b)(1), 203(b)(2) or 203(b)(3) of the Immigration and Nationality Act (Act).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 96,000 responses at 60 minutes (1 hour) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 96,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://www.regulations.gov/search/index.jsp.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue,

Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: July 21, 2008.

Stephen Tarragon,

Management Analyst, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–17037 Filed 7–24–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: File No. OMB–4, Guidelines on Producing Master Exhibits for Asylum Applications; OMB Control No. 1615–0073.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 7, 2008, at 73 FR 25760 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 25, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *oira_submission@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0073 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate 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;

(2) Evaluate the accuracy of the agency's estimate of the burden of the 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Guidelines on Producing Master Exhibits for Asylum Applications.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Agency Form Number (File No. OMB–4); U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private Organizations and Businesses. Private voluntary organizations, law firms, or other groups submit master exhibits to USCIS to support asylum applications.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20 responses at 80 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://www.regulations.gov/search/index.jsp*.

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272–8377.

Dated: July 21, 2008.

Stephen Tarragon,

Management Analyst, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–17038 Filed 7–24–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5186–N–30]

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.

DATES: *Effective Date:* July 25, 2008.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, 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 the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 17, 2008

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E8–16752 Filed 7–24–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–R–2008–N0118; 30136–1265–0000–S3]

Leopold and St. Croix Wetland Management Districts in Wisconsin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of draft comprehensive conservation plans (CCP) and environmental assessments (EA) for the Leopold and St. Croix Wetland Management Districts (District(s), WMD(s)) for public review and comment. In the draft CCP/EAs, we describe how we propose to manage these districts for the next 15 years.

DATES: To ensure consideration, we must receive your written comments by August 25, 2008. Open house style meetings will be held during the comment period to receive comments and provide information on the draft plan. Special mailings, newspaper articles, Internet postings, and other media announcements will inform people of the meetings and opportunities for written comments.

ADDRESSES: Send your comments or requests for more information by any of the following methods. You may also drop off comments in person.

- *Agency Web Site:* View or download a copy of the documents and comment at *http://www.fws.gov/midwest/planning/leopold* and *http://www.fws.gov/midwest/planning/stcroix*.
- *E-mail: r3planning@fws.gov*. Include ''Leopold Draft CCP/EA'' or ''St. Croix Draft CCP/EA'', as appropriate, in the subject line of the message.
- *Fax:* 608–745–0866 for Leopold WMD and 715–246–4670 for St. Croix WMD.
- *U.S. Mail:* Comments for Leopold WMD can be mailed to: District Manager, W10040 Cascade Mountain Road, Portage, Wisconsin 53901. Comments for St. Croix WMD can be mailed to: District Manager, 1764 95th Street, New Richmond, Wisconsin 54017.

FOR FURTHER INFORMATION CONTACT: Tom Kerr, St. Croix WMD, 715–246–7784 or Steve Lenz, Leopold WMD, 608–742–7100.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Leopold and St. Croix WMDs, which we started in 71 FR 20722 (April 21, 2006). For more about the initiation process, see that notice. Leopold and St. Croix WMDs are located in Wisconsin. Established in 1993, the Leopold WMD manages 53 waterfowl production areas (WPAs) totaling more than 12,000 acres in 17 southeastern Wisconsin counties. The District also administers 48 conservation easements within an eastern Wisconsin area of 34 counties. The St. Croix WMD, also established in 1993, manages 41 WPAs totaling 7,500 acres within an eight-county District of west-central Wisconsin. The District also administers 14 conservation easements. WPAs consist of wetland habitat surrounded by grassland and woodland communities. While WPAs are managed primarily for ducks and geese, they also provide habitat for a variety of other wildlife such as grassland birds, shorebirds, wading birds, mink, muskrat, wild turkey, and deer.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires us to develop a comprehensive conservation plan for each national wildlife refuge and wetland management district. The purpose in developing a CCP is to provide managers with a 15-year strategy for achieving district purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

CCP Alternatives and Our Preferred Alternative

Priority Issues

During the public scoping process, we, other governmental partners, and the public identified several priority issues, which were organized into five topics: Habitat management; habitat loss and fragmentation; land acquisition; public use; and service identity. To address these issues, we developed and evaluated the following alternatives during the planning process. The themes and approaches within the alternatives are consistent between the Districts.

Under all alternatives federally listed threatened and endangered species would be protected; coordination would occur with the Wisconsin Department of Natural Resources; visitors would feel safe and the resources would be protected through law enforcement; a proposal would be developed to construct new headquarters and shop facilities; and any undertaking would be analyzed for its potential to affect historic properties.

Alternative 1, Waterfowl Emphasis—Current Management Direction

Under Alternative 1 the activities of the Districts would continue as in the past with current staffing and resources. The target for each District would be to restore 150 acres of grassland per year. The 15 year target for wetland restoration would be 50 percent of the drained wetlands for Leopold WMD and 75 percent for St. Croix WMD. Up to 20 percent of the woodlands and oak savannah would be inventoried with the objective of restoring approximately 25 percent of the identified potential savannah. Invasive species would be inventoried and treated with the recognition that only a small portion of the affected acres would be dealt with. Land acquisition would continue as funds were available with the intent of establishing larger complexes of wetlands and grasslands. An objective would be to raise the quality of the visitor services programs over time, reaching a higher level of rating within 5 years. The rating would be based on the evaluation standards of the Refuge Annual Performance Plan, which use the criteria for quality described in the Service Manual. Five (Leopold) and two (St. Croix) WPAs would be more fully developed with visitor services facilities. The volunteer and partnership programs would continue at 2008 levels. Contacts with neighbors would continue to be limited and general knowledge of the District and Service identity and missions would remain unchanged.

Alternative 2, Waterfowl Emphasis With Increased Consideration for Other ''Priority'' Species and Low/Moderate Consideration for Visitor Services

Under Alternative 2, the types of habitat management activities of the Districts would continue, but with more acres affected. Monitoring of habitat and wildlife would increase compared to the

current direction. Visitor services would improve about at the rate and extent of the current direction. The target for each District would be to restore 200 acres of grassland per year. The 15 year target for wetland restoration would be 75 percent of the drained wetlands for Leopold WMD and 90 percent for St. Croix WMD. Up to 90 percent of the woodlands and oak savannah would be inventoried with the objective of restoring approximately 75 percent (Leopold) and 80 percent (St. Croix) of the identified potential savannah. Invasive species would be inventoried on 100 percent of the Districts and would be treated on 25 percent (Leopold) and 50 percent (St. Croix) of District lands. Land acquisition would continue as funds were available with the intent of establishing larger complexes of wetlands and grasslands. An objective would be to raise the quality of the visitor services programs over time, reaching a higher level of rating within 5 years. Five (Leopold) and two (St. Croix) WPAs would be more fully developed with visitor services facilities. The volunteer and partnership programs would increase. Contacts with neighbors would increase slightly and general knowledge of the District and Service identity and missions would increase slightly. Full implementation of this alternative would require the addition of 1.5 full-time equivalents (Leopold) and 2.5 full-time equivalents (St. Croix) to the current staff.

Alternative 3, Waterfowl Emphasis With Low Increase in Management for Other Wildlife and Increased Consideration for Visitor Services

Under Alternative 3, the types and amounts of habitat management activities undertaken by the Districts would be similar to Alternative 1. Visitor services would expand and improve in quality compared with Alternative 1. Outreach activities would also be greater. An objective would be to raise the quality of the visitor services programs over time, reaching two higher levels of rating within 5 years. Seven (Leopold) and four (St. Croix) WPAs would be more fully developed with visitor services facilities. The volunteer and partnership programs would increase. Contacts with neighbors would increase and additional information would be provided to them. The general knowledge of the District and Service identity and mission would increase among neighbors and the community. Full implementation of this alternative would require the addition of 1.5 full-time equivalents (Leopold) and 2.5 full-time equivalents (St. Croix) to the current staff.

Alternative 4, Waterfowl Emphasis With Increased and Balanced Consideration for Other ''Priority'' Species, Their Habitats, Visitor Services and Neighborhood Relationships (Preferred Alternative)

Alternative 4 incorporates components of Alternatives 2 and 3. Under this alternative the types of habitat management activities of the Districts would continue, but with more acres affected. Monitoring of habitat and wildlife would increase compared to the current direction. Visitor services would expand and improve in quality compared to the current direction. Outreach activities would also be greater. The target for each District would be to restore 200 acres of grassland per year. The 15 year target for wetland restoration would be 75 percent of the drained wetlands for Leopold WMD and 90 percent for St. Croix WMD. Up to 90 percent of the woodlands and oak savannah would be inventoried with the objective of restoring approximately 75 percent (Leopold) and 80 percent (St. Croix) of the identified potential savannah. Invasive species would be inventoried on 100 percent of the Districts and would be treated on 25 percent (Leopold) and 50 percent (St. Croix) of District lands. The Districts would develop a monitoring program to determine waterfowl recruitment. Land acquisition would continue as funds were available with the intent of establishing larger complexes of wetlands and grasslands. Seven (Leopold) and four (St. Croix) WPAs would be more fully developed with visitor services facilities. The volunteer and partnership programs would increase. Contacts with neighbors and the expected effects would be the same as Alternative 3. Full implementation of this alternative would require the addition of 3.5 full-time equivalents (Leopold) and 3.5 full-time equivalents (St. Croix) to the current staff.

Public Meetings

We will give the public an opportunity to provide comments at public meetings. You may obtain the schedule from the addresses listed above (see **ADDRESSES**). You may also submit comments anytime during the comment period by writing to the above addresses.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information, you should know that your entire comment—including your personal identifying information—may be made publicly available. While you may 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. All comments become part of the official public record, and we handle requests for such comments in accordance with the Freedom of Information Act, NEPA, and Service and Departmental policies and procedures.

Dated: May 22, 2008.

Charles M. Wooley,

Acting Regional Director, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. E8–17106 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTEROR

Bureau of Land Management

[WY–030–5101–ER–K103; WYW–167155]

Notice of Intent To Announce a Proposed Environmental Impact Statement (EIS) for the Chokecherry and Sierra Madre Wind Energy Project, Announce a Proposed EIS To Amend Rawlins Resource Management Plan, and Announce a Public Comment Period and Public Meetings for Obtaining Comments

AGENCY: Bureau of Land Management.

ACTION: Notice of Intent (NOI) to (1) announce a proposed Environmental Impact Statement (EIS) for the Chokecherry and Sierra Madre Wind Energy Project; (2) announce a proposed EIS to amend Rawlins Resource Management Plan; and (3) announce a public comment period and public meetings for obtaining comments.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, an EIS will be prepared by the Bureau of Land Management (BLM), Rawlins Field Office, Wyoming, for the Chokecherry and Sierra Madre Wind Energy Project in Carbon County, Wyoming. The EIS will analyze the impacts of issuing rights-of-way for a wind energy project and ancillary facilities (consisting of access roads, electric power gathering cables, an electric transmission line, and electric substations).

DATES: Public meetings will be held to inform the public and obtain comments. Dates, times, and locations of meetings will be announced at least 15 days in advance through local media, news releases, and posting to the BLM Web

site. The public comment period will close 45 days after publication in the **Federal Register**. The BLM Field Manager, Rawlins Field Office, 1300 N. Third Street, Rawlins, Wyoming 82301 will receive comments submitted via mail or overnight delivery from the general public and interested parties. Facsimiles, telephone calls, or electronic mail via the Internet will not be considered as validly submitted comments. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Heather Nino, Realty Specialist, Bureau of Land Management, Rawlins Field Office, 1300 North Third Street, Rawlins, WY 82301 or *Heather_Nino@blm.gov*, or Jerry Crockford at cellular telephone (505) 360–0473.

SUPPLEMENTARY INFORMATION: The EIS will address the proposed action and a range of reasonable alternatives including a no action alternative.

The proposed action can be summarized as: construction, operation and maintenance of a nominal 2,000 megawatt (MW) wind energy project and ancillary facilities. The wind energy project area comprises approximately 98,500 acres located within Townships 19 and 20 North, Ranges 85 through 87 West for the Chokecherry area, and Townships 16 through 18 North, Ranges 87 through 89 West for the Sierra Madre area. The project occurs in a ''checker board'' land ownership pattern area with approximately half of the land being BLM public land, and approximately half being private and State of Wyoming ownership.

The proposed 2,000 MWs will be provided by approximately 675 2–MW turbines to be constructed in the Chokecherry area portion of the project, and approximately 325 2–MW turbines to be constructed in the Sierra Madre portion of the project area. Other associated facilities required by the project will include access roads, underground electric gathering lines, an overhead electric transmission line, and electric substations to interconnect the generated power to the electric grid. The project will utilize existing roads.

The project will require approximately three to five years for construction, with an in-service target date of late-2012. The project will operate continuously, except for maintenance shutdowns on individual wind turbine generators, with a projected 30-year life. Power would interconnect with the national electric grid.

Under the No Action Alternative, BLM would not issue right-of-way grants for the Chokecherry and Sierra Madre Wind Energy Project and ancillary facilities. The project including the wind generating turbines, access roads, gathering cables, substations, and transmission line would not be constructed. The areas proposed for the Chokecherry and Sierra Madre Wind Energy Project and ancillary facilities would remain undeveloped. An energy need would not be met by the proposed generated power.

Public participation is encouraged throughout the processing of this project. Comments presented throughout the process will be considered.

Dated: July 9, 2008.

Patrick Madigan,

Field Manager, Rawlins Field Office, Wyoming.

[FR Doc. E8–17071 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1420–BJ]

Idaho: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Surveys.

SUMMARY: The Bureau of Land Management (BLM) has officially filed the plats of survey of the lands described below in the BLM Idaho State Office, Boise, Idaho, effective 9 a.m., on the dates specified.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Land Management to meet their administrative needs. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the north boundary and subdivisional lines, and the subdivision of sections 2, 3, 10, 23 and 26, in T. 8 S., R.36 E., Boise Meridian, Idaho, Group Number 1119, was accepted April 3, 2008.

The plat representing the dependent resurvey of portions of the Fort Hall Correction Line (south boundary), east boundary, and subdivisional lines, and the subdivision of section 25, T. 9 S., R. 37 E., Boise Meridian, Idaho, Group Number 1162, was accepted May 2, 2008.

The plat constituting the entire survey record of the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of section 31, T. 9 S., R. 38 E., Boise Meridian, Idaho, Group Number 1162, was accepted May 2, 2008.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines, and the subdivision of sections 1, 12, and 24, T. 10 S., R. 37 E., Boise Meridian, Idaho, Group Number 1162, was accepted May 2, 2008.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of sections 6, 7, 18, and 19, T. 10 S., R. 38 E., Boise Meridian, Idaho, Group Number 1162, was accepted May 2, 2008.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines, and the corrective dependent resurvey of a portion of the subdivisional lines and the subdivision of section 23, and the subdivision of sections 13 and 24, the survey of a portion of the 2005–2008 meanders of the right bank of the Salmon River in section 24, and certain metes-and-bounds surveys in sections 13, 23, and 24, T. 15 N., R. 19 E., and the dependent resurvey of portions of the subdivisional lines, and the original 1911 right bank meanders of the Salmon River in sections 17 and 18, and the subdivision of sections 7, 17, and 18, the survey of the 2005–2008 meanders of the Salmon River in sections 7, 17, and 18, the survey of certain 2005–2008 partition lines in section 17, and the metes-and-bounds survey of lots 10 and 11 in section 18, T. 15 N., R. 20 E., of the Boise Meridian, Idaho, Group Number 1205, was accepted May 9, 2008. The supplemental plat prepared to correct certain erroneous depictions of the Snake River Birds of Prey National Conservation Area, T. 1 N., R. 2 E., Boise Meridian, Idaho, was accepted May 9, 2008.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines, and boundaries of certain mineral surveys, T. 5 S., R. 3 W., of the Boise Meridian,

Idaho, Group Number 1191, was accepted May 16, 2008.

The plat representing the dependent resurvey of a portion of the Third Standard Parallel North (south boundary) and subdivisional lines, and the subdivision of section 35, in T. 13 N., R. 38 E., Boise Meridian, Idaho, Group Number 1224, was accepted May 29, 2008.

The plat constituting the entire survey record of the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 9, T. 2 S., R. 15 E., Boise Meridian, Idaho, Group Number 1263, was accepted June 27, 2008.

This survey was executed at the request of the U.S.D.A., Forest Service, to meet certain administrative and management purposes. The supplemental plat prepared to correct certain erroneously lotted areas as depicted on the plat accepted December 12, 1990, section 15, T. 54 N., R. 1 W., Boise Meridian, Idaho.

Dated: July 3, 2008.

Stanley G. French,

Chief Cadastral Surveyor for Idaho.

[FR Doc. E8–17069 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–FR; WYW–74694]

Notice of Realty Action: Recreation and Public Purposes Act Classification of Public Lands in Sweetwater County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, approximately 10.00 acres of public land in Sweetwater County, Wyoming. The Sweetwater County Solid Waste Disposal District #1 proposes to use the land for a solid waste transfer station.

DATES: Interested parties may submit comments regarding the proposed conveyance or classification of the lands until *September 8, 2008.*

ADDRESSES: Send written comments to the Field Manager, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: Lance Porter, Field Manager, Bureau of Land Management, Rock Springs Field Office, at (307) 352–0238.

SUPPLEMENTARY INFORMATION: In accordance with Section 7 of the Taylor Grazing Act, (43 U.S.C. 315f), and Executive Order No. 6910, the following described public land in Sweetwater County, Wyoming, has been examined and found suitable for classification for lease and conveyance under the provisions of the R&PP Act, as amended, (43 U.S.C. 869 et seq.):

Sixth Principal Meridian, Wyoming,

T. 20 N., R. 101 W.
Sec. 28, SE¼SE¼NE¼.

The land described contains 10.00 acres, more or less.

In accordance with the R&PP Act, the Sweetwater County Solid Waste Disposal District #1 (District) filed an application to purchase the above-described 10.00 acres of public land which has been leased to the District for solid waste disposal purposes since 1982. The land was classified for lease under the provisions of the R&PP Act and was originally leased as a sanitary landfill. The lease stopped operating as a landfill in 1992 and was converted to a solid waste transfer station. The transfer station has been in operation since then in conformance with the terms and conditions of the lease. Before the conveyance can occur, the land must be classified for conveyance under the provisions of the R&PP Act. Additional detailed information pertaining to this application, plan of development, and site plan is in case file WYW 74694, located in the BLM Rock Springs Field Office at the above address.

The land is not needed for any Federal purpose. The conveyance is consistent with the Rock Springs Resource Management Plan dated August 8, 1986, and would be in the public interest. The patent, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945); and

2. All minerals, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

The patent will be subject to all valid existing rights documented on the official public land records at the time of patent issuance.

Classification Comments: Interested parties may submit comments involving the suitability of the land for municipal and recreation uses. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision to convey under the R&PP Act, or any other factor not directly related to the suitability of the land for R&PP use.

Confidentiality of Comments: Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Only written comments submitted by postal service or overnight mail to the Field Manager—BLM Rock Springs Field Office will be considered properly filed. Electronic mail, facsimile or telephone comments will not be considered properly filed.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this notice will become effective September 23, 2008. The lands will not be available for conveyance until after the classification becomes effective.

Authority: 43 CFR 2740.

Dated: July 7, 2008.

Lance Porter,

Field Manager.

[FR Doc. E8–17076 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–300–2824–DS–PJ04]

Notice of Availability of the Record of Decision for the Fire, Fuels and Related Vegetation Management Direction Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Fire, Fuels and Related Vegetation Management Direction Plan Amendment located in south central and southeastern Idaho.

ADDRESSES: Copies of the Fire, Fuels and Related Vegetation Management Direction Plan Amendment ROD are available upon request from the Pocatello Field Office, Bureau of Land Management, 4350 Cliffs Drive, Pocatello, Idaho 83204, phone 208–478–6340, or it can be downloaded in its entirety at *http://www.blm.gov/id/st/en/prog/planning/fire_fuels_and_related.html* via the Internet.

FOR FURTHER INFORMATION CONTACT: Terry Lee Smith, Project Manager, 4350 Cliffs Drive, Pocatello, Idaho 83204, phone 208–478–6340, e-mail *Terry_Lee_Smith@blm.gov*.

SUPPLEMENTARY INFORMATION: The Fire, Fuels and Related Vegetation Management Direction Plan Amendment (hereafter referred to as the Plan Amendment) was developed with broad public participation through a five-year collaborative planning process. It addresses management on approximately 5 million acres of public land comprising the Burley, Shoshone, Pocatello and Upper Snake Field Offices in south-central and southeastern Idaho. Twelve land use plans were amended upon signing of the ROD by the Idaho State Director.

The Plan Amendment incorporates the National Fire Plan's Cohesive Strategy and the Federal Wildland Fire Management Policy of 1995, as revised, into existing BLM land use plans. The purpose of the plan amendments is to:

- Establish fire management guidance, objectives, policies, and management actions;
- Identify resource goals and methods, including desired future condition of the fire-related vegetation resources, and management actions necessary to achieve objectives;
- Form the basis to update fire management plans and integrate them with allotment management plans, wildlife management plans, recreation management plans, Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing, and other applicable plans, to the greatest extent possible; and
- Provide consistent land use plan level direction to enable incremental steps toward a long-term resource goal of conditions that minimize risk to human life and property and maintain or restore vegetation that is resistant to catastrophic wildfire.

The approved Plan Amendment is Alternative E in the Proposed Fire, Fuels and Related Vegetation Management Direction Amendment and Final EIS published in February 2008. The Plan Amendment institutes management direction that will promote the maintenance or restoration of the sagebrush steppe ecosystem and its associated wildlife species, including sage grouse, as well as the maintenance and restoration of forested vegetation types.

All protests received by the BLM regarding the plan amendment have been addressed. No inconsistencies with State or local plans, policies, or programs were identified during the Governor's consistency review of the proposed plan.

Dated: June 19, 2008.

Thomas H. Dyer,

Idaho State Director, Bureau of Land Management.

[FR Doc. E8–17115 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–910–08–1120–PH–24–1A]

Call for Nominations for Utah's Resource Advisory Council

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Call for Nominations for Utah's Resource Advisory Council.

SUMMARY: The purpose of this notice is to request public nominations to fill one position in Category Two for Utah's Resource Advisory Council. The RACs provide advice and recommendations to BLM on land use planning and management of the public lands within their geographic areas.

DATES: Send all nominations to the Utah Bureau of Land Management (BLM) no later than September 8, 2008.

ADDRESSES: Nominations should be sent to the BLM, ATTN: Sherry Foot, 440 West 200 South, Salt Lake City, Utah 84101.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, P.O. Box 45155, Salt Lake City, Utah, 84145–0155; phone (801) 539–4195.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1730) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM.

Category Two—Representatives of nationally or regionally recognized environmental organizations, archaeological and historic organizations, dispersed recreation activities, and wild horse and burro organizations.

Individuals may nominate themselves or others. Nominees must be residents of Utah. The BLM will evaluate nominees based on their education, training, experience, and their knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision making. The following must accompany all nominations:

—Letters of reference from represented interests or organizations;
—A completed background information nomination form; and
—Any other information that speaks to the nominee's qualifications.

Simultaneous with this notice, Utah BLM's State Office will issue a press release providing additional information for submitting nominations.

Dated: July 16, 2008.

Jeff Rawson,

State Director.

[FR Doc. E8–17125 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Cachuma Lake Resource Management Plan (RMP), Santa Barbara County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the draft Environmental Impact Statement (EIS) and notice of public hearing.

SUMMARY: The Bureau of Reclamation (Reclamation), as the National Environmental Policy Act Federal lead agency, has made available for public review and comment the Cachuma Lake draft EIS. The draft EIS describes and presents the effects of the No-Action Alternative and two (2) Action Alternatives on the development and management of the Plan Area. A public hearing will be held to receive comments from individuals and organizations on the draft EIS.

DATES: Written comments on the draft EIS will be accepted on or before September 23, 2008.

A public hearing has been scheduled to receive oral or written comments regarding environmental effects. The

hearing will be held from 6:30 p.m. to 9 p.m. on August 26, 2008, in Solvang, CA.

ADDRESSES: Send written comments on the draft EIS to Mr. Robert Epperson, Bureau of Reclamation, 1243 N Street, Fresno, CA 93721. The public hearing will be held at the Veterans Memorial Hall, 1745 Mission Drive, Solvang, CA 93463.

Copies of the draft EIS may be requested from Mr. Robert Epperson, by writing to Bureau of Reclamation, 1243 N Street, Fresno CA 93721; by calling 559–269–4518 (TDD 559–487–5933); or by e-mailing *repperson@mp.usbr.gov.* The draft EIS is also accessible from the following Web site: *http://www.usbr.gov/mp/cachuma/docs/index.html.* See **SUPPLEMENTARY INFORMATION** Section for locations where copies of the draft EIS are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Epperson, Bureau of Reclamation, at 559–269–4518 (TDD 559–487–5933) or *repperson@mp.usbr.gov.*

SUPPLEMENTARY INFORMATION: The draft EIS documents the direct, indirect, and cumulative effects to the physical, biological, and socioeconomic environment that may result from various resource management alternatives at Cachuma Lake.

The Cachuma Lake draft EIS evaluates the existing resource management of Cachuma Lake. The project purpose consists of: (1) Protecting the water supply and water quality functions of Cachuma Lake; (2) protecting and enhancing natural and cultural resources in the Recreation Area, consistent with Federal law and Reclamation policies; and (3) providing recreational opportunities and facilities consistent with the original Cachuma Project purposes, and Reclamation policies.

Cachuma Lake is an existing reservoir formed by Bradbury Dam, and located in Santa Barbara County, California. The dam, which provides irrigation, domestic, and municipal and industrial water supplies to the City of Santa Barbara, Goleta Water District, Montecito Water District, Carpinteria Valley Water District, and Santa Ynez River Water Conservation District, was constructed in the 1950s. The Cachuma Project has delivered an average of 25,000 acre-feet per year over the past 45 years and encompasses approximately 9,250 acres. In 1956, operation and maintenance of the Cachuma project was transferred from Reclamation to the Cachuma Operation and Maintenance Board. Reclamation still retains ownership of all project facilities and is responsible for the operation of the dam.

The new RMP will have a planning horizon of 20 years, which will begin when a new agreement is reached between Reclamation and a local managing partner. The new RMP would (1) Ensure timely delivery of high-quality water to water users while enhancing natural resources and recreational opportunities; (2) provide recreational opportunities to meet the demands of a growing, diverse population; (3) ensure recreational diversity and the quality of the experience; (4) protect natural resources, while providing resource education opportunities and stewardship; and (5) provide updated management for establishing a new management agreement with a managing partner.

The draft EIS outlines the formulation and evaluation of alternatives designed to address issues through a representation of the varied interests at the Plan Area. Alternative 1 (No Action) would continue current management practices. Alternative 2 (Enhanced Recreation) would balance natural resource protection with recreational opportunities. Alternative 3 (Expanded Recreation) would emphasize expanded recreation opportunities.

The draft EIS has been developed within the authorities provided by Congress through the Reclamation Recreation Management Act of 1992 (Pub. L. 102–575, Title 28, 16 U.S.C. 460L), Reclamation Act, Federal Water Project Recreation Act, and other applicable Federal agency and U.S. Department of the Interior policies.

Copies of the draft EIS are available for public review at the following locations:

- Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
- Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno CA 93721.
- Cachuma Lake State Recreation Area, Highway 154, Santa Barbara, CA 93105.
- Santa Maria Public Library, 420 South Broadway Avenue, Santa Maria, CA 93454.
- Santa Barbara Public Library, Central Location, 40 East Anapamu Street, Santa Barbara, CA 93101.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.

Public Hearings

A brief presentation, including a project overview, will open the public hearing. This will be followed by an open house during which individual concerns and questions will be addressed through interaction with the project team.

If special assistance is required at the public hearings, please contact Mr. Robert Epperson at 559–269–4518, (TDD 559–487–5933) or by e-mailing *repperson@mp.usbr.gov.* Please notify Mr. Epperson as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

Public Disclosure

Before including your name, 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: July 3, 2008.

John F. Davis,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. E8–17072 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Millerton Lake Resource Management Plan/General Plan (RMP/GP), Madera and Fresno Counties, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the draft Environmental Impact. Statement/Environmental Impact Report (EIS/EIR) and notice of public hearing.

SUMMARY: The Bureau of Reclamation (Reclamation), as the National Environmental Policy Act Federal lead agency, and the California Department of Parks & Recreation (CDPR), as the California Environmental Quality Act State lead agency, have made available for public review and comment the Millerton Lake draft EIS/EIR. The draft EIS/EIR describes and presents the environmental effects of the No-Action Alternative and three (3) Action

Alternatives. A public hearing will be held to receive comments from individuals and organizations on the draft EIS/EIR.

DATES: Written comments on the draft EIS/EIR will be accepted on or before September 23, 2008.

A public hearing has been scheduled to receive oral or written comments regarding environmental effects. The hearing will be held from 6:30 p.m. to 9 p.m. on August 14, 2008 in Friant, CA.

ADDRESSES: Send written comments on the draft EIS/EIR to Mr. Robert Epperson, Bureau of Reclamation, 1243 N Street, Fresno, CA 93721.

The public hearing will be held at the Friant Learning Academy, 17200 Burroughs, Friant, CA 93626.

Copies of the draft EIS/EIR may be requested from Mr. Robert Epperson, by writing to Bureau of Reclamation, 1243 N Street, Fresno, CA 93721; by calling 559–269–4518 (TDD 559–487–5933); or by e-mailing *repperson@mp.usbr.gov.* The draft EIS/EIR is also accessible from the following Web site: *http://www.usbr.gov/mp/millerton/docs/index.html.* See **SUPPLEMENTARY INFORMATION** Section for locations where copies of the draft EIS/EIR are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Epperson, Bureau of Reclamation, at 559–269–4518 (TDD 559–487–5933) or *repperson@mp.usbr.gov.*

SUPPLEMENTARY INFORMATION: The draft EIS/EIR documents the direct, indirect, and cumulative effects to the physical, biological, and socioeconomic environment that may result from various resource management alternatives at Millerton Lake.

The Millerton Lake draft EIS/EIR evaluates the existing resource management of Millerton Lake. The project purpose consists of: (1) Identifying the current and most appropriate future uses of land and water resources within the Plan Area; (2) identifying the long-term resource programs and implementation guidelines to manage and develop recreation, natural, and cultural resources; and (3) developing strategies and approaches to protect and preserve the natural, recreational, aesthetic, and cultural resources.

Millerton Lake is an existing reservoir formed by Friant Dam, and located in Fresno and Madera Counties, CA. The dam, which regulates the normal flow of the San Joaquin River and stores floodwaters for irrigation diversion into the Friant-Kern and Madera Canals, was completed in 1947. Millerton Lake has a storage capacity of 520,500 acre-feet and a surface area of 4,900 acres. Through agreements with Reclamation and the California Department of Fish and Game, the CDPR manages the entire Plan Area.

The most recent General Plan for the Plan Area was completed by CDPR in 1983, and projected recreation trends and deficiencies through 1990. Since the adoption of this plan, several changes to the physical and regulatory environment have resulted in the need for an updated plan. The new joint Resource Management Plan/General Plan (RMP/GP) will have a planning horizon through the year 2035.

The new plan will: (1) Enhance natural resources and recreational opportunities without interrupting reservoir operations; (2) provide recreational opportunities to meet the demands of a growing, diverse population; (3) ensure recreational diversity and quality; (4) protect natural, cultural, and recreational sources while providing resource education opportunities and stewardship; and (5) provide updated management for establishing a new management agreement with the State of California.

The draft EIS/EIR outlines the formulation and evaluation of alternatives designed to address these issues through a representation of the varied interests at the Plan Area. The No Action Alternative would result in the continuation of current management practices. Action Alternative 1 (Recreation Expansion) emphasizes expanded recreation opportunities and includes additional campsites. Action Alternative 2 (Enhancement) balances natural and cultural resource protection and recreation opportunities. Action Alternative 3 (Resource Protection) emphasizes resource protection and limits some recreation opportunities.

The draft EIS/EIR has been developed within the authorities provided by Congress through the Reclamation Recreation Management Act of 1992 (Pub. L. 102–575, Title 28, 16 U.S.C. 460L) and other applicable agency and U.S. Department of Interior policies.

Copies of the draft EIS/EIR are available for public review at the following locations:

- Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
- Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno, CA 93721.
- Millerton Lake State Recreational Area, 5290 Millerton Road, Friant, CA 93626.
- Fresno County Public Library, Central Location, 2420 Mariposa, Fresno, CA 93721.
- Madera County Public Library, Headquarters, 121 North G Street, Madera, CA 93637.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.

Public Hearings

A brief presentation, including a project overview, will open the public hearing. This will be followed by an open house during which individual concerns and questions will be addressed through interaction with the project team.

If special assistance is required at the public hearings, please contact Mr. Robert Epperson at 559–269–4518, (TDD 559–487–5933), or by e-mailing *repperson@mp.usbr.gov.* Please notify Mr. Epperson as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

Public Disclosure

Before including your name, 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: July 3, 2008.

John F. Davis,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. E8–17074 Filed 7–24–08; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1114 (Final)]

Certain Steel Nails From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

industry in the United States is materially injured by reason of imports from China of certain steel nails, provided for in subheadings 7317.00.55, 7317.00.65, and 7317.00.75 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).[2]

Background

The Commission instituted this investigation effective May 29, 2007, following receipt of a petition filed with the Commission and Commerce by Davis Wire Corp. (Irwindale, CA), Gerdau Ameristeel Corp. (Tampa, FL), Maze Nails (Peru, IL), Mid Continent Nail Corp. (Poplar Bluff, MO), and Treasure Coast Fasteners, Inc. (Fort Pierce, FL).[3] The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain steel nails from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 8, 2008 (73 FR 7590). The hearing was held in Washington, DC, on June 11, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 21, 2008. The views of the Commission are contained in USITC Publication 4022 (July 2008), entitled *Certain Steel Nails from China, Investigation No. 731–TA–1114 (Final).*

By order of the Commission.

Issued: July 21, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–17095 Filed 7–24–08; 8:45 am]

BILLING CODE 7020–02–P

[2] The Commission further determines that critical circumstances do not exist with respect to those imports of the subject merchandise from China that were subject to the affirmative critical circumstances determination by the Department of Commerce.

[3] On June 22, 2007, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union was added as a co-petitioner.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–636]

In the Matter of Certain Laser Imageable Lithographic Printing Plates; Notice of Commission Decision Not to Review an Initial Determination Granting Complainant's Motion To Amend the Complaint and Notice of Investigation to Add a Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 7) issued by the presiding administrative law judge (''ALJ'') granting a motion by complainant Presstek, Inc. (''Presstek'') to amend the complaint and notice of investigation to add Spicers Paper, Inc. (''Spicers'') as a respondent in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Paul M. Bartkowski, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5432. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on March 7, 2008, based on a complaint filed by Presstek, Inc. of Hudson, NH. The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laser imageable lithographic printing plates that infringe certain claims of U.S. Patent Nos. 5,339,737 and 5,487,338 and U.S. Trademark Reg. No. 1,711,005.

On April 23, 2008, Presstek filed a motion to amend the complaint and notice of investigation to add Spicers as a respondent. Respondents VIM Technologies, Ltd.; AteCe Canada; Guaranteed Service & Supplies, Inc.; and Recognition Systems, Inc. filed a response opposing the motion. The Commission investigative attorney filed a response in support of the motion. The ALJ issued the subject ID granting Presstek's motion on June 26, 2008. No petitions for review were filed. The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.14 and 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.14, 210.42).

By order of the Commission.

Issued: July 21, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–17096 Filed 7–24–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

July 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 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: New collection (Request for a new OMB Control Number).

Title: Workforce Innovation in Regional Economic Development (WIRED) Initiative Evaluation.

OMB Control Number: 1205–0NEW.

Form Number: None.

Affected Public: State, Local, and Tribal Governments and Private Sector.

Estimated Number of Respondents: 1,600.

Estimated Total Annual Burden Hours: 1,200.

Estimated Total Annual Costs Burden: $0.

Description: This data collection covers qualitative information to be obtained through on-site, unstructured interviews with representatives in each of the 13 regions awarded WIRED funding. Data to be collected includes information regarding the regional context, goals, planning, structure, partnerships, collaboration, activities, funding, challenges, innovations, approaches for measuring success, and sustainability. For additional information, see related notice published at 73 FR 16912 on March 31, 2008.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–17006 Filed 7–24–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Administration and Management; Agency Information Collection Activities: Proposed Collection; Comment Request; Applicant Background Questionnaire

AGENCY: Office of the Assistant Secretary for Administration and Management (OASAM), Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Department of Labor is soliciting comments concerning the proposed extension of the Applicant Background Questionnaire.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 23, 2008.

ADDRESSEE: William Glasgow, U.S. Department of Labor, Human Resources Center, 200 Constitution Ave. NW., Room N–5464, Washington, DC 20210; Phone: (202)693–7738; Written comments limited to 10 pages or fewer may also be transmitted by facsimile to: (202)693–7814; Internet: *glasgow.william@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. *Background:* The Department of Labor, as part of its obligation to provide equal employment opportunities, is charged with ensuring that qualified individuals in groups that are under-represented in various occupations are included in applicant pools for the Department's positions. See 5 U.S.C. 7201(c); 29 U.S.C. 791; 29 U.S.C. 2000e–16; 5 CFR 720.204; 29 CFR 1614.101(a). To achieve this goal, DOL employment offices have conducted targeted outreach to a variety of sources, including educational institutions, professional organizations, newspapers, and magazines. DOL has also participated in career fairs and conferences that reach high concentrations of Hispanics, African Americans, Native Americans, Asians, and persons with disabilities.

Without the data provided by this collection, DOL does not have the ability to evaluate the effectiveness of any of these targeted recruiting strategies because collection of racial and national origin information only occurs at the point of hiring. DOL needs to collect data on the pools of applicants which result from the various targeted recruitment strategies listed above. After the certification and selection process has been completed, it is necessary to cross-reference the data collected with the outcome of the qualifications review in order to evaluate the quality of applicants from various recruitment sources. With the information from this collection, DOL can adjust and redirect its targeted recruitment to achieve the best result. DOL will also be able to respond to requests for information received from the Office of Personnel Management (OPM) in the course of OPM evaluation and oversight activities.

II. *Desired Focus of Comments:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, for example, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. *Current Actions:* This notice requests an extension of the current Office of Management and Budget approval of the Applicant Background Questionnaire. Extension is necessary to continue to evaluate the effectiveness of agency recruitment programs in attracting applicants from under-represented sectors of the population.

Type of Review: Extension of a currently approved collection.

Agency: U.S. Department of Labor.

Title: Applicant Background Questionnaire.

OMB Number: 1225–0072.

Affected Public: Applicants for positions recruited in the Department of Labor. Other Federal agencies have requested to use the DOL form. We are including the Department of Agriculture, ARS as an agency that wishes to use the form for their recruitment program. Their burden numbers are also included below.

Total Respondents:

Department of Labor—3,000

USDA, ARS—17,800

Total—20,800

Frequency: One time per respondent.

Total Responses: 20,800.

Average Time per Response: 3 minutes for on-line applicants (DOL). 5 minutes for paper applications (USDA).

Estimated Total Burden Hours:

DOL—150 hours

USDA—1,458 hours, 20 min

Total—1,608 hours, 20 min

Total Burden Cost (capital/startup): $0

Total Burden Cost (operating/maintaining):

DOL—$87.46

USDA—$1,049.52

Total—$1,136.98

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 18, 2008.

Suzy Barker,

Director of Human Resources.

[FR Doc. E8–17078 Filed 7–24–08; 8:45 am]

BILLING CODE 4510–23–P

NATIONAL SCIENCE FOUNDATION

Invitation To Submit White Papers To Inform the Five-Year Strategic Plan for the Federal Networking and Information Technology Research & Development Program

AGENCY: The National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD).

ACTION: Request for Input (RFI).

FOR FURTHER INFORMATION CONTACT: Detrice M. Wallace at (703) 292–4873.

DATES: To be considered, submissions must be received by August 25, 2008.

SUMMARY: This plan will focus on goals and capabilities that can only be achieved through interagency cooperation and coordination, and will complement and support the strategic plans of the individual agencies. It will encompass vision-driven themes in multiple dimensions to show research & development capabilities and challenges by using scenarios that demonstrate societal and economic impact.

SUPPLEMENTARY INFORMATION:

1. *Overview:* The Subcommittee on Networking and Information Technology Research and Development (NITRD) is soliciting input from government, academia, and industry in the U.S. and abroad to assist in the development of a Five-Year Strategic Plan for the NITRD Program.

The strategic plan will focus primarily on R&D goals that require interagency coordination, including multi-agency investments and joint programs, and respond to the priorities of the Federal government as a whole. This plan will complement and support each participating agency's strategic plan.

This Request for Input is not a funding opportunity or a solicitation for proposals. Anonymized versions of some responses will be made publicly available to promote further discussion.

2. *Focus of the Strategic Plan:* The NITRD five-year strategic plan will guide the coordinated R&D efforts of the Federal agencies in the NITRD Program (see *http://www.nitrd.gov* for a description of the program and a listing of participating agencies). The strategic plan will:

- Define a vision for the NITRD Program and identify desired, future networking and information technologies (NIT) capabilities.
- Provide a five-year framework for prioritizing fundamental research to attain major advances in the desired capabilities within ten years.
- Ensure collaboration across agencies, academia, industry, and other domains to solve challenges that cannot be met by any agency acting alone.
- Illustrate potential societal and economic positive impact on national-level and multi-disciplinary challenges (e.g., cybersecurity, healthcare, renewable energy, and environment).

3. *Description of Information Sought:* The NITRD Subcommittee seeks input from a range of stakeholders with the goal of developing an effective strategic plan for R&D to yield high-payoff scientific and engineering capabilities in NIT. The submissions should seek to answer the following questions:

- What do you imagine as the future in terms of desired NIT capabilities?
- What roles do you imagine for the NITRD Program and for the academic, commercial, international, and other domains in achieving that future?

In addressing these questions, submitters are challenged to present views and input on one or more of the following subjects, in relation to NIT:

- Development and execution of multi-agency and multi-disciplinary programs.
- Determination of strategic goals, key challenges, opportunities, and research priorities.
- Examples that illustrate the impact of realizing the vision, achieving the proposed goals, and meeting the identified challenges.
- Transition of R&D results into practice.
- Role of the U.S. in the international NIT arena.
- Interactions among government, commercial, academic, and international sectors.

4. *Background:* A unique collaboration of 13 Federal agencies, the NITRD Program's mission is to formulate Federal NIT R&D to meet the following national goals:

- Assure continued U.S. leadership in NIT to meet Federal goals and support U.S. 21st century government, academic, and industrial interests.
- Accelerate deployment of advanced and experimental NIT to enhance national and homeland security; maintain world leadership in science, engineering, and mathematics; improve the quality of life; promote long-term economic growth; increase lifelong learning; and protect the environment.
- Advance U.S. productivity and competitiveness through long-term scientific and engineering research in NIT.

Currently there are two documents available for gathering background information. The first is the August 2007 publication, *Leadership Under Challenge: Information Technology R&D in a Competitive World,* an assessment of the NITRD Program by the President's Council of Advisors on Science and Technology (PCAST). A central recommendation in this assessment is the development, implementation, and maintenance of a cohesive strategic plan for the NITRD Program. The second document is the NITRD Program's previous internal Strategic Plan. The documents are available at: *http://www.nitrd.gov/pubs/index.htm*

5. *Submission Information:* To be considered, submissions must be received by August 25, 2008. Submitters of the white papers should:

- Focus on interagency coordination of major NIT research directions and the proposed priorities of the Federal government as a whole.

• Put all information in the main text; references may be used for background information.

• Transmit the submissions as electronic documents to *nitrd-sp@nitrd.gov*.

• Limit the size of documents to two pages.

Note that this is an initial opportunity for public input to the strategic planning process; additional opportunities are expected as the plan is developed.

This invitation is not a funding opportunity or a solicitation for proposals. Anonymized versions of some responses will be made publicly available to promote further discussion.

The NITRD public Web site at *http://www.nitrd.gov* provides background information on the activities of the NITRD Program and its interagency coordinating groups. For general inquiries, please send e-mail to *nco@nitrd.gov*.

Chris Greer,

Director, NCO, Co-Chair, NITRD Subcommittee.

Jeannette Wing,

Assistant Director, NSF/CISE, Co-Chair, NITRD Subcommittee.

Submitted by the National Science Foundation for the National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD) on July 21, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–16975 Filed 7–24–08; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On May 27, 2008, the National Science Foundation published a notice in the Federal Register of permit applications received. A permit was issued on July 21, 2008 to: Terrie M. Williams; Permit No. 2009–005.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. E8–17007 Filed 7–24–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–11209]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Amendment of Byproduct Materials License No. 21–16544–01, for Unrestricted Release of a Facility in Ann Arbor, MI

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Peter J. Lee, PhD, CHP, Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; telephone: (630) 829–9870; fax number: (630) 515–1259; or by e-mail at *Peter.Lee@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend Byproduct Materials License No. 21–16544–01. This license is held by the Department of Commerce (the Licensee) for its Great Lakes Environmental Research Laboratory facility located at 2205 Commonwealth Boulevard, Ann Arbor, Michigan (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated September 19, 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 September 19, 2007, license amendment request, resulting in release of the Facility for unrestricted use. License No. 21–16544–01 was issued on July 8, 1975, pursuant to 10 CFR part 30, and has been amended periodically since that time. The license authorizes the use of byproduct materials for in-vitro laboratory research studies and neutron activation studies on soil samples. The Licensee ceased using licensed materials in the Facility in 2007. The Licensee has conducted final status surveys of the Facility. The results of these surveys along with other supporting information were provided to the NRC to demonstrate that the criteria in Subpart E of 10 CFR part 20 for unrestricted release have been met.

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, carbon-14, antimony-125, cadmium-109, calcium-45, cerium-144, cesium-134, cesium-137, chlorine-36, cobalt-60, iodine-129, iron-55, manganese-54, polonium-209, polonium-210, radium-226, silver-100m, sodium-22, and zinc-65. 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 completed final status surveys on the Facility on June 28, 2007. The surveys covered all areas of the Facility. The final status survey report was attached to the Licensee's amendment request dated September 19, 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 values described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2 as the radionuclide-specific derived concentration guideline levels (DCGLs). These values provide acceptable levels of surface contamination to demonstrate compliance with the NRC requirements in Subpart E of 10 CFR part 20 for unrestricted release. The Licensee's final status survey results were below these values 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 available docket file records and the survey results 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 issuance of the proposed amendment authorizing release of the Facility for unrestricted use is in compliance with 10 CFR part 20. 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 Michigan Department of Environmental Quality for review on May 27, 2008. By response dated May 27, 2008, the State agreed with the conclusions of the EA, and otherwise provided 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. Kimberly A. Kulpanowski, U.S. Department of Commerce, letter dated September 19, 2007 (ADAMS Accession No. ML081370332);
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;''
5. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance.''
6. By response dated May 27, 2008, the State had no comments.

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 Lisle, Illinois this 15th day of July 2008.

For the Nuclear Regulatory Commission.

Christine A. Lipa,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E8–17118 Filed 7–24–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Nuclear Management Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Nuclear Management Company, LLC (the licensee), to withdraw its March 31, 2008 (Agencywide Document Access and Management System Accession No. ML081010189) application, as supplemented by letters dated May 20, May 28, May 30, June 3, June 5, June 12, and June 25, 2008 (Accession Nos. ML081430494, ML081490639, ML081550504, ML081550640, ML081570467, ML081640435, and ML081770562) for proposed amendment to Renewed Facility Operating License No. DPR–22 for the Monticello Nuclear Generation Plant, located in Wright County, Minnesota.

The proposed amendment would have increased the current maximum

thermal power level authorized by Section 2.C(1) of the renewed facility operating license from 1,775 megawatts to 1,870 megawatts.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on May 6, 2008 (73 FR 25042). However, by letter dated June 25, 2008 (ADAMS Accession No. ML081770562), the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 31, 2008, as supplemented, and the licensee's letter dated June 25, 2008, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 18th day of July 2008.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–17110 Filed 7–24–08; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of l995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection:

RUIA Claims Notification and Verification System: OMB 3220–0171. Section 5(b) of the Railroad Unemployment Insurance Act (RUIA), requires that effective January 1, 1990, ''when a claim for benefits is filed with the Railroad Retirement Board (RRB), the RRB shall provide notice of such claim to the claimant's base year employer or employers and afford such employer or employers an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the RRB initially determines to pay benefits to a claimant under the RUIA, the RRB shall provide notice of such determination to the claimant's base-year employer or employers.''

The purpose of the RUIA Claims Notification System is to provide to unemployment and sickness claimant's base year employer or current employer, notice of each application and claim for benefits under the RUIA and to provide an opportunity for employers to convey information relevant to the proper adjudication of the claim. Railroad employers receive notice of applications and claims by one of three options. The first option, Form Letter ID–4K, is a computer generated form letter notice of all unemployment applications, unemployment claims and sickness claims received from employees of a railroad company on a particular day. Form Letters ID–4K are mailed on a daily basis to officials designated by railroad employers. The second option is an Electronic Data Interchange (EDI) version of the Form Letter ID–4K notice. EDI notices of applications are transmitted to participating railroads on a daily basis, generally on the same day that applications are received. The third option, an Internet equivalent ID–4K, provides the required notification by the RRB through the RRB's Internet-based Employer Reporting System (ERS). Completion is voluntary.

Railroad employers can respond to RRB notices of applications and claims manually by mailing a completed ID–4K back to the RRB or electronically via EDI or the ERS. No changes are being proposed to any of the ID–4K options.

Upon receipt of notice that the RRB has allowed a claim either in whole, or in part, the claimant's base-year employer(s) may request a review of the determination to pay benefits, if the employers believe the determination is incorrect. The RRB utilizes Form Letter ID–4DE, Notice of RUIA Claim Determinations, an Electronic Data Interchange (EDI) version of the Form Letter ID–4K notice and an Internet equivalent ID–4E to notify base-year employers that the RRB has made a determination to pay benefits and to allow them to request the RRB to review the determination. Form Letter ID–4E is mailed on a daily basis, generally on the same day that the claims are approved for payment. The EDI and Internet-equivalent ID–4Es are also sent to participating railroads on a daily basis, generally on the same day that the claims are approved for payment. Railroad employers can then request that the RRB review the determination either by filing a completed ID–4E by mail, EDI, or via the Internet. No changes are being proposed to any of the ID–4E options. Completion is voluntary.

The estimated annual respondent burden is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form number	Annual responses	Time (min)	Burden hours
ID–4K (Manual)	1,250	2	42
ID–4K (EDI)	14,850	**	210
ID–4K (Internet)	2,500	2	83
ID–4E (Manual)	75	2	3
ID–4E (Internet)	25	2	1

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form number	Annual responses	Time (min)	Burden hours
Total	18,700		339

** The burden for the 5 participating employers who transmit EDI responses is calculated at 10 minutes each per day, 251 workdays a year or 210 total hours of burden.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–17068 Filed 7–24–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of: SwedishVegas, Inc.; Order of Suspension of Trading

July 23, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SwedishVegas, Inc.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period commencing at 9:30 a.m. EDT, July 23, 2008, and terminating at 11:59 p.m. EDT, on August 5, 2008.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. 08–1466 Filed 7–23–08; 10:54 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11272]

Iowa Disaster Number IA–00016

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Iowa (FEMA–1763–DR), dated 05/27/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 05/25/2008 and continuing.

EFFECTIVE DATE: 07/17/2008.

Physical Loan Application Deadline Date: 07/28/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Iowa, dated 05/27/2008, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Appanoose, Lucas, Monroe.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17083 Filed 7–24–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11264 and #11265]

Iowa Disaster Number IA–00015

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 9.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1763–DR), dated 05/27/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 05/25/2008 and continuing.

Effective Date: 07/17/2008.

Physical Loan Application Deadline Date: 09/29/2008.

EIDL Loan Application Deadline Date: 02/27/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Iowa, dated 05/27/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Montgomery.

All other counties contiguous to the above named primary county have previously been declared.

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. E8–17084 Filed 7–24–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11335]

Michigan Disaster #MI–00013

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Michigan (FEMA–1777–DR), dated 07/14/2008.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 06/06/2008 through 06/13/2008.

EFFECTIVE DATE: 07/14/2008.

Physical Loan Application Deadline Date: 09/12/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 04/14/2009.

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 07/14/2008, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Allegan, Barry, Eaton, Ingham, Lake, Manistee, Mason, Missaukee, Osceola, Ottawa, Wexford.

Contiguous Counties (Economic Injury Loans Only): Benzie, Calhoun, Clare, Clinton, Crawford, Grand Traverse, Ionia, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Livingston, Mecosta, Muskegon, Newaygo, Oceana, Roscommon, Shiawassee, Van Buren.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage and economic injury is 11335.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17081 Filed 7–24–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11336]

Vermont Disaster #VT–00008

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Vermont (FEMA–1778–DR), dated 07/15/2008.

Incident: Severe Storms and Flooding.

Incident Period: 06/14/2008 through 06/17/2008.

EFFECTIVE DATE: 07/15/2008.

Physical Loan Application Deadline Date: 09/15/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 04/15/2009.

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 07/15/2008, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Addison, Franklin.

Contiguous Counties (Economic Injury Loans Only):

Vermont: Chittenden, Grand Isle, Lamoille, Orange, Orleans, Rutland, Washington, Windsor.

New York: Essex, Washington.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage and economic injury is 11336

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17082 Filed 7–24–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Liberal Mid-America Regional Airport, Liberal, KS

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of Request to Release Airport Property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the Liberal Mid-America Regional Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before August 25, 2008.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 901 Locust, Kansas City, Missouri 64106–2325.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Debra S. Giskie, Airport Manager, at the following address: City of Liberal, P.O. Box 2199, Liberal, KS 67905–2199.

FOR FURTHER INFORMATION CONTACT: Nicoletta Oliver, Airports Compliance Specialist, FAA, Central Region, 901 Locust, Kansas City, MO 64106–2325, (816) 329–2642.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at the Liberal Mid-America Regional Airport under the provisions of AIR 21.

On July 10, 2008, the FAA determined that the request to release property at the Liberal Mid-America Regional Airport submitted by the City of Liberal, met the procedural requirements of the Federal Aviation Administration. The FAA will approve or disapprove the request, in whole or in part, no later than October 30, 2008.

The following is a brief overview of the request.

The City of Liberal requests the release of approximately 61.05 acres of airport property. The purpose of this release is to allow the City to sell this property to generate revenue for the airport and make it as self-sustaining as possible. The land is vacant and not needed for aviation purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the request in person at the Liberal Mid-America Regional Airport, Liberal, Kansas.

Issued in Kansas City, Missouri, on July 10, 2008.

Michael Faltermeier,

Acting Manager, Airports, Central Region.

[FR Doc. E8–17005 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Rialto Municipal Airport, Rialto, San Bernardino County, CA

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

ACTION: Notice of Request to Release Airport Property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Rialto Municipal Airport under the provisions of section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before August 25, 2008.

ADDRESSES: Comments on this application may he mailed or delivered to the FAA at the following address: Mr. Brian Armstrong, Manager, Federal Aviation Administration, Los Angeles Airports District Office, LAX—600, 15000 Aviation Blvd, Lawndale, CA 90261. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Richard Scanlan, Director of Aviation and Solid Waste Management, City of Rialto, 150 Palm Avenue, Rialto, CA 92376.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Armstrong, Manager, Federal Aviation Administration, Los Angeles Airports District Office, LAX—600, 15000 Aviation Blvd, Lawndale, CA 90261, Telephone: (310) 725–3644, e-mail: *Brian.Armstrong@faa.gov*, fax: (310) 725–6849.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Rialto Municipal Airport under the provisions of the AIR 21 and Section 4408 of Public Law 109–59. The following is a brief overview of the request:

The Congress of the United States adopted Section 4408 of Public Law 109–59 on August 10, 2005. In part, Section 4408 specifically states; ''Notwithstanding any law, regulation or grant assurance, but subject to the requirements of this section, the United States shall release all restrictions, conditions, and limitations on the use, encumbrance, conveyance, or closure of the Rialto Municipal Airport, in Rialto, California, to the extent such restrictions, conditions, and limitations are enforceable by the United States.'' This legislation authorized the closure of the Rialto Airport, the transfer of certain assets of the Rialto Municipal Airport, the sale of the Rialto Municipal Airport Properties by the City of Rialto and the distribution of 45% of the fair market value of the local land sales proceeds to the United States for the benefit of a commercial airport complying with the criteria set forth in the legislation. This airport has been identified as the San Bernardino International Airport owned and operated by the San Bernardino International Airport Authority.

The FAA is carrying out the direction of Congress. This notice invites public comment on FAA's intent to rule on the request for release for the Rialto Airport property in its totality. There will be no further public notices published on this matter. However, the FAA intends to process the release in incremental phases. Smaller parcels will be released individually and the entire release will occur over time. The purpose of processing the release, in this fashion, is to allow for the early sale of parcels not currently used for aviation purposes at the Rialto Municipal Airport. This incremental sale will allow the Rialto Municipal Airport to remain open and functional as an airport for a period of time while the proceeds from the early land sales are used for the design and construction of certain general aviation infrastructure and other aviation improvements on the San Bernardino International Airport.

Any person may inspect the request in person, by appointment, at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person, by appointment, at the Rialto Municipal Airport, telephone number (909) 820–2622.

Issued in Hawthorne, California, on July 1, 2008.

Mark McClardy,

Manager, Airports Division, AWP–600, Western Pacific Region.

[FR Doc. E8–17003 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2008–32]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before August 14, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2004–18657, using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at (202) 493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or

signing the comment for 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).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair (425) 227–1556, Transport Airplane Directorate, ANM–113, Federal Aviation Administration, 1601 Lind Avenue, SE., Renton, WA 98055–4056, or Frances Shaver (202) 267–9681, Office of Rulemaking, ARM–204, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC on July 21, 2008.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2004–18657.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: §§ 25.807(c), 25.857(e), 25.785(j), and 25.1447(c)(1).

Description of Relief Sought: The Boeing Company requests exemption from the airworthiness standards for transport category airplanes that would allow carriage of up to twenty (20) supernumeraries on a Boeing Model 747–400BCF airplane and allow them to access the main deck cargo compartment for all types of cargo operations, namely: (1) Cargo only, (2) live animals only, and 3) mixed cargo consisting of live animals and regular cargo.

[FR Doc. E8–16982 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2008–30]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before August 14, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–0323, using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at (202) 493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for 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).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair (425) 227–1556, Transport Airplane Directorate, ANM–113, Federal Aviation Administration, 1601 Lind Avenue, SE., Renton, WA 98055–4056, or Frances Shaver (202) 267–9681, Office of Rulemaking, ARM–204, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC on July 21, 2008.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2008–0323.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: §§ 25.857(e), 25.785(j), and 25.1447(c)(1).

Description of Relief Sought: The Boeing Company requests exemption from the airworthiness standards for transport category airplanes that would allow up to eleven (11) supernumeraries to access the main deck cargo compartment on a Boeing Model 777F airplane for all types of cargo operations, namely: (1) Cargo only, (2) live animals only, and (3) mixed cargo consisting of live animals and regular cargo.

[FR Doc. E8–16984 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on NYS Route 17, Access Control Project, Elmira to Chemung, City of Elmira, Towns of Ashland, Chemung and Elmira, Chemung County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, which consists of the reconstruction of New York State (NYS) Route 17 from Elmira to Chemung in Chemung County, New York. This project will convert a section of NYS Route 17 from a partial control access expressway having at-grade intersections to a full control of access freeway. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before January 21, 2009. If the Federal law that authorizes judicial review of a claim provides a

time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Kolb, P.E., Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 7th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127 or Peter White, P.E., Regional Director, NYSDOT Region 6, 107 Broadway, Hornell, NY 14843, Telephone: (607) 324–8404.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA, and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of New York: NYS Route 17, Access Control Project, Elmira to Chemung, City of Elmira, Towns of Ashland, Chemung and Elmira, Chemung County. The project will reconstruct a portion of New York State (NYS) Route 17 from Elmira to Chemung in Chemung County, New York. NYS Route 17 will be constructed as a controlled access freeway primarily on its existing alignment with provisions for a 60′ median throughout its limits, from Exit 56 at Jerusalem Hill Road/Water Street to a point east of the existing connector road near Reed's Crossing. A new diamond interchange would be constructed on NYS Route 17 near the existing connector road just east of Reed's Crossing. The project will provide for a continuous County Road (CR) 60 from Exit 56 at Jerusalem Hill Road/Water Street to the new interchange by constructing new CR 60 links between Jerusalem Hill Road/ Water Street and Brant Road, between Brant Road and Oneida Road, and between Oneida Road and the existing CR 60 cul-de-sac west of the Lowman Interchange. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on December 4, 2007 and in the FHWA Record of Decision (ROD) issued on July 10, 2008. The FEIS, ROD, and other project records are available by contacting the FHWA or the New York State Department of Transportation at the addresses provided above.

This notice applies to all Federal agency decisions related to the NYS Route 17, Access Control Project, Elmira to Chemung project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351].
2. Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
3. Clean Air Act [42 U.S.C. 7401–7671(q)].
4. Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].
5. Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536].
6. Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)].
7. Migratory Bird Treaty Act [16 U.S.C. 703–712].
8. Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].
9. Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].
10. Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
11. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377].
12. Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604].
13. Rivers and Harbors Act of 1899 [33 U.S.C. 401–406].
14. E.O. 11990 Protection of Wetlands.
15. E.O. 11988 Floodplain Management.
16. E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: July 14, 2008.

Jeffrey W. Kolb,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. E8–17107 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35162]

Kern W. Schumacher, V&S Railway, Inc., and Louisiana & Mississippi Railway, LLC—Control Exemption—Gloster Southern Railroad Company LLC

Kern W. Schumacher (applicant), a noncarrier, has filed a verified notice of exemption to acquire indirect control of Gloster Southern Railroad Company LLC (GLSR), which is currently wholly owned by Georgia-Pacific Wood Products LLC (GPWP). Applicant currently controls three Class III railroads: Tulare Valley Railroad Company (TVR), which operates in California; Kern Valley Railroad Company (KVR), which operates in Colorado; and V&S Railway, Inc. (V&S), which operates in Kansas and Colorado. Applicant states that he has organized Louisiana & Mississippi Railway, LLC, (L&M), in which V&S holds 100% of the membership interests, to acquire 100% of the membership interests in GLSR. As a result of the transaction, L&M will acquire direct control of GLSR, and applicant and V&S will acquire indirect control of GLSR through their control of L&M. Pursuant to 49 CFR 1180.6(a)(7)(ii), applicant has concurrently filed, under seal, a copy of the highly confidential Membership Interest Purchase Agreement between GPWP and the L&M.

The transaction is scheduled to be consummated on or after the date that this notice becomes effective (which will occur on August 10, 2008).

Applicant states that: (i) The rail lines involved in this transaction do not connect with any rail lines of the TVR, KVR, V&S or any other railroad now controlled by applicant; (ii) the acquisition of indirect control of GLSR is not part of a series of anticipated transactions that would connect any of the railroads with each other or with any railroad in their corporate family; and (iii) this transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all the carriers involved are Class III rail carriers.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 1, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35162, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, NW. 8th Floor, Washington, DC 20036.

Board decisions and notices are available on our website at *http://www.stb.dot.gov.*

Decided: July 16, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–16743 Filed 7–24–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35100]

Waterloo Railway Company—Intra-Corporate Family Exemption—Illinois Central Railroad Company

Waterloo Railway Company (Waterloo), a Class III rail common carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a transaction within a corporate family. The transaction involves Waterloo's acquisition of a rail line owned by Illinois Central Railroad Company (IC),[1] a Class I rail common carrier, extending from milepost 72.48 near Woolworth, MS, to milepost 76.8 near Carlos, MS, a distance of approximately 4.32 miles. IC will retain local and overhead trackage rights over the acquired line in order to serve any future industries that may locate on the line, and will continue to use the line to access IC's rail lines extending eastward to Wanilla, MS, and westward to Brookhaven, MS.

The transaction is expected to be consummated on or shortly after August 11, 2008.

Waterloo states that this is an intra-corporate transaction that involves the transfer of ownership of a short rail line from one CN-controlled subsidiary to another, and will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(3).

As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay will be due no later than August 1, 2008 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35100, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas J. Litwiler, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: July 17, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–16838 Filed 7–24–08; 8:45 am]

BILLING CODE 4915–01–P

[1] Waterloo is a wholly owned direct subsidiary of IC, which in turn is indirectly controlled by Canadian National Railway Company (CN).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35142]

St. Clair Tunnel Company—Intra—Corporate Family Merger Exemption—Grand Trunk Western Railroad Incorporated

St. Clair Tunnel Company (SCTC), a Class III rail common carrier, and Grand Trunk Western Railroad Incorporated (GTW), a Class I rail common carrier, have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for an intra-corporate family merger of GTW with and into SCTC, with SCTC as the surviving corporation. GTW and SCTC are direct subsidiaries of Grand Trunk Corporation (GTC) and indirect subsidiaries of Canadian National Railway Company (CN).[1] Upon completion of the transaction, SCTC would change its corporate name to Grand Trunk Western Railroad Company.

The transaction is scheduled to be consummated on or after August 8, 2008, the effective date of the exemption.

The purpose of the transaction is to simplify the U.S. corporate structure of CN by eliminating a railroad within that structure and to accommodate certain Canadian tax considerations.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or any change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than August 1, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35142, must be filed with the Surface Transportation Board, 395 E Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: July 17, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–16839 Filed 7–24–08; 8:45 am]

BILLING CODE 4915–01–P

[1] All of CN's U.S. rail operating subsidiaries, including GTW and SCTC, report to the Board on a consolidated Class I basis under the GTC name.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35155]

FPN–USA, Inc.—Operation Exemption—Tijuana-Tecate Shortline

FPN–USA, Inc. (FPN), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate an approximately 44.6-mile line of railroad known as the Tijuana-Tecate Shortline, currently owned by the San Diego & Arizona Eastern Railway Company (SD&AE).[1] The rail line, almost all of which is in Mexico, extends between approximately milepost 15.0 at San Ysidro, CA, and milepost 59.6 at Division, CA, and runs through Baja California, Mexico.[2] In addition, FPN proposes to acquire, as incidental trackage rights, trackage rights over the line being operated by Carrizo Gorge Railway, Inc. (CZRY) between milepost 59.6 at Division and milepost 65.8 at Campo, CA.[3] FPN seeks these incidental trackage rights to reach a suitable interchange point at Campo because there is no place to interchange at Division.

FPN advises that the Tijuana-Tecate Shortline constitutes a portion of a longer rail line owned by SD&AE, a former Southern Pacific Transportation Company subsidiary.[4] Citing *San Diego,* FPN states that, until July 1, 2001, pursuant to an operation and management agreement with SD&AE, the San Diego & Imperial Valley Railroad Company (SDIV) provided freight service over a rail line that extends a distance of approximately 130 miles between San Diego, CA, and a point near Plaster City, CA (the San Diego-Plaster City line), and includes the Tijuana-Tecate Shortline.[5] *See San Diego & Imperial Valley R. Co., Inc.—Exemption,* 1 I.C.C.2d 941 (1985). On July 1, 2001, SDIV entered into a sublease with CZRY, which then operated over the Tijuana-Tecate Shortline. *See supra* note 3. FPN further states that CZRY has recently been performing service outside the Tijuana region only sporadically. As a result, according to FPN, Baja California is in the process of canceling CZRY's contract and has put the operation of the line out for bid.

FPN indicates that Union Pacific Railroad Company has indicated its willingness to work with FPN, should Baja California select FPN to operate the Tijuana-Tecate Shortline, for the purpose of interchanging traffic that originated or will terminate in Mexico. By letter filed on July 21, 2008, SDIV states that it is unaware of any changes to CZRY's operation over the Tijuana-Tecate Shortline or of FPN's intent to operate over it, that SDIV has had no communications with FPN regarding FPN's desire to operate over the line, and that there have been no discussions with FPN regarding coordination of operations.[6]

The transaction is scheduled to be consummated on or after August 10, 2008 (the effective date of the exemption).

FPN certifies that its projected annual revenues as a result of this transaction would not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues will not exceed $5 million.

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 1, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35155, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Hefner, Esq., John D. Heffner, PLLC, 1750 K Street, NW., Suite 350, Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: July 21, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–17103 Filed 7–24–08; 8:45 am]

BILLING CODE 4915–01–P

[1] FPN concurrently filed a public and a confidential version of the notice. The confidential version was filed under seal along with a motion for protective order. The motion for protective order is being addressed in a separate decision.

[2] FPN will shortly submit a proposal to the Mexican State of Baja California to operate the line. FPN will commence operations if this proposal is accepted and an operating agreement is executed.

[3] *See Carrizo Gorge Railway, Inc.—Operation Exemption—Line of San Diego and Arizona Eastern Railway Company and San Diego & Imperial Valley Railroad Company, Inc.,* STB Finance Docket No. 34078 (STB served Aug. 16, 2001). On July 18, 2008, FPN stated that it intends to enter into a trackage rights agreement with CZRY.

[4] SD&AE is owned by the San Diego Metropolitan Transit Development Board, a noncarrier public agency which operates light rail passenger transit service over a portion of the San Diego-Plaster City line between San Diego, CA, and the International Border between the United States and Mexico at San Ysidro, CA/Tijuana, MX. *See San Diego & Imperial Valley R. Co., Inc.—Exemption From 49 U.S.C. 10901 and 11301,* Finance Docket No. 30457 (ICC served Aug. 17, 1984) (*San Diego*).

[5] The Board has entry jurisdiction over railroads and rail lines that provide service between one point in the United States and another point in the United States through a foreign country. *See id., see also Trans-Ontario Ry. Co.—Exemption—49 U.S.C. 10901,* Finance Docket No. 30566 (ICC served Feb. 5, 1985).

[6] If the exemption becomes effective, the authority obtained by FPN through the exemption is permissive and does not bestow on FPN any legal rights it would need to obtain by contract from SD&AE, SDIV, CZRY, or any other party.

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—August 13, 2008, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Larry Wortzel, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on ''the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China.''

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on August 13, 2008 to address ''China's Energy Policies and Their Environmental Impacts.''

Background

This event is the ninth in a series of public hearings the Commission will hold during its 2008 report cycle to collect input from leading academic, industry, and government experts on the impact of the economic and national security implications of the U.S.

bilateral trade and economic relationship with China. The August 13 hearing will examine China's energy policymaking structure and reforms, China's environmental policy and activities to address the environmental impacts of its energy use, the effects of China's greenhouse gas emissions and its approach to global climate change, and U.S.-China energy technology cooperation in civil nuclear energy.

The August 13 hearing will address ''China's Energy Policies and Their Environmental Impacts'' and will be Co-chaired by Commissioners William A. Reinsch and Daniel M. Slane.

Information on hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web Site *http://www.uscc.gov*.

Copies of the hearing agenda will be made available on the Commission's Web Site *http://www.uscc.gov* as soon as available. Any interested party may file a written statement by August 13, 2008, by mailing to the contact below. On August 13, the hearing will be held in two sessions, one in the morning and one in the afternoon. There will be a question and answer period between the Commissioners and the witnesses.

DATE AND TIME: Wednesday, August 13, 2008, 9:15 a.m. to 4:15 p.m. Eastern Daylight Time. A detailed agenda for the hearing will be posted to the Commission's Web Site at *http://www.uscc.gov* in the near future.

ADDRESSES: The hearing will be held on Capitol Hill in Room 562 Dirksen Senate Office Building located at First Street and Constitution Avenue, NE., Washington, DC 20510. Public seating is limited to about 50 people on a first come, first served basis. Advance reservations are not required.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street, NW., Suite 602, Washington, DC 20001; phone: 202–624–1409, or via e-mail at *kmichels@uscc.gov*.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: July 21, 2008.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E8–17010 Filed 7–24–08; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Disciplinary Appeals Board Panel

AGENCY: Department of Veterans Affairs.

ACTION: Notice with request for comments.

SUMMARY: Section 203 of the Department of Veterans Affairs Health Care Personnel Act of 1991 (Pub. L. 102–40), dated May 7, 1991, revised the disciplinary grievance and appeal procedures for employees appointed under 38 U.S.C. 7401(1). It also required the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Boards. These employees constitute the Disciplinary Appeals Board panel from which Board members in a case are appointed. This notice announces that the roster of employees on the panel is available for review and comment. Employees, employee organizations, and other interested parties shall be provided, without charge, a list of the names of employees on the panel upon request and may submit comments concerning the suitability for service on the panel of any employee whose name is on the list.

DATES: Names that appear on the panel may be selected to serve on a Board or as a grievance examiner after August 25, 2008.

ADDRESSES: Requests for the list of names of employees on the panel and written comments may be directed to: Secretary of Veterans Affairs (051), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Requests and comments may also be faxed to (202) 273–9776.

FOR FURTHER INFORMATION CONTACT: Latoya Smith, Employee Relations Specialist (051), Office of Human Resources Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Smith may be reached at (202) 461–7975.

SUPPLEMENTARY INFORMATION: Public Law 102–40 requires that the availability of the roster be posted in the **Federal Register** periodically, and not less than annually.

Dated: July 21, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E8–17124 Filed 7–24–08; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 73, No. 144

Friday, July 25, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50, 51, 53, and 58

[EPA–HQ–OAR–2006–0735; FRL–8689–2]

RIN 2060–AN83

National Ambient Air Quality Standards for Lead

Correction

Proposed rule document E8–15579 beginning on page 39235 in the issue of Wednesday, July 9, 2008, was inadvertently published in the Rules and Regulations section. It should have appeared in the Proposed Rules section.

[FR Doc. Z8–15579 Filed 7–24–08; 8:45 am]

BILLING CODE 1505–01–D

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. CP2008–8, CP2008–9 and CP2008–10; Order No. 85]

Administrative Practice and Procedure; Postal Service

Correction

In rule document E8–16904 beginning on page 43046 in the issue of Wednesday, July 23, 2008, make the following correction:

On page 43046, in the first column, under the ''DATES'' heading, ''June 23, 2008'' should read ''July 23, 2008''.

[FR Doc. Z8–16904 Filed 7–24–08; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
July 25, 2008

Part II

Environmental Protection Agency

40 CFR Parts 144 and 146

Federal Requirements Under the Underground Injection Control (UIC) Program for Carbon Dioxide (CO_2) Geologic Sequestration (GS) Wells; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 146

[EPA–HQ–OW–2008–0390 FRL–8695–3]

RIN 2040–AE98

Federal Requirements Under the Underground Injection Control (UIC) Program for Carbon Dioxide (CO_2) Geologic Sequestration (GS) Wells

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing Federal requirements under the Safe Drinking Water Act (SDWA) for underground injection of carbon dioxide (CO_2) for the purpose of geologic sequestration (GS). GS is one of a portfolio of options that could be deployed to reduce CO_2 emissions to the atmosphere and help to mitigate climate change. This proposal applies to owners or operators of wells that will be used to inject CO_2 into the subsurface for the purpose of long-term storage. It proposes a new class of well and minimum technical criteria for the geologic site characterization, fluid movement, area of review (AoR) and corrective action, well construction, operation, mechanical integrity testing, monitoring, well plugging, post-injection site care, and site closure for the purposes of protecting underground sources of drinking water (USDWs). The elements of this proposal are based on the existing Underground Injection Control (UIC) regulatory framework, with modifications to address the unique nature of CO_2 injection for GS. If finalized, this proposal would help ensure consistency in permitting underground injection of CO_2 at GS operations across the U.S. and provide requirements to prevent endangerment of USDWs in anticipation of the eventual use of GS to reduce CO_2 emissions.

DATES: Comments must be received on or before November 24, 2008. A public hearing will be held during the public comment period in September 2008. EPA will notify the public of the date, time and location of a public hearing in a separate **Federal Register** notice.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2008–0390, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Water Docket, 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–2008–0390. 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 www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://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 Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Lee Whitehurst, Underground Injection Control Program, Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC–4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–3896; fax number: (202) 564–3756; e-mail address: *whitehurst.lee@epa.gov*. For general information, contact the Safe Drinking Water Hotline, telephone number: (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding legal holidays, from 10 a.m. to 4 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

I. General Information

This is a proposed regulation. If finalized, these regulations would affect owners or operators of injection wells that will be used to inject CO_2 into the subsurface for the purposes of GS. Regulated categories and entities would include, but are not limited to, the following:

Category	Examples of regulated entities
Private	Operators of CO_2 injection wells used for GS.

This table is not intended to be an exhaustive list, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria found in 146.81 of this proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Abbreviations and Acronyms

AASG American Association of State Geologists
AoR Area of Review
API American Petroleum Institute
$CaCO_3$ Calcium Carbonate
CAA Clean Air Act
CCS Carbon Capture and Storage
CERCLA Comprehensive Environmental Response, Compensation, and Liability Act
CO_2 Carbon Dioxide
CSLF Carbon Sequestration Leadership Forum
DOE Department of Energy

ECBM Enhanced Coal Bed Methane
EFAB Environmental Finance Advisory Board
EGR Enhanced Gas Recovery
EM Electromagnetic
EOR Enhanced Oil Recovery
EPA Environmental Protection Agency
ERT Electrical Resistance Tomography
FACA Federal Advisory Committee Act
GHGs Greenhouse Gases
GS Geologic Sequestration
GWPC Ground Water Protection Council
H_2S Hydrogen Sulfide
ICR Information Collection Request
IEA International Energy Agency
IOGCC Interstate Oil and Gas Compact Commission
IPCC Intergovernmental Panel on Climate Change
LBNL Lawrence Berkeley National Laboratory
LIDAR Light Detection and Ranging
MI Mechanical Integrity
MIT Mechanical Integrity Test
MMT Million Metric Tons
MMV Monitoring, Measurement, and Verification
MPRSA Marine Protection, Research, and Sanctuaries Act
NDWAC National Drinking Water Advisory Council
NETL National Energy Technology Laboratory
NGOs Non-Governmental Organizations
NODA Notice of Data Availability
NPDWR National Primary Drinking Water Regulations
NTTAA National Technology Transfer and Advancement Act
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget
O&M Operation and Maintenance
ORD Office of Research and Development
NO_X Nitrogen Oxides
PFC Perfluorocarbon
PNNL Pacific Northwest National Laboratory
PRA Paperwork Reduction Act
PVT Pressure-Volume-Temperature
PWS Public Water Supply
RA Regulatory Alternative
RCRA Resource Conservation and Recovery Act
RCSP Regional Carbon Sequestration Partnerships
RFA Regulatory Flexibility Act
SACROC Scurry Area Canyon Reef Operators Committee
SBREFA Small Business Regulatory Enforcement Fairness Act
SDWA Safe Drinking Water Act
SO_X Sulfur Oxides
TDS Total Dissolved Solids
UIC Underground Injection Control
UICPG#83 Underground Injection Control Program Guidance # 83
UMRA Unfunded Mandates Reform Act
USDW Underground Source of Drinking Water
VEF Vulnerability Evaluation Framework

Definitions

Annulus: The space between the well casing and the wall of the bore hole; the space between concentric strings of casing; space between casing and tubing.

Area of review (AoR): The region surrounding the geologic sequestration project that may be impacted by the injection activity. The area of review is based on computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream.

Ball valve: A valve consisting of a hole drilled through a ball placed in between two seals. The valve is closed when the ball is rotated in the seals so the flow path no longer aligns with the well casing.

Buoyancy: Upward force on one phase (e.g., a fluid) produced by the surrounding fluid (e.g., a liquid or a gas) in which it is fully or partially immersed, caused by differences in pressure or density.

Capillary force: Adhesive force that holds a fluid in a capillary or a pore space. Capillary force is a function of the properties of the fluid, and surface and dimensions of the space. If the attraction between the fluid and surface is greater than the interaction of fluid molecules, the fluid will be held in place.

Caprock: See confining zone.

Carbon Capture and Storage (CCS): The process of capturing CO_2 from an emission source, (typically) converting it to a supercritical state, transporting it to an injection site, and injecting it into deep subsurface rock formations for long-term storage.

Carbon dioxide plume: The extent underground, in three dimensions, of an injected carbon dioxide stream.

Carbon dioxide (CO_2) *stream:* Carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. This subpart does not apply to any carbon dioxide stream that meets the definition of a hazardous waste under 40 CFR Part 261.

Casing: The pipe material placed inside a drilled hole to prevent the hole from collapsing. The two types of casing in most injection wells are (1) surface casing, the outer-most casing that extends from the surface to the base of the lowermost USDW and (2) long-string casing, which extends from the surface to or through the injection zone.

Cement: Material used to support and seal the well casing to the rock formations exposed in the borehole. Cement also protects the casing from corrosion and prevents movement of injectate up the borehole. The composition of the cement may vary based on the well type and purpose; cement may contain latex, mineral blends, or epoxy.

Confining zone: A geologic formation, group of formations, or part of a formation stratigraphically overlying the injection zone that acts as a barrier to fluid movement.

Corrective action: The use of Director approved methods to assure that wells within the area of review do not serve as conduits for the movement of fluids into underground sources of drinking water (USDWs).

Corrosive: Having the ability to wear away a material by chemical action. Carbon dioxide mixed with water forms carbonic acid, which can corrode well materials.

Dip: The angle between a planar feature, such as a sedimentary bed or a fault, and the horizontal plane. The dip of subsurface rock layers can provide clues as to whether injected fluids may be contained.

Director: The person responsible for permitting, implementation, and compliance of the UIC program. For UIC programs administered by EPA, the Director is the EPA Regional Administrator; for UIC programs in Primacy States, the Director is the person responsible for permitting, implementation, and compliance of the State, Territorial, or Tribal UIC program.

Ductility: The ability of a material to sustain stress until it fractures.

Enhanced Coal Bed Methane (ECBM) recovery: The process of injecting a gas (e.g., CO_2) into coal, where it is adsorbed to the coal surface and methane is released. The methane can be captured and produced for economic purposes; when CO_2 is injected, it adsorbs to the surface of the coal, where it remains sequestered.

Enhanced Oil or Gas Recovery (EOR/EGR): Typically, the process of injecting a fluid (e.g., water, brine, or CO_2) into an oil or gas bearing formation to recover residual oil or natural gas. The injected fluid thins (decreases the viscosity) or displaces small amounts of extractable oil and gas, which is then available for recovery. This is also known as secondary or tertiary recovery.

Flapper valve: A valve consisting of a hinged flapper that seals the valve orifice. In GS wells, flapper valves can engage to shut off the flow of the CO_2 when acceptable operating parameters are exceeded.

Formation or geological formation: A layer of rock that is made up of a certain type of rock or a combination of types.

Geologic sequestration (GS): The long-term containment of a gaseous, liquid or supercritical carbon dioxide stream in

subsurface geologic formations. This term does not apply to its capture or transport.

Geologic sequestration project: An injection well or wells used to emplace a CO_2 stream beneath the lowermost formation containing a USDW. It includes the subsurface three-dimensional extent of the carbon dioxide plume, associated pressure front, and displaced brine, as well as the surface area above that delineated region.

Geophysical surveys: The use of geophysical techniques (e.g., seismic, electrical, gravity, or electromagnetic surveys) to characterize subsurface rock formations.

Injectate: The fluids injected. For the purposes of this rule, this is also known as the CO_2 stream.

Injection zone: A geologic formation, group of formations, or part of a formation that is of sufficient areal extent, thickness, porosity, and permeability to receive carbon dioxide through a well or wells associated with a geologic sequestration project.

Lithology: The description of rocks, based on color, mineral composition and grain size.

Mechanical integrity (MI): The absence of significant leakage within the injection tubing, casing, or packer (known as internal mechanical integrity), or outside of the casing (known as external mechanical integrity).

Mechanical Integrity Test (MIT): A test performed on a well to confirm that a well maintains internal and external mechanical integrity. MITs are a means of measuring the adequacy of the construction of an injection well and a way to detect problems within the well system before leaks occur.

Model: A representation or simulation of a phenomenon or process that is difficult to observe directly or that occurs over long time frames. Models that support GS can predict the flow of CO_2 within the subsurface, accounting for the properties and fluid content of the subsurface formations and the effects of injection parameters.

Packer: A mechanical device set immediately above the injection zone that seals the outside of the tubing to the inside of the long string casing.

Pinch-out: The location where a porous, permeable formation that is located between overlying and underlying confining formations thins to a zero thickness, and the confining formations are in contact with each other.

Pore space: Open spaces in rock or soil. These are filled with water or other fluids such as brine (i.e., salty fluid). CO_2 injected into the subsurface can displace pre-existing fluids to occupy some of the pore spaces of the rocks in the injection zone.

Post-injection site care: Appropriate monitoring and other actions (including corrective action) needed following cessation of injection to assure that USDWs are not endangered as required under § 146.93.

Pressure front: The zone of elevated pressure that is created by the injection of carbon dioxide into the subsurface. For GS projects, the pressure front of a CO_2 plume refers to the zone where there is a pressure differential sufficient to cause the movement of injected fluids or formation fluids into a USDW.

Saline formations: Deep and geographically extensive sedimentary rock layers saturated with waters or brines that have a high total dissolved solids (TDS) content (i.e., over 10,000 mg/L TDS). Saline formations offer great potential CO_2 storage capacity.

Shut-off device: A valve coupled with a control device which closes the valve when a set pressure or flow value is exceeded. Shut-off devices in injection wells can automatically shut down injection activities when operating parameters unacceptably diverge from permitted values.

Site closure: The point/time, as determined by the Director following the requirements under § 146.93, at which the owner or operator of a GS site has completed their post-injection site care responsibilities.

Sorption (absorption, adsorption): Absorption refers to gases or liquids being incorporated into a material of a different state; adsorption is the adhering of a molecule or molecules to the surface of a different molecule.

Stratigraphic zone (unit): A layer of rock (or stratum) that is recognized as a unit based on lithology, fossil content, age or other properties.

Supercritical fluid: A fluid above its critical temperature (31.1 °C for CO_2) and critical pressure (73.8 bar for CO_2). Supercritical fluids have physical properties intermediate to those of gases and liquids.

Total Dissolved Solids (TDS): The measurement, usually in mg/L, for the amount of all inorganic and organic substances suspended in liquid as molecules, ions, or granules. For injection operations, TDS typically refers to the saline (i.e., salt) content of water-saturated underground formations.

Transmissive fault or fracture: A fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

Trapping: The physical and geochemical processes by which injected CO_2 is sequestered in the subsurface. Physical trapping occurs when buoyant CO_2 rises in the formation until it reaches a layer that inhibits further upward migration or is immobilized in pore spaces due to capillary forces. Geochemical trapping occurs when chemical reactions between dissolved CO_2 and minerals in the formation lead to the precipitation of solid carbonate minerals.

Underground Source of Drinking Water (USDW): An aquifer or portion of an aquifer that supplies any public water system or that contains a sufficient quantity of ground water to supply a public water system, and currently supplies drinking water for human consumption, or that contains fewer than 10,000 mg/l total dissolved solids and is not an exempted aquifer.

Viscosity: The property of a fluid or semi-fluid that offers resistance to flow. As a supercritical fluid, CO_2 is less viscous than water and brine.

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II. What Is EPA Proposing?

EPA is proposing to create a new category of injection well under its existing Underground Injection Control (UIC) Program with new Federal requirements to allow for permitting of the injection of CO_2 for the purpose of GS. Today's proposal builds on existing UIC regulatory components for key areas including siting, construction, operation, monitoring and testing, and closure for injection wells that address the pathways through which underground sources of drinking water (USDWs) may be endangered. The Agency proposes to tailor existing UIC program components so that they are appropriate for the unique nature of injecting large volumes of CO_2 into a variety of geological formations to ensure that USDWs are not endangered.

In addition to protecting USDWs, today's proposed rule provides a regulatory framework to promote consistent approaches to permitting GS projects across the U.S. and supports the development of a key climate change mitigation technology.

This proposal does not require any facilities to capture and/or sequester CO_2; rather, this proposal focuses on underground injection of CO_2 and outlines requirements that, if finalized, would protect USDWs under the SDWA. The SDWA provides EPA with the authority to develop regulations to protect USDWs. The SDWA does not provide authority to develop regulations for all areas related to GS. These areas include, but are not limited to, capture and transport of CO_2; determining property rights (i.e., to permit its use for GS and for possible storage credits); transfer of liability from one entity to another; and accounting or certification for greenhouse gas (GHG) reductions. EPA is not proposing regulations for CO_2 under the Clean Air Act (CAA) in this proposed rulemaking.

A. Why Is EPA Proposing To Develop New Regulations To Address GS of CO_2?

1. What Is Geologic Sequestration (GS)?

GS is the process of injecting CO_2 captured from an emission source (e.g., a power plant or industrial facility) into deep subsurface rock formations for long-term storage. It is part of a process known as ''carbon capture and storage'' or CCS.

CO_2 is first captured from fossil-fueled power plants or other emission sources. To transport captured CO_2 for GS, operators typically compress CO_2 to convert it from a gaseous state to a supercritical fluid (IPCC, 2005). CO_2 exists as a supercritical fluid at high pressures and temperatures, and in this state it exhibits properties of both a liquid and a gas. After capture and compression, the CO_2 is delivered to the sequestration site, typically by pipeline, or alternatively using tanker trucks or ships (WRI, 2007).

The CO_2 is then injected into deep subsurface rock formations via one or more wells, using technologies that have been developed and refined by the oil and gas and chemical manufacturing industries over the past several decades. To store the CO_2 as a supercritical fluid, it would likely be injected at a depth (greater than approximately 800 meters, or 2,625 feet), such that a sufficiently high pressure and temperature would be maintained to keep the CO_2 in a supercritical state.

When injected in an appropriate receiving formation, CO_2 is sequestered by a combination of trapping mechanisms, including physical and geochemical processes. Physical trapping occurs when the relatively buoyant CO_2 rises in the formation until it reaches a stratigraphic zone with low fluid permeability (i.e., geologic confining system) that inhibits further upward migration. Physical trapping can also occur as residual CO_2 is immobilized in formation pore spaces as disconnected droplets or bubbles at the trailing edge of the plume due to capillary forces. A portion of the CO_2 will dissolve from the pure fluid phase into native ground water and hydrocarbons. Preferential sorption occurs when CO_2 molecules attach onto the surfaces of coal and certain organic-rich shales, displacing other molecules such as methane. Geochemical trapping occurs when chemical reactions between the dissolved CO_2 and minerals in the formation lead to the precipitation of solid carbonate minerals (IPCC, 2005). The timeframe over which CO_2 will be trapped by these mechanisms depends on properties of the receiving formation and the injected CO_2 stream. Current research is focused on better understanding these mechanisms and the time required to trap CO_2 under various conditions.

The effectiveness of physical CO_2 trapping is demonstrated by natural analogs worldwide in a range of geologic settings, where CO_2 has remained trapped for millions of years. For example, CO_2 has been trapped for more than 65 million years under the Pisgah Anticline, northeast of the Jackson Dome in Mississippi and Louisiana, with no evidence of leakage from the confining formation (IPCC, 2005).

2. Why Is Geologic Sequestration Under Consideration as a Climate Change Mitigation Technology?

Greenhouse gases (GHGs) perform the necessary function of keeping the planet's surface warm enough for human habitation. But, the concentrations of GHGs continue to increase in the atmosphere, and according to data from the National Oceanic and Atmospheric Administration (NOAA) and National Aeronautics and Space Administration (NASA), the Earth's average surface temperature has increased by about 1.2 to 1.4 °F in the last 100 years. Eleven of the last twelve years rank among the twelve warmest years on record (since 1850), with the two warmest years being 1998 and 2005. The Intergovernmental Panel on Climate Change (IPCC) has concluded that much of the warming in recent decades is very likely the result of human activities (IPCC, 2007). The burning of fossil fuels (e.g., from coal-fired electric plants and other sources in the electricity and industrial sectors) is a major contributor to human-induced greenhouse gas emissions.

Fossil fuels are expected to remain the mainstay of energy production well into the 21st century, and increased concentrations of CO_2 are expected unless energy producers reduce the CO_2 emissions to the atmosphere. The

capture and storage of CO_2 would enable the continued use of coal in a manner that greatly reduces the associated CO_2 emissions while other safe and affordable alternative energy sources are developed in the coming decades. Given the United States' abundant coal resources and reliance on coal for power generation, CCS could be a key mitigation technology for achieving domestic emissions reductions.

Estimates based on DOE and IEA studies indicate that areas of the U.S. with appropriate geology could theoretically provide storage potential for over 3,000 gigatons (or 3,000,000 megatons; Mt) of geologically sequestered CO_2. Theoretically, this capacity could be large enough to store a thousand years of CO_2 emissions from nearly 1,000 coal-fired power plants. Worldwide, there appears to be significant capacity in subsurface formations both on land and under the seafloor to sequester CO_2 for hundreds, if not thousands of years. CCS technologies could potentially represent a significant percentage of the cumulative effort for reducing CO_2 emissions worldwide.

While predictions about large-scale availability and the rate of CCS project deployment are subject to considerable uncertainty, EPA analyses of Congressional climate change legislative proposals (the McCain-Lieberman bill S. 280, the Bingaman-Specter bill S. 1766, and the Lieberman-Warner bill S. 2191) indicate that CCS has the potential to play a significant role in climate change mitigation scenarios. For example, analysis of S. 2191 indicates that CCS technology could account for 30 percent of CO_2 emission reductions in 2050 (USEPA, 2008a). It is important to note that GS is only one of a portfolio of options that could be deployed to reduce CO_2 emissions. Other options could include efficiency improvements and the use of alternative fuels and renewable energy sources. Today's proposal provides a regulatory framework to protect USDWs as this key climate mitigation technology is developed and deployed. This proposal provides certainty to industry and the public about requirements that would apply to injection, by providing consistency in requirements across the U.S., and transparency about what requirements apply to owners or operators.

Establishing a supporting regulatory framework for the future development and deployment of CCS technology can provide the regulatory certainty needed to foster industry adoption of CCS, which is crucial to supporting the goals of any proposed climate change legislation. This proposed rule is consistent with and supports a strategy to address climate change through: (1) Slowing the growth of emissions; (2) strengthening science, technology and institutions; and (3) enhancing international cooperation. EPA plays a significant role in implementing this strategy through encouraging voluntary GHG emission reductions, and working with other agencies, including DOE, to establish programs that promote climate technology and science.

B. What Is EPA's Authority Under the SDWA To Regulate Injection of CO_2?

Underground injection wells are regulated under the authority of Part C of the Safe Drinking Water Act (42 U.S.C. 300h *et seq.*). The SDWA is designed to protect the quality of drinking water sources in the U.S. and prescribes that EPA issue regulations for State programs that contain ''minimum requirements for effective programs to prevent underground injection which endangers drinking water sources.'' Congress further defined endangerment as follows:

> Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons (Section 1421(d)(2) of the SDWA, 42 U.S.C. 300h(d)(2)).

Under this authority, the Agency has promulgated a series of UIC regulations at 40 CFR parts 144 through 148. The chief goal of any federally approved UIC Program (whether administered by a State, Territory, Tribe or EPA) is the protection of USDWs. This includes not only those formations that are presently being used for drinking water, but also those that can reasonably be expected to be used in the future. EPA has established through its UIC regulations that USDWs are underground aquifers with less than 10,000 milligrams per liter (mg/L) total dissolved solids (TDS) and which contain a sufficient quantity of ground water to supply a public water system (40 CFR 144.3). Section 1421(b)(3)(A) of the Act also provides that EPA's UIC regulations shall ''permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.''

EPA promulgated administrative and permitting regulations, now codified in 40 CFR Parts 144 and 146, on May 19, 1980 (45 FR 33290), and technical requirements, in 40 CFR Part 146, on June 24, 1980 (45 FR 42472). The regulations were subsequently amended on August 27, 1981 (46 FR 43156), February 3, 1982 (47 FR 4992), January 21, 1983 (48 FR 2938), April 1, 1983 (48 FR 14146), May 11, 1984 (49 FR 20138), July 26, 1988 (53 FR 28118), December 3, 1993 (58 FR 63890), June 10, 1994 (59 FR 29958), December 14, 1994 (59 FR 64339), June 29, 1995 (60 FR 33926), December 7, 1999 (64 FR 68546), May 15, 2000 (65 FR 30886), June 7, 2002 (67 FR 39583), and November 22, 2005 (70 FR 70513). EPA's authority to regulate GS was further clarified under the Energy Independence and Security Act of 2007, which stated that all regulations must be consistent with the requirements of the SDWA.

Under the SDWA, the injection of any ''fluid'' is subject to the requirements of the UIC program. ''Fluid'' is defined under 40 CFR 144.3 as any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or other form or state, and includes the injection of liquids, gases, and semisolids (i.e., slurries) into the subsurface. Examples of the fluids currently injected into wells include CO_2 for the purposes of enhancing recovery of oil and natural gas, water that is stored to meet water supply demands in dry seasons, and wastes generated by industrial users. CO_2 injected for the purpose of GS is subject to the SDWA (42 U.S.C. 300f *et seq.*). EPA regulates both pollutants and commodities under the UIC provisions; however, today's proposal does not address the status of CO_2 as a pollutant or commodity. In addition, whether or not a fluid could be sold on the market as a commodity is outside the scope of EPA's authority under the SDWA to protect USDWs.

There are limited injection activities that are exempt from UIC requirements including the storage of natural gas (Section 1421(b)(2)(B)) and specific hydraulic fracturing fluids. This exclusion applies to the storage of natural gas as it is commonly defined—a hydrocarbon—and not to injection of other matter in a gaseous state such as CO_2. The Energy Policy Act of 2005 excluded ''the underground injection of fluids or other propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal producing activities.'' A more detailed summary of EPA's authority to regulate the injection of CO_2 can be found in the docket.

Other authorities: Today's proposal applies to injection wells in the U.S. including those in State territorial

waters. Wells up to three miles offshore may be subject to other authorities or may require approval under other authorities such as the Marine Protection, Research, and Sanctuaries Act (MPRSA). EPA recently submitted to Congress proposed changes to MPRSA to implement the 1996 Protocol to the London Convention on ocean dumping (the ''London Protocol''). Among the proposed changes is a provision to allow for and regulate carbon sequestration in sub-seabed geological formations under the MPRSA.

C. Who Implements the UIC Program?

Section 1422 of the SDWA provides that States, Territories and federally recognized Tribes may apply to EPA for primary enforcement responsibility to administer the UIC program; those governments receiving such authority are referred to as ''Primacy States.'' Section 1422 requires Primacy States to meet EPA's minimum Federal requirements for UIC programs, including construction, operating, monitoring and testing, reporting, and closure requirements for well owners or operators. Where States, Territories, and Tribes do not seek this responsibility or fail to demonstrate that they meet EPA's minimum requirements, EPA is required to implement a UIC program for them by regulation.

Additionally, section 1425 allows States, Territories, and Tribes seeking primacy for Class II wells to demonstrate that their existing standards are effective in preventing endangerment of USDWs. These programs must include requirements for permitting, enforcement, inspection, monitoring, recordkeeping, and reporting that demonstrate the effectiveness of their requirements.

Thirty-three States and three Territories currently have primacy to implement the UIC program. EPA shares implementation responsibility with seven States and directly implements the UIC Program for all well classes in 10 states, two Territories, the District of Columbia, and all Tribes. At the time of this proposal, no Tribes have been approved for primacy for the UIC Program. However, at the time of this published notice, Fort Peck Assiniboine and Sioux Tribes in EPA Region 8 and the Navajo Nation in EPA Region 9 have pending primacy applications.

Although EPA believes that the most effective approach for the comprehensive management of CO_2 GS projects would be achieved at the State and Tribal level, it is recognized that some injection activities may raise cross-state boundary issues that are beyond the scope of this rulemaking. EPA is aware that some States with primacy for the UIC program are actively engaged in the process of developing their own regulatory frameworks for the GS of CO_2. In some cases, these frameworks include capture, transportation and injection requirements. While EPA encourages States to move forward with initiatives to protect USDWs and public health, it is important to note that States wishing to retain UIC primacy will need to promulgate regulations that are at least as stringent as those that will ultimately be finalized following this proposed rulemaking. In an attempt to reduce uncertainty in this proposed rulemaking, the Agency will keep States apprised of its efforts to establish new Federal UIC GS requirements.

Additionally, EPA seeks comment on any aspects of the ongoing State efforts to regulate the GS of CO_2 and how these efforts might be used to better inform a final Federal rulemaking.

D. What Are the Risks Associated With CO_2 GS?

An improperly managed GS project has the potential to endanger USDWs. The factors that increase the risk of USDW contamination are complex and can include improper siting, construction, operation and monitoring of GS projects. Today's proposal addresses endangerment to USDWs by establishing new Federal requirements for the proper management of CO_2 injection and storage. Risks to USDWs from improperly managed GS projects can include CO_2 migration into USDWs, causing the leaching and mobilization of contaminants (e.g., arsenic, lead, and organic compounds), changes in regional groundwater flow, and the movement of saltier formation fluids into USDWs, causing degradation of water quality.

While the focus of today's proposal is the protection of USDWs, EPA recognizes that injection activities could pose additional risks that are unrelated to the protection of USDWs including risks to air, human health, and ecosystems. The measures taken to prevent migration of CO_2 to USDWs in today's proposal will likely also prevent the migration of CO_2 to the surface. However, regulating such surface/atmospheric releases of CO_2 are outside the scope of this proposal and SDWA authority. A more detailed discussion follows.

Potential USDW Impacts

Injected CO_2 is likely to come in contact with water in the formation fluids of the geologic formations into which it is injected. When CO_2 mixes with water it forms a weak acid known as carbonic acid. Over time, carbonic acid could acidify formation waters potentially causing leaching and mobilization of naturally occurring metals or other contaminants (e.g., arsenic, lead, and organic compounds). CO_2 may also release contaminants into solution by replacing molecules that are sorbed to the surface of the formation, for example, organic molecules such as polycyclic aromatic hydrocarbons (PAHs) in coal beds. The migration of formation fluids containing mobilized contaminants could cause endangerment of USDWs.

Another concern for USDWs is the presence of impurities in the CO_2 stream. These impurities, although a relatively small percentage of the total fluid, could include hydrogen sulfide and sulfurous and nitrous oxides. Because of the volume of CO_2 that could be injected, there may be a risk that co-contaminants in the CO_2 stream could endanger a USDW if the injectate migrates into a USDW. Additionally, when fluids are injected in large quantities, the potential exists for injection to force native brines (naturally occurring salty water) into USDWs.

Improperly operated injection activities may cause geomechanical and/or geochemical effects which may deteriorate the integrity of the initially intact caprock overlying a storage reservoir. For example, injection of CO_2 at high pressure could induce fracturing or could open existing fractures, thereby increasing movement through the caprock and enabling CO_2 to migrate out of the storage reservoir, and potentially into USDWs.

Other Potential Impacts

Human Health: Improperly operated injection activities or ineffective long-term storage could result in the release of injected CO_2 to the atmosphere, resulting in the potential to impact human health and surrounding ecosystems under certain circumstances. While CO_2 is present normally in the atmosphere, at very high concentrations and with prolonged exposure, CO_2 can be an asphyxiant. In addition, direct exposure to elevated levels of CO_2 can cause both chronic (e.g., increased breathing rate, vision and hearing impairment) and acute health effects to humans and animals. Wind speed and direction, topography and geographic location can have a role in the severity of the human health impact of a CO_2 release.

EPA considers that risk of asphyxiation and other chronic and

acute health effects from airborne exposure resulting from CO_2 injection activities (even in the case of leakage or accidental exposure) is minimal. This finding is based on experience gained in the oil and gas industry, experience from international GS projects, and evaluations of large scale releases of naturally occurring CO_2.

EPA collected information on the use of CO_2 injection in the oil and gas industry which has decades of experience in drilling through highly pressurized formations and injecting CO_2 for the purpose of enhanced recovery. Internationally, CO_2 has been injected on very large scales at three sites: At Sleipner in the North Sea, at In Salah in Algeria, and in the Weyburn Field in Alberta, Canada (see section E.3 of this document). There have been no documented cases of leakage from these projects, nor has there been release and surface accumulation of CO_2 such that asphyxiation would have been possible.

However, some CO_2 releases from injection activity have been documented. An example of a significant CO_2 leak occurred at Crystal Geyser, Utah. CO_2 and water erupted from an abandoned oil exploration well due to improper well plugging. This well continues to erupt periodically and discharges 12,000 kilotons of CO_2 annually. Studies indicated that within a few meters of the well, CO_2 concentrations were below levels that could adversely affect human health (Lewicki *et al.*, 2006).

EPA also evaluated the occurrence of natural discharges of CO_2 to determine whether such releases could be caused by CO_2 injection or whether injection could result in release of similar magnitudes. Although natural underground CO_2 reservoirs exist throughout the world in volcanically active areas, there are very few instances of rapid discharge of large amounts of CO_2 to the surface (Lewicki *et al.*, 2006). Unusually large and rapid releases of CO_2 from lake bottom storage reservoirs occurred at Lake Nyos and Lake Monoun in Cameroon in the 1980s, causing asphyxiation. These catastrophic events stemmed from a phenomenon known as ''limnic eruption.'' Prolonged high ambient temperatures led to prolonged stratification that allowed naturally occurring CO_2 to slowly accumulate at the bottom of the lakes over many years. Large volumes of CO_2 escaped during an abrupt lake turnover, possibly prompted by volcanic activity.

While lake turnover can bring CO_2 stored in the deepest layers of lake water to the surface almost instantaneously, geologic confining systems do not experience this type of rapid and complete turnover. GS would store CO_2 beneath many layers of rock with a well-defined geologic confining system. Even if a geologic confining system were compromised, any migration of CO_2 towards the surface would not be analogous to a limnic eruption. Pathways for CO_2 leakage from geologic storage reservoirs are generally conductive faults or fractures. In some cases CO_2 may spread diffusely through overlying rocks and soils (Lewicki *et al.*, 2006). None of these conditions is a likely conduit for release of CO_2 on the scale of the releases at Lakes Nyos and Monoun.

Ecosystem: Improperly operated CO_2 injection activities resulting in a release of CO_2 to the atmosphere may have a range of effects on exposed terrestrial and aquatic ecosystems. Due to organisms' varied sensitivities to environmental and habitat changes, certain organisms may be adversely affected at different CO_2 exposure levels. Surface-dwelling animals, including mammals and birds, could be affected similarly to humans when directly exposed to elevated levels of CO_2. The exposure could cause both chronic and acute health effects depending on the concentration and duration of exposure (Benson *et al.*, 2002). Plants, while dependent upon CO_2 for photosynthesis, could also be adversely affected by elevated CO_2 levels in the soil because the CO_2 will inhibit respiration (Vodnik *et al.*, 2006). Soil acidity changes resulting from increased CO_2 concentrations may adversely impact both plant (McGee and Gerlach, 1998) and soil dwelling organisms (Benson *et al.*, 2002). Elevated CO_2 concentrations in aquatic ecosystems can impede fish respiration resulting in suffocation (Fivelstad *et al.*, 2003), decrease pH to lethal levels and reduce the calcification in shelled organisms, and may adversely affect photosynthesis of some aquatic organisms (Turley *et al.*, 2006). The risk of adverse impacts to ecosystems from properly managed CO_2 injection activities is minimal.

Seismic events: Improperly operated injection of CO_2 could raise pressure in the formation, and if too high, injection pressure could ''re-activate'' otherwise dormant faults, potentially inducing seismic events (earthquakes). Rarely, small induced seismic events have been associated with past injection. Before a Federal UIC Program was formed, injection activities at the Rocky Mountain Arsenal in Colorado from 1963 to 1968 induced measurable seismic activity. This incident was the result of poor site characterization and well operation and was among the primary drivers that prompted Congress to pass legislation establishing the UIC Program. Recently, the IPCC (2005) concluded that the risks of induced seismicity are low.

Today's proposal contains safeguards to ensure that potential endangerment to USDWs from CO_2 injection is addressed before the commencement of full-scale GS projects. While preventing releases of CO_2 to the atmosphere is not within the scope of this proposal, today's proposed rulemaking also addresses the risks posed by releases to the atmosphere by ensuring that injected CO_2 remains in the confining formations. The measures outlined in today's proposed rulemaking to prevent endangerment of USDWs may also prevent migration of CO_2 to the surface. A more complete discussion of the potential risks posed by GS is in the *Vulnerability Evaluation Framework for Geologic Sequestration of Carbon Dioxide (VEF)* (USEPA, 2008b).

E. What Steps Has EPA Taken To Inform This Proposal?

EPA has taken a number of steps to support today's proposal including: (1) Building on the experience of the UIC Program; (2) identifying the risks to USDWs from GS activities; (3) tracking the results on ongoing research; (4) identifying technical and regulatory issues associated with pilot and full-scale GS projects; (5) coordinating with stakeholders on the rulemaking process; and (6) providing guidance and reviewing permits for initial pilot-scale projects.

1. Building on the Existing UIC Program Framework To Specifically Address CO_2 Injection

EPA's UIC regulations prohibit injection wells from causing ''the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation * * * or may otherwise adversely affect the health of persons'' (40 CFR 144.12(a)). The federal UIC Program has been implemented since 1980 and has responsibility for managing over 800,000 injection wells. The programmatic components of the UIC Program are designed to prevent fluid movement into USDWs by addressing the potential pathways through which injected fluids can migrate into USDWs. These programmatic components are described in general below:

- *Siting:* EPA requires injection wells to be sited to inject into a zone capable

of storing the fluid, and to inject below a confining system that is free of known open faults or fractures that could allow upward fluid movement that endangers USDWs.

• *Area of Review (AoR) and Corrective Action:* The Agency requires examination of both the vertical and horizontal extent of the area that will potentially be influenced by injection and storage activities and identification of all artificial penetrations in the area that may act as conduits for fluid movement into USDWs (e.g., active and abandoned wells) and, as needed, perform corrective action to these open wells (i.e., artificial penetrations).

• *Well Construction:* EPA requires injection wells to be constructed using well materials and cements that can withstand injection of fluids over the anticipated life span of the project.

• *Operation:* Injection pressures must be monitored so that fractures that could serve as fluid movement conduits are neither propagated into the layers in which fluids are injected or initiated in the confining systems above.

• *Mechanical Integrity Testing (MIT):* The integrity of the injection well system must be monitored at an appropriate frequency to provide assurance that the injection well is operating as intended and is free of significant leaks and fluid movement in the well bore.

• *Monitoring:* Owners or operators must monitor the injection activity using available technologies to verify the location of the injected fluid, the pressure front, and demonstrate that injected fluids are confined to intended storage zones (and, therefore, injection activities are protective of USDWs).

• *Well Plugging and Post-Injection Site Care:* At the end of the injection project, EPA requires injection wells to be plugged in a manner that ensures that these wells will not serve as conduits for future fluid movement into USDWs. Additionally, owners or operators must monitor injection wells to ensure fluids in the storage zone do not pose an endangerment to USDWs.

Today's proposal builds upon these longstanding UIC programmatic components and tailors them based on the current state of knowledge about the injection of CO_2 for GS purposes. The timeframes involved in preparing and completing each of these components are, in general, project specific (i.e., dependent upon regional geology; location; cumulative injection volumes; additional state and local requirements; industry specificity).

2. Identifying the Risks to USDWs From Injection of CO_2

The existing UIC program provides a foundation for designing a regulatory framework for GS projects that prevents endangerment to USDWs. The Agency has evaluated the risks of CO_2 injection to USDWs to determine how best to tailor the existing UIC regulations to address the buoyant and viscous properties of CO_2 and the large volumes that could be injected.

EPA developed the Vulnerability Evaluation Framework (VEF), an analytical framework that identifies and offers approaches to evaluate the potential for a GS project to experience CO_2 leakage and associated adverse impacts. The VEF is a high-level screening approach that can be used to identify key GS system attributes that should be evaluated further to establish site suitability and targeted monitoring programs. The VEF is focused on the three main parts of GS systems: The injection zone, the confining system, and the CO_2 stream. The VEF first identifies approaches to evaluate key geologic attributes of GS systems that could influence vulnerability to leakage or pressure changes. It then describes an approach to define the area that should be evaluated for adverse impacts associated with leakage or pressure changes. Finally, the VEF identifies receptors that could be adversely impacted if leakage or pressure changes were to occur. The assessment of vulnerabilities to leakage and pressure changes, and of the potential impacts to receptors, is described in a series of detailed decision-support flowcharts. (Some of the impacts addressed in the VEF, e.g., to the atmosphere or ecological receptors, are outside of the scope of today's proposal.) The VEF report (USEPA, 2008b) is included in the docket for this proposed rulemaking.

EPA and the Department of Energy (DOE) are jointly funding the Lawrence Berkeley National Laboratory (LBNL) to study potential impacts of CO_2 injection on ground water aquifers and drinking water sources. As part of the same study, LBNL is also assessing potential changes in regional ground water flow, including displacement of pre-existing saline water or hydrocarbons that could impact USDWs or other resources. EPA and DOE are also jointly funding the Pacific Northwest National Laboratory (PNNL) to perform technical analyses on conducting site assessments, evaluating reservoir suitability, and modeling the flow of injected CO_2 in geologic formations.

3. Tracking the Results of CO_2 GS Research Projects

EPA is tracking the progress and results of national and international GS research projects. DOE leads experimental field research on GS in the U.S. in conjunction with the Regional Carbon Sequestration Partnerships (RCSPs) program. Collectively, the seven RCSPs represent regions encompassing 97 percent of coal-fired CO_2 emissions, 97 percent of industrial CO_2 emissions, 96 percent of the total U.S. land mass, and nearly all the GS sites in the U.S. potentially available for carbon storage. Approximately 400 organizations, including State geologists, industry and environmental organizations, and national laboratories are involved with the RCSPs.

DOE's 2007 Roadmap (DOE, 2007a) describes DOE-sponsored research designed to gather data on the effectiveness and safety of CO_2 GS in various geologic settings through the RSCPs. The Roadmap describes three phases of research, each of which builds upon the previous phase. During the Characterization Phase (2003 to 2005), the partnerships studied regionally-specific sequestration approaches as well as potentially needed regulations and infrastructure requirements for GS deployment. During the Validation Phase (2005–2009), approximately 25 pilot tests will be performed to validate the most promising GS technologies, evaluate regional CO_2 repositories, and identify best management practices for future deployment. During the Deployment Phase (2008–2017), the partnerships will conduct large volume carbon storage tests to demonstrate that large-scale CO_2 injection and storage can be achieved safely and economically. EPA will use the data collected from these projects to support decisions in the final GS rule. Additional information on DOE's research and the partnerships is available at *http://www.fossil.energy.gov/sequestration/partnerships/index.html*.

EPA is also communicating with other research organizations and academic institutions conducting GS research. These institutions include Princeton University, which has a research program for assessing potential problems with degradation of well material from the geologic sequestration of CO_2, and the Massachusetts Institute of Technology, which has a CCS program emphasizing safe and effective future use of coal as a prime energy source.

EPA is also monitoring the progress of international GS efforts. Three projects of note are underway in the North Sea,

Algeria, and Canada, whose results are being used to inform today's proposal.

The Sleipner Project, located off the Norwegian coast in the North Sea, is the first commercial scale GS project into a saline formation. Approximately 1 Million tones (Mt) CO_2 is removed annually from the natural gas produced in the Sleipner West Gas Field and injected approximately 800 m (2,625 ft) below the seabed. Injection began in August 1996, and operators expect to store 20 Mt CO_2 over the expected 25-year life of the project. Activities include baseline data gathering and evaluation, reservoir characterization and simulation, assessment of the need and cost for monitoring wells, and geophysical modeling. Seismic time-lapse surveys have been used to monitor movement of the CO_2 plume and demonstrate effectiveness of the cap rock (IPCC, 2005).

The In Salah Gas Project, in the central Saharan region of Algeria, is the world's first large-scale CO_2 storage project in a gas reservoir. CO_2 is stripped from natural gas produced from the Krechba Field and re-injected via three horizontal injection wells into a 1,800 meter-deep (5,906 ft) sandstone reservoir. Approximately 1.2 Mt CO_2 have been injected annually since April 2004 and it is estimated that 17 Mt CO_2 will be stored over the life of the project. To characterize the site, 3-D seismic surveys and well data have been used to map the field, identify deep faults, establish a baseline, and conduct a risk assessment of storage integrity. Monitoring at the site includes use of noble gas tracers, pressure surveys, tomography, gravity baseline studies, microbiological studies, four-dimensional seismic surveys, and geomechanical monitoring (IPCC, 2005).

Weyburn is an EOR project where the CO_2 produced at a coal gasification plant in Beulah, ND is piped to Weyburn in southeastern Saskatchewan for EOR. Approximately 1.5 Mt CO_2 are injected annually via a combination of vertical and horizontal injection wells. It is expected that 20 Mt CO_2 will be stored in the field over the 20 to 25 year life of the CO_2–EOR project. The monitoring regime at the site includes high-resolution seismic surveys and surface monitoring to determine any potential leakage (IPCC, 2005). The conclusions of Phase I of the project are that depleted oil and gas reservoirs from EOR operations are a promising CO_2 storage option and that 4-D seismic monitoring is a valuable tool for plume tracking (IEA, 2005).

Other ongoing GS projects include the Gorgon Gas Development project, a deep saline formation project in Barrow Island, Western Australia; the Otway (Australia) Project, where GS is taking place in a saline formation within a depleted natural gas reservoir; the South Quinshu Basin, China Enhanced Coalbed Methane (ECBM)/CO_2 sequestration project; the CO_2 SINK project in Ketzin, Germany (a sandstone saline formation); and testing of CO_2 GS in the Deccan Trap basalts of India.

4. Identifying Technical and Regulatory Issues Associated With CO_2 GS

EPA has conducted a series of technical workshops with regulators, industry, utilities, and technical experts to identify and discuss questions relevant to the effective management of CO_2 GS.

EPA held a technical workshop on measurement, monitoring, and verification that focused on the availability and utility of various subsurface and near-surface monitoring techniques that may be applicable to GS projects. This workshop, co-sponsored by the Ground Water Protection Council (GWPC), took place in New Orleans, LA on January 16, 2008.

The Agency held a technical workshop on geological considerations for siting and Area of Review (AoR) studies to discuss subsurface geologic information needed to determine whether a site is appropriate for GS; the role of artificial conduits in the AoR on siting decisions; factors that affect the size and shape of the AoR; and corrective actions to address wells in the AoR. Representatives of the RCSPs and the Interstate Oil and Gas Compact Commission (IOGCC) presented their experiences with pilot and experimental GS projects. This workshop took place in Washington, DC on July 10 and 11, 2007.

EPA also held a technical workshop on well construction and MIT that included experimental research in the U.S. and Canada on wellbore integrity and CO_2-cement interactions, modeling, the impact of wellbore integrity on GS site selection, and industry research on well construction. This workshop was held in Albuquerque, New Mexico on March 14, 2007, with participation from the International Energy Association (IEA), an international organization evaluating technical issues associated with CCS.

EPA and DOE collaborated on the State Regulators' Workshop on GS of CO_2 to discuss and formulate the questions related to CO_2 injection that should be addressed in the development of a GS management framework. At this workshop, held in conjunction with the GWPC's UIC Technical meeting in San Antonio, Texas on January 24, 2007, participants identified a set of research questions on the following topics: Site characterization, modeling, AoR, injection well construction, MIT, monitoring, well plugging, post-injection site care, site closure and liability and financial responsibility. The questions they raised set the agenda for future technical workshops as well as established the foundation for today's proposal.

Participants at the International Symposium on Site Characterization for CO_2 Geological Storage, an EPA sponsored meeting with LBNL, held in Berkeley, California on March 20–22, 2006, discussed various aspects of site characterization and selection of potential CO_2 storage sites. The symposium emphasized advances in the site characterization process, development of measurement methods, identification of key site features and parameters, and case studies.

At a workshop on Risk Assessment for Geologic CO_2 Storage, participants discussed the development of a risk assessment framework to identify potential risks related to GS of CO_2 and to consider relevant field experience that could be applicable to injection and long-term storage of CO_2. Some of the key topics addressed at the workshop were: Abandoned wells, faults, and groundwater displacement. This workshop, co-sponsored by GWPC, took place in Portland, Oregon on September 28–29, 2005.

On April 6–7, 2005, EPA held a workshop on Modeling and Reservoir Simulation for Geologic Carbon Storage in Houston, Texas. The topics of this workshop included: An assessment of the potential applications of reservoir models and reservoir simulations to GS; use of models for risk assessments and risk communication throughout the life cycle of a CO_2 storage reservoir; a discussion of areas of new research and data needs to improve the application of modeling and reservoir simulation for carbon storage.

Summaries of the workshops described above are available on EPA's Web site, at *http://www.epa.gov/safewater/uic/wells_sequestration.html.*

5. Stakeholder Coordination and Outreach

Stakeholder participation is an important component of today's proposed rulemaking. EPA held public meetings to discuss EPA's rulemaking approach, met with State and Tribal representatives, and consulted with other stakeholder groups including non-governmental organizations (NGOs), to gain an understanding of stakeholder concerns.

Public Meetings: EPA conducted two public stakeholder workshops with participants from industry, environmental groups, utilities, academia, States, and the general public. These workshops were held in December 2007 and February 2008. The December 2007 workshop provided EPA with an opportunity to hear stakeholders' perspectives and concerns. EPA and stakeholders discussed issues including the rulemaking process, existing regulations and regulatory components, statutory authority, GS technology, and technical issues associated with GS. During the February 2008 workshop, EPA provided a comprehensive review of how current UIC program elements could be tailored for the purposes of CO_2 injection for GS. Smaller technical sessions were dedicated to discussion of key questions and considerations related to Area of Review and Site Characterization, Monitoring, Long-term Financial Assurance, and Public Participation. Technical discussions and stakeholder feedback from these workshops were used to inform today's proposal. Summaries of these workshops are available on EPA's Web site, at *http://www.epa.gov/safewater/uic/wells_sequestration.html.*

State and Tribal Meetings: EPA coordinated with the Ground Water Protection Council (GWPC), a State association that focuses on ensuring safe application of injection well technology and protecting ground water resources. In the past several years, GWPC meetings have included sessions on many of the key GS technical and policy issues described above. EPA's participation in these sessions has resulted in a clearer understanding of the regulatory issues associated with the implementation of GS of CO_2.

EPA also coordinated with IOGCC, a chartered State association representing oil and gas producing States. These State members have specific expertise regulating the injection of CO_2 for the enhanced recovery of oil and gas. Additionally, EPA reviewed the IOGCC's model State geologic sequestration regulatory framework to help inform today's proposal.

During the development of the proposed rule, EPA contacted all federally recognized tribes to invite their engagement in the rulemaking process and held a dedicated conference call with the tribes. EPA will continue an ongoing dialogue with interested tribes on this rulemaking.

During the development of the proposed rule, EPA contacted State and local government associations to invite their engagement in the rulemaking process and held a dedicated conference call with their representatives. EPA will continue an ongoing dialogue with interested State and local associations on this rulemaking.

The Agency also held meetings and presented information about the proposed rulemaking to members of the water utility sector. These organizations included the American Water Works Association (AWWA), the Association of Metropolitan Water Agencies (AMWA), and the America Public Power Association (APPA).

In addition, EPA consults with the National Drinking Water Advisory Council (NDWAC), a group that operates under the SDWA to provide advice to EPA's drinking water program and reports to EPA's Administrator. NDWAC consists of members of the general public, drinking water experts, State and local agencies, and private groups concerned with safe drinking water. In support of the proposed rulemaking and in accordance with statutory requirements, EPA consulted with the Department of Health and Human Services. EPA will conduct further consultations prior to finalization of the GS regulation.

The Agency also meets annually with the American Association of State Geologists (AASG) to discuss key topics related to protecting and preserving ground water resources. AASG members are State geologists from around the country who over the past several years have met with EPA to discuss injection-related activities, including CO_2 GS.

Other stakeholder discussions: EPA invited key Non-Governmental Organizations to discuss the potential application of GS as a safe and effective climate change mitigation tool. Attendees of these meetings included Environmental Defense, the National Resources Defense Council, the Clean Air Task Force, the World Resources Institute, and others. In addition, EPA attended and participated in numerous conferences and technical symposia on GS. These meetings, attended by various stakeholders, included sessions on technical issues related to GS and were organized or attended by DOE's National Energy Technology Laboratory (NETL), the American Petroleum Institute (API), the Society of Petroleum Engineers (SPE), and the International Energy Agency (IEA). EPA also attends meetings of the Intergovernmental Panel on Climate Change (IPCC) and events hosted by the World Resource Institute (WRI), including recent meetings focused on long-term liability and frameworks and standards for GS programs.

6. Providing Technical Guidance and Reviewing Permits for Initial Pilot-Scale Projects

EPA issued program technical guidance to assist State and EPA Regional UIC programs in processing permit applications for pilot and other small scale experimental GS projects. This guidance was developed in cooperation with DOE and with States, through GWPC, IOGCC, and other stakeholders. *UIC Program Guidance # 83: Using the Class V Experimental Technology Well Classification for Pilot Carbon Geologic Sequestration Projects* (USEPA, 2007) assists permit writers in evaluating permit applications for pilot-scale GS projects. It clarifies the use of the UIC Class V experimental well classification for GS demonstration projects and provides recommendations to permit writers on how they can issue permits that allow experimental data to be collected while ensuring that USDWs are protected during injection. This guidance will continue to apply to pilot-projects as long as the projects continue to qualify under the guidelines for experimental wells laid out in UICPG #83. It will also remain a permitting option for future projects, as long as new projects are experimental in nature and continue to collect data and conduct research. The program guidance is available at: *http://www.epa.gov/safewater/uic/wells_sequestration.html.* Ultimately, as more, larger GS projects are permitted, EPA anticipates that such projects will not meet the Class V experimental technology criteria. As discussed in the program guidance, such a determination (of Class V or Class VI) is made by the Director.

Currently, EPA Regional and State UIC programs are using this guidance to authorize a number of Class V experimental technology wells. The guidance is being used to help create a nationally consistent permitting framework that draws on the key technical components that affect the endangerment potential of CO_2 GS. These experimental projects will continue to provide EPA and States with critical information that will improve EPA's understanding of the risks posed by CO_2 injection for GS and the operational, technical, and administrative considerations for the advancement and appropriate permitting of this technology. This information will support EPA's final decision on how to regulate GS activities.

F. Why Is EPA Proposing To Develop a New Class of Injection Well for GS of CO_2?

EPA is proposing to establish a new class of injection well for GS projects because CO_2 injection for long-term storage presents several unique challenges that warrant designation of a new well type. When EPA initially promulgated its UIC regulations, the Agency defined five classes of injection wells at 40 CFR 144.6, based on similarities in the fluids injected, construction, injection depth, design, and operating techniques. These five well classes are still in use today and are described below.

Class I wells inject industrial non-hazardous liquids, municipal wastewaters or hazardous wastes beneath the lowermost USDW. These wells are most often the deepest of the UIC wells and are managed with technically sophisticated construction and operation requirements.

Class II wells inject fluids in connection with conventional oil or natural gas production, enhanced oil and gas production, and the storage of hydrocarbons which are liquid at standard temperature and pressure.

Class III wells inject fluids associated with the extraction of minerals or energy, including the mining of sulfur and solution mining of minerals.

Class IV wells inject hazardous or radioactive wastes into or above USDWs. Few Class IV wells are in use today; these wells are banned unless authorized under an approved Federal or State ground water remediation project.

Class V includes all injection wells that are not included in Classes I–IV. In general, Class V wells inject non-hazardous fluids into or above USDWs; however, there are some deep Class V wells that inject below USDWs. This well class includes Class V experimental technology wells including those permitted as geologic sequestration pilot projects.

Today's proposed rulemaking would establish a new class of injection well—Class VI—for GS projects based on the unique challenges of preventing potential endangerment to USDWs from these operations. The Agency invites public comment on the appropriateness of this classification.

G. How Would This Proposal Affect Existing Injection Wells Under the UIC Program?

CO_2 is currently injected in the U.S. under two well classifications: Class II and Class V experimental technology wells. The requirements in today's proposal, if finalized, would not specifically apply to Class II injection wells or Class V experimental technology injection wells. Class VI requirements would only apply to injection wells specifically permitted for the purpose of GS. Injection of CO_2 for the purposes of enhanced oil and gas recovery (EOR/EGR), as long as any production is occurring, will continue to be permitted under the Class II program. EPA seeks comment on the merits of this approach since owners or operators of some Class II EOR/EGR wells may wish to use wells for the purposes of production and GS prior to the field being completely depleted.

Existing wells currently permitted as Class I, Class II, or Class V experimental technology wells could potentially be re-classified for GS of CO_2. However, the owner or operator would need to follow the permitting process outlined in today's proposal to receive a Class VI permit.

EPA is proposing to give the Director discretion to carry over or ''grandfather'' the construction requirements (e.g., permanent, cemented well components) for existing Class I and Class II wells seeking a permit for GS of CO_2, provided he/she is able to make a determination that these wells would not endanger USDWs. Although CO_2 is not currently injected in Class I wells, Class I well construction requirements are similar to those for Class VI. Today's proposal requires that the owner or operator make a demonstration that the well will maintain integrity and stability in a CO_2 rich environment for the life of the GS project. Only the construction requirements would be grandfathered under today's proposal, therefore, Class I or Class II owners or operators seeking to change the purpose of their injection well from Class I or Class II to Class VI would need to meet all other requirements of today's proposed rule (e.g., area of review and site characterization, operating, monitoring, MIT, well plugging, post-injection site care and site closure requirements).

EPA's program guidance on issuing Class V Experimental Technology Well permits (USEPA, 2007) encourages owners or operators and permitting authorities to consider the potential for changing the purpose of demonstration wells to full-scale GS when designing and approving experimental GS projects. EPA understands, based on reviews of several Class V pilot project permits that many of these wells are specifically designed for injection of CO_2 and are being built to Class I non-hazardous well specifications.

Accordingly, EPA is proposing that the Director have the discretion to ''grandfather'' the construction requirements for Class V experimental wells when they are converted to full-scale GS Class VI wells. As with converted Class I and Class II wells, these grandfathered wells would be required to meet the other requirements of today's proposed rule (e.g., operating, monitoring, MIT, well plugging, post-injection site care and site closure).

EPA seeks comment on the approach to grandfather construction requirements at the Director's discretion for existing Class I, Class II, and Class V wells seeking to convert to Class VI wells, and whether additional construction requirements would be necessary to prevent endangerment to USDWs from the GS of CO_2. Additionally, EPA seeks comment on how the grandfathering approach for existing wells may affect compliance with the requirements in this proposal.

H. What Are the Target Geologic Formations for GS of CO_2?

A range of geologic formations is being assessed as potential target formations for receiving and sequestering CO_2. Target formations with the greatest GS capacity include deep saline formations, depleted oil and gas reservoirs, unmineable coal seams, and other formations.

Deep saline formations: Estimates in the Cost Analysis for today's proposal indicate that up to 88.6 percent of the capacity for CO_2 injected for GS is in deep saline formations. These formations are deep and geographically extensive sedimentary rock layers saturated with waters or brines that have a high TDS content (i.e., over 10,000 mg/L TDS). Deep saline formations are found throughout the U.S. and many of these formations may be overlain by laterally extensive, impermeable formations that may restrict upward movement of injected CO_2. All of these characteristics make deep saline formations the leading candidates for GS. Since most deep saline formations have not been extensively investigated, a thorough site-specific characterization of saline formations proposed for GS will be necessary. Such characterizations will need to demonstrate the safety and efficacy of these sites for GS and rule out the presence of fractures, faults, or other characteristics that may endanger USDWs.

Depleted oil and gas reservoirs: Depleted oil and gas reservoirs represent approximately four percent of the potential CO_2 storage capacity in the U.S. and Canada. Because many of these reservoirs have trapped liquid and gaseous hydrocarbon resources for

millions of years, EPA believes that they can also be used to sequester CO_2. Hydrocarbons are commonly trapped structurally, by faulted, folded, or fractured formations, or stratigraphically, in porous formations bounded by impermeable rock formations. These same trapping mechanisms can effectively store CO_2 for GS in depleted oil and gas reservoirs.

Oil and gas exploration activities have generated a great deal of geologic data on depleted oil and gas reservoir sites. This information would be directly transferable to the GS site characterization process. Furthermore, models can predict the movement and displacement of hydrocarbons in oil and gas reservoirs and can be used to further advance site specific knowledge about CO_2 storage.

It should also be noted that there are technical challenges associated with GS in depleted oil and gas reservoirs. Injection volumes, operation conditions, and formation pressures for CO_2 injection will differ from those of traditional EOR/EGR operations. The American Petroleum Institute (API) estimates that over 0.6 gigatons (Gt) of CO_2 have been injected for EOR/EGR operations to date and a large percentage of this CO_2 is recovered through production (causing a pressure decrease in the reservoir) (Meyer, 2007). However, DOE estimates that over 90 Gt CO_2 could be geologically sequestered in U.S. oil and gas reservoirs resulting in the potential for reservoir-wide pressure increases.

Depleted oil and gas reservoirs will contain numerous artificial penetrations (e.g., active and abandoned injection and production wells, water wells, etc.) and other types of conduits that could be potential pathways for CO_2 migration. Some of these wells may be decades old, constructed or plugged with materials that may not be able to withstand long-term exposure to CO_2, or may be difficult to locate. Locating and assessing the integrity of these wells and performing appropriate corrective action are essential to assuring that they would not serve as conduits for movement of injected CO_2 or displaced fluids to USDWs.

Unmineable coal seams: Unmineable coal seams represent approximately 1.5 percent of the remaining potential U.S. storage capacity. Currently, enhanced coalbed methane (ECBM) operations exploit the preferential chemical affinity of coal for CO_2 relative to the methane that is naturally found on the surfaces of coal. When CO_2 is injected, it is adsorbed to the coal surface and releases methane, which can then be captured and produced for economic purposes.

Studies suggest that for every molecule of methane displaced in ECBM operations, three to thirteen CO_2 molecules are adsorbed. This process effectively ''locks'' the CO_2 to the coal, where it remains sequestered.

There are a number of technical challenges related to use of coal seams for GS. While coal seams are well studied and understood, the process of CO_2 adsorption to coal has not been proven and the chemical reactions of supercritical CO_2 within coal formations are not well understood. In addition, coals swell as CO_2 is adsorbed, which can reduce the permeability and injectivity of the coal seams, requiring higher injection pressures (IPCC, 2005). There are currently no commercial scale CO_2 ECBM projects, and ECBM with simultaneous CO_2 storage is an emerging technology that is in the demonstration phase (Dooley, *et al.*, 2006; IPCC, 2005). In addition, many ECBM recovery operations will likely be shallow. Shallow storage will result in the CO_2 remaining in a gaseous state, which can limit the amount of CO_2 that can be sequestered. Coal seams and water-bearing formations in close proximity to coal seams may contain less than 10,000 mg/L TDS and meet the definition of a USDW.

EPA is concerned that coal seams in close proximity to USDWs and CO_2 injection for GS could endanger USDWs. In some cases, coal seams are considered USDWs and may serve as public drinking water supplies. As a result, EPA is proposing to preclude the injection of CO_2 for long-term storage into coal seams where they are above the lowermost USDW. EPA requests comment on this proposed prohibition. Today's proposal would not affect injection activities where the primary purpose of the activity is methane production (a Class II activity).

Other formations: Other formations under investigation for CO_2 storage include basalts, salt domes, and shales. These formations are limited in geographic and geologic distribution throughout the U.S., and their technological or economic viability as GS sites have not been demonstrated. In basalts, the injected CO_2 could react with embedded silicate minerals and form carbonate minerals that would be trapped in the basalt. Mined salt domes or salt caverns could be used for CO_2 storage using processes similar to those used by industry to store natural gas (IPCC, 2005). Other abandoned mines (e.g., potash, lead, or zinc deposits or abandoned coal mines) are also CO_2 storage options (IPCC, 2005). CO_2 storage in organic-rich shales, to which CO_2 could adsorb to organic materials in a process similar to coal seam adsorption, is also a possible storage option (DOE, 2007b). The location and proximity of these other formations to USDWs may preclude their use for GS. As with unmineable coal seams, EPA seeks comment on prohibiting injection into such formations if they are above the lowermost USDW.

I. Is Injected CO_2 Considered a Hazardous Waste Under RCRA?

In developing today's proposal, EPA used the Class I industrial well class as the reference for the proposed rule and also considered the potential for hazardous constituents to be present in the injectate, and whether their presence could render the injected CO_2 stream a hazardous waste. The composition of the captured CO_2 stream will depend on the source, the flue gas scrubbing technology for removing pollutants, additives, and the CO_2 capture technology. In most cases, the captured CO_2 will contain some impurities, however, concentrations of impurities are expected to be very low (Apps, 2006).

Because the types of impurities and their concentrations in the CO_2 stream are likely to vary by facility, coal composition, plant operating conditions, and pollution removal technologies, EPA cannot make a categorical determination as to whether injected CO_2 is hazardous under RCRA. Owners or operators will need to characterize their CO_2 stream as part of their permit application to determine if the injectate is considered hazardous as defined in 40 CFR Part 261. If the injectate is considered hazardous under RCRA, then the more stringent UIC Class I requirements for injection of hazardous waste apply. The design changes EPA is proposing are meant to address the mobility and corrosivity caused by long term GS of CO_2, and not the long term storage of hazardous wastes.

By defining ''carbon dioxide stream'' to exclude hazardous wastes (146.81(d)), today's rule, if finalized, assures that it would apply only to CO_2 streams that are not hazardous wastes as defined in 40 CFR Part 261. As a result, today's proposed rule would preclude the injection of hazardous wastes in Class VI injection wells. EPA seeks comment on this approach and other considerations associated with the presence of impurities in the CO_2 stream.

J. Is Injected CO_2 Considered a Hazardous Substance Under CERCLA?

The Comprehensive Environmental Response, Compensation, and Liability

Act (CERCLA), also more commonly known as Superfund, is the law that provides broad federal authority to clean up releases or threatened releases of hazardous substances that may endanger human health or the environment. CERCLA references four other environmental laws to designate more than 800 substances as hazardous and to identify many more as potentially hazardous due to their characteristics and the circumstances of their release. It allows EPA to clean up sites contaminated with hazardous substances and seek compensation from responsible parties, or compel responsible parties to perform cleanups themselves. A responsible party may be able to avoid liability through several enumerated defenses, including that the release constituted a ''federally permitted release'' as defined in CERCLA, 42 U.S.C. 9601(10).

While CO_2 itself is not listed as a hazardous substance under CERCLA, the CO_2 stream may contain other substances such as mercury that are hazardous substances or the constituents of the CO_2 stream could react with groundwater to produce listed hazardous substances such as sulfuric acid. Thus, whether or not there is a ''hazardous substance'' that may result in CERCLA liability from a sequestration facility depends entirely on the make-up of the specific CO_2 stream and of the environmental media (e.g., soil, groundwater) in which it is stored. CERCLA exempts from liability certain ''federally permitted releases'' including releases in compliance with a UIC permit under SDWA. Therefore, Class VI requirements and permits will need to be carefully structured to ensure that they do not ''authorize'' inappropriate hazardous releases. This would include clarifying if there are potential releases from the well which are outside the scope of the Class VI permit. EPA requests comment on particular situations where this might occur. EPA also requests comment on other considerations associated with the presence of impurities in the CO_2 stream related to CERCLA.

As applicable, a determination of liability would be made on a case-by-case basis by Federal courts in response to claims for natural resource damages (NRD) or response costs. A NRD claim could be brought by the U.S. or a State or Tribe.

III. Proposed Regulatory Alternatives

The regulatory alternatives for managing CO_2 injection for GS have been informed by the existing UIC program regulations and supplementary contributions from parties with expertise related to the challenges associated with GS of CO_2. In preparing today's proposal, EPA consulted with regulators, industry, utilities, and other technical experts; considered input provided at the technical workshops and stakeholder meetings; and reviewed research, early pilot GS project permits, and IOGCC's model rules and regulations (IOGCC, 2007).

EPA considered four alternatives for developing GS regulations. The four alternatives vary in stringency and specificity as described below.

Alternative 1: Non-specific Requirements Approach. This alternative is the least specific and stringent of the alternatives EPA considered. It includes no specific requirements for site characterization, well construction, or monitoring; rather, it applies a performance standard approach, specifying that GS wells be sited, constructed, operated, maintained, monitored, plugged and closed in a manner that protects USDWs from endangerment.

Alternative 2: General Requirements Approach. This alternative provides more specificity than the previous alternative and includes standards for siting, construction, operation, and monitoring associated with basic deep well design and operation. The general requirements approach also gives permitting authorities flexibility to interpret certain elements in setting permit requirements; however, this alternative does not contain specific program requirements for technical challenges not currently addressed in the UIC Program such as long-term CO_2 storage and large volumes.

Alternative 3: Tailored Requirements Approach. This approach builds on the general requirements approach by incorporating technical standards for deep-well injection of non-hazardous fluids where appropriate and tailoring them to address the challenges of long-term CO_2 storage. This approach also gives permitting authorities discretion in how to permit certain elements and in requiring additional information.

Alternative 4: Highly Specific Requirements Approach. The highly specific requirements approach describes specific technologies and information needed for site characterization, AoR modeling, well construction, monitoring, and testing. Many components of this alternative equal or exceed the requirements for Class I hazardous waste injection wells.

These alternatives are described in more detail in the document, *Regulatory Alternatives for Managing the Underground Injection of Carbon Dioxide for Geologic Sequestration* (USEPA, 2008c).

A. Proposed Alternative

EPA is proposing Regulatory Alternative 3, the Tailored Requirements Approach. The technical requirements of this alternative build upon the existing UIC regulatory framework for deep wells and are appropriately tailored to address the unique nature of full-scale CO_2 GS. The tailored requirements approach promotes USDW protection, incorporates flexibility or the discretion of the permitting authority when appropriate, seeks to limit unnecessary burden on owners or operators or permitting agencies and provides the foundation for national consistency in permitting of GS projects. Because of the volumes of CO_2 being anticipated for long-term storage, the buoyant and viscous nature of the injectate, and its corrosivity when mixed with water, EPA is proposing changes to the existing UIC approach or requirements in several program areas, including site characterization, area of review, well construction, mechanical integrity testing, monitoring, well plugging, post-injection site care, and site closure.

EPA did not select alternative 1 (Non-Specific Requirements Approach) because it does not provide enough specificity to ensure that permitting authorities manage GS wells appropriately to prevent endangerment of USDWs. In addition, this alternative may be burdensome for owners or operators because of the potential for inconsistency across States and burdensome for permitting authorities who will likely be faced with developing their own technical approaches to regulating GS. Alternative 1 could create an uncertain regulatory landscape for owners or operators seeking to operate facilities in multiple states or seeking to manage projects that cross state boundaries.

Although alternative 2 (General Requirements Approach) provides standards for siting, construction, operation, and monitoring associated with basic deep well design and operation, EPA did not select this alternative because it is not tailored to meet the unique challenges of long-term CO_2 storage. While this option includes flexibility for permit authorities to add requirements, EPA cannot be certain that the necessary adjustments would be made.

Alternative 4 (Highly Specific Requirements Approach) lacks the flexibility for incorporating and adapting to evolving GS technologies and provides no clear additional

benefits beyond alternative 3 for USDW protection, therefore, EPA did not select this alternative.

1. Proposed Geologic Siting Requirements

Existing UIC requirements for siting injection wells include identification of geologic formations suitable to receive the injected fluids and confine them such that they are isolated below the lowermost USDWs, minimizing the potential for endangerment. While initial assessments indicate there are many geologic formations in the U.S. that can potentially receive injected CO_2, not all can serve as adequate CO_2 GS sites.

A detailed geological assessment is essential to evaluating the presence and adequacy of the various geologic features necessary to receive and confine large volumes of injected CO_2 so that the injection activities will not endanger USDWs. Thus, EPA is proposing that owners or operators submit maps and cross sections of the USDWs near the proposed injection well.

Injection wells are drilled to a receiving zone, also known as the injection zone. The injection zone is typically a layer or layers of porous rocks, such as sandstone, that can receive large volumes of fluids without fracturing. Today's proposal would require that owners or operators submit data to demonstrate that the injection zone is sufficiently porous to receive the CO_2 without fracturing and extensive enough to receive the anticipated total volumes of injected CO_2. Owners or operators would submit geologic core data, outcrop data, seismic survey data, cross sections, well logs, and other data that demonstrate the lateral extent and thickness, strength, capacity, porosity, and permeability of subsurface formations. The injection zone should be of a sufficient lateral extent that the CO_2 can move a sufficient distance away from the well and still remain in the same zone, without displacing fluids into USDWs. Structural features of a potential injection zone reservoir, such as the lateral extent, dip, or the presence of ''pinch-outs'' (i.e., thinning or tapering out) can affect storage potential, and therefore should be examined.

The injection zone should be overlain by a low permeability confining system (i.e., primary confining zone) consisting of a geological formation, part of a formation, or group of formations that limits the injected fluid from migrating upwards out of the injection zone. The buoyancy of CO_2 necessitates good characterization of potential conduits for fluid migration upward through the confining system to USDWs. The confining system should be of sufficient regional thickness and lateral extent to contain the entire CO_2 plume and associated pressure front under the confining system following the plume's maximum lateral expansion.

EPA proposes that owners or operators of proposed GS projects present to the permitting authority data on the local geologic structure, including information on the presence of any faults and fractures that transect the confining zone and a demonstration that they would not interfere with containment. These data will support determinations about whether these features, if present, could potentially become conduits for movement of CO_2 or other fluids to shallower layers, including USDWs. Under today's proposal, owners or operators must perform and submit the results of geomechanical studies of fault stability and rock stress, ductility, and strength.

Today's proposal would require that owners or operators submit information on the seismic history of the area and the presence and depth of seismic sources to assess the potential for injection-induced earthquakes. These examinations, along with interpretation of geologic maps and cross sections and geomechanical data, are proposed to help rule out sites with unacceptably high potential for seismic activity. Information on in-situ fluid pressures is also required to assess the potential for the pressures associated with injection to reactivate faults or to determine appropriate operating requirements.

A variety of techniques are available to characterize the receiving zones and confining zones of proposed GS sites. For example, geologic core data, test wells, and well logs can help determine rock formations' strength and extent. Seismic and electrical methods can be used to reveal subsurface features. Gravity anomalies indicate density variations at depth, and gravity surveys can be used to locate voids, such as cavities and abandoned mines. Numerous geophysical logging tools can determine formation porosity. Large scale, regional pressure tests can also provide insight into the fluid flow field and the presence and properties of major faults and fractures that may affect flow and transport of CO_2 and displaced brines.

Underground injection wells, if improperly sited and operated, have the potential to induce seismicity, which may cause damage to reservoir and fault seals, creating conduits for fluid movement into USDWs. Today's proposal would require that owners or operators not exceed an injection pressure that would initiate or propagate fractures in the confining zone. To meet this requirement, maximum sustainable injection pressures that will not cause unpermitted fluid movement should be determined prior to CO_2 injection. Estimates of maximum sustainable fluid pressures in CO_2 storage sites are primarily based on predicted changes of effective stresses in rocks during CO_2 injection and associated pore-pressure increase (Streit and Siggins, 2004). Geomechanical studies of fault stability and rock stresses and strength, based on examination and interpretation of geological maps and cross sections, seismic and well surveys, determination of local stress fields, and modeling, can also help rule out sites with unacceptably high potential for seismic activity (IPCC, 2005).

The geochemistry of formation fluids can also affect whether a site is suitable for GS. CO_2 may act as a solvent, and can mix with native fluids to form carbonic acid, which can react with minerals in the formation. Dissolution of minerals may liberate heavy metals into the formation fluids. Reactions may also break down the rock matrix or precipitate minerals and plug pore spaces, therefore reducing permeability (IPCC, 2005). Studies of rock samples and review of geochemical data from monitoring wells are needed to evaluate the impact of these effects. Today's proposal would require owners or operators to submit geochemical data on (a) the injection zone, (b) the confining zones, (c) containment zones above the confining zones in which any potentially migrating CO_2 could be trapped, (d) all USDWs, and (e) any other geologic zone or formation that is important to the proposed monitoring program. The geochemical data are important for identifying potential chemical or mineralogical reactions between the CO_2 and formation fluids that can break down the rock matrix or precipitate minerals that could plug pore spaces and reduce permeability. Additionally, pre-injection geochemical data can serve as baseline data to which results of future monitoring would be compared throughout the injection phase. This information can also improve predictions about trapping mechanisms (which, in turn may improve predictions of pressure changes in the subsurface and the ultimate size of the CO_2 plume).

Today's proposal would provide the Director the discretion to require the owner or operator to identify and characterize additional confining and containment zones above the primary

(i.e., lowermost) confining zone that could further impede vertical fluid movement and allow for pressure dissipation. These layers could provide additional sites for monitoring, mitigation, and remediation. Today's proposal would not require that these additional zones be identified for all GS sites because their absence does not necessarily indicate inappropriateness of a GS site. However, if such zones are present, information about their characteristics can provide inputs for predictive models, identify appropriate monitoring locations, and improve public confidence in and acceptance of a proposed GS site. EPA specifically seeks comment on the merits of identifying these additional zones.

2. Proposed Area of Review and Corrective Action Requirements

Delineating the Area of Review: Under the UIC program, EPA established an evaluative process to determine that there are no features near the well such as faults, fractures or artificial penetrations, where significant amounts of injected fluid could move into a USDW or displace native fluids into USDWs. Current UIC regulations require that the owner or operator define the Area of Review (AoR), within which the owner or operator must identify all penetrations (regardless of property ownership) in the confining zone and the injection zone and determine whether they have been properly completed or plugged. The AoR determination is integral to the determination of geologic site suitability because it requires the delineation of the storage operation and an identification and evaluation of any penetrations that could result in the endangerment of USDWs (40 CFR 146.6).

For Class I, II, and III injection wells, Federal UIC regulations require that the AoR be defined as either a fixed radius of ¼ mile surrounding the well (or wells, for an area permit) or an area above the injected fluid and pressure front determined by a computational model. For Class I hazardous waste injection wells, the AoR is defined as a radius of two (2) miles around the well or an area defined based on the calculated cone of pressure influence, whichever is larger.

It is generally agreed that over time, the CO_2 plume and pressure front associated with a full-scale GS project will be much larger than for other types of UIC injection operations, potentially encompassing many square miles. In addition, the complexity of CO_2 behavior in the subsurface may produce a non-circular AoR. It is also possible that multiple owners or operators will be injecting CO_2 into formations that are hydraulically connected, and thus the elevated pressure zones may intersect or interfere with each other. Traditional AoR delineation methods such as a fixed radius or simple mathematical computations would not be sufficient to predict the extent of this movement.

EPA believes that predicting the complex multi-phase buoyant flow of the CO_2, co-injectates, and compounds that may be mobilized due to injection requires the sophistication of computational models. EPA proposes that the owners or operators of GS wells delineate the AoR for CO_2 GS sites using computational fluid flow models designed for the specific site conditions and injection regime.

Multiphase models are the most comprehensive type of computational model available to predict fluid movement in the subsurface under varying conditions or scenarios, and EPA considers them to be appropriate for delineating the AoR for GS projects. This approach was also recommended by IOGCC, workshop participants, and regional and State permit writers for GS operations. EPA seeks comment on the use of modeling for AoR delineation.

Modeling CO_2 Movement and Reservoir Pressure: Computational models used to delineate the AoR consider the buoyant nature and specific properties of separate phases of the injected CO_2 and native fluids within the injection zone. The models should be based on site characterization data collected regarding the injection zone and confining system, taking into account any geologic heterogeneities, and potential migration through faults, fractures, and artificial penetrations.

Appropriate models may incorporate numerical, analytical, or semi-analytical approaches. These models solve a series of governing equations to predict the composition and volumetric fraction (i.e., the fraction of the formation pore-space taken up by that fluid) of each phase state (e.g., liquid, gas, supercritical fluid), as well as fluid pressures, as a function of location and time for a particular set of conditions.

EPA has found that multiphase, computational models are the most appropriate type of computational model to predict the fate and transport of CO_2, co-injectates, and compounds mobilized due to injection. In order to provide guidance related to computational modeling of CO_2 injection for GS, EPA invited expert advice and reviewed relevant technical documents. On April 6–7, 2005, EPA held a workshop on ''Modeling and Reservoir Simulation for Geologic Carbon Storage'' for 60 EPA headquarters and regional staff in Houston, Texas. Computational modeling for AoR determination was also discussed at several additional technical workshops (Section II E). Additionally, the Agency evaluated peer-reviewed journal articles and critical reviews pertaining to computational modeling of CO_2 injection (USEPA, 2008d).

Model results provide predictions of CO_2 fate and transport, as well as changes in formation pressure, in three dimensions as a function of time that can be used to delineate the subsurface storage site and the AoR. Models can also be used to develop monitoring plans, help to evaluate long-term containment, select and characterize suitable storage formations, assess the risk associated with CO_2 leakage and other impacts to USDWs, and to design remediation strategies. Importantly, models can be used to predict CO_2 movement in response to varying conditions or scenarios, such as changing injection rates, or the presence or absence of fractures or faults in confining layers.

Multiphase models have been used by States and industry for predicting the movement of water and solutes in soil, the behavior of non-aqueous phase liquid contaminants (e.g., trichloroethene) at hazardous waste sites, the recovery of oil and gas from petroleum-bearing formations, and more recently, CO_2 in the subsurface. The existing computational codes used to create multiphase models vary substantially in complexity. For example, available codes differ in what processes (e.g., changes of state, chemical reactions) may be included in simulations. As model complexity increases, so does the computational power necessary to use the model, as well as the amount and type of data needed to properly instruct model development. However, more complex models, when properly used, have the potential to provide a more accurate representation of the storage project.

Multiphase models are developed based on a specified set of conditions, such as the formation's geological structure and injection scenario, and inputs describing these conditions are included in an appropriate computational code. Properties of the formation (e.g., permeability, porosity, reservoir entry pressure) and fluids present (e.g., solubility, mass-transfer coefficients), are described by model parameters, the independent variables in the model governing equations that may be constant throughout the domain or vary in space and time. Model predictions depend largely on the

values of key parameters. Often these parameter values are estimated or averaged from several data sources.

Models used for GS sites should be based on accepted science and should be validated. In some cases, owners or operators may choose to use proprietary models (i.e., not available for free to the general public). EPA is aware that the use of proprietary codes may prevent full evaluation of model results (e.g., NRC, 2007). Several popular codes in the petroleum-reservoir engineering discipline are proprietary and owners or operators of particular sites may prefer to use these codes as they have previous experience with them, and they have been used in peer-reviewed studies to model CO_2 sequestration. When using a proprietary model, owners or operators should clearly disclose the code assumptions, relevant equations, and scientific basis. EPA seeks comment on allowing the use of proprietary models for GS sites.

Today's proposal does not specify a period of time over which the AoR delineation models should be run. Rather, available models can predict, based on proposed injection rates and volumes and information about the geologic formations, the ultimate plume movement up to the point the plume movement ceases or pressures in the injection zone sufficiently decline.

EPA recognizes that a range of models could be used to delineate the AoR and that some of these models may have been in use for some time. Models currently used to delineate AoR, regardless of age, are considered computational and may be appropriate for use in determining the AoR for GS of CO_2. However, EPA anticipates that modeling technology will improve substantially, and encourages and expects owners or operators to use the best multiphase computational models available to determine the AoR. Reliance on improved models will likely increase the accuracy and quality of the AoR characterization, resulting in better protection of USDWs.

Model simulations and site monitoring are interdependent, and comprise an iterative, cyclical system. Model simulations can be used for an initial prediction of injected fluid movement to identify the type, number and location of monitoring points. As data are collected at an injection site, model parameters can be adjusted to match real-world observations (i.e., model calibration or history-matching), which in turn improves the predictive capability of the model. Additionally, model simulations are adjusted over time to reflect operational changes. Project performance is thus evaluated through a combination of site monitoring and modeling.

EPA seeks comment on the applicability of computational fluid flow models for delineating the AoR of GS sites.

Corrective Action: Today's proposal would require that owners or operators of GS wells identify all artificial penetrations in the AoR (including active and abandoned wells and underground mines). This inventory and review process is similar to what is required of Class I and Class II injection well operators.

The owner or operator would compile, tabulate, and review available information on each well in the AoR that penetrates into the confining system, including casing and cementing information as well as records of plugging. If additional confining zones are identified, wells penetrating those additional zones would be included in this review. Based on this review, the owner or operator would identify the wells that need corrective action to prevent the movement of CO_2 or other fluids into or between USDWs. Owners or operators would perform corrective action to address deficiencies in any wells, regardless of ownership, that are identified as potential conduits for fluid movement into USDWs. In the event that an owner or operator cannot perform the appropriate corrective action, the Director would have discretion to modify or deny the permit application. Corrective action could be performed prior to injection or on a phased basis over the course of the project (as outlined in the next section). Available corrective action techniques include plugging of offset wells or monitoring in the injection zone. Another example of corrective action is remedial cementing, in which owners or operators would squeeze cement into channels or voids between the casing and the borehole, to prevent upward migration along uncemented casing.

Today's proposal does not prescribe the specific cements to be used to plug abandoned wells in the AoR because industry standards, such as those developed by API or ASTM International, reflect the current state of the science and the expertise of industrial users on corrosion-resistant materials.

Though today's proposal does not dictate specific corrective action methods, it requires that the corrective action methods be appropriate to the CO_2 injection. At the Technical Workshop on Geological Considerations and AoR Studies, participants generally concluded that the reaction of the CO_2 injectate stream with typical well materials and cements that are likely to be encountered in abandoned wells in the AoR is an important consideration. Today's proposal would require that corrective action for wells in the AoR of GS projects be performed with appropriate corrective action methods such as use of corrosion-resistant cements.

Area of Review Reevaluation: Predicting the behavior of injected CO_2 in the subsurface, particularly the ultimate extent of a CO_2 plume and associated area of elevated pressure in a laterally expansive reservoir, poses uncertainties. Today's proposal would require that the owner or operator periodically reevaluate the AoR during the injection operation. Reevaluations would occur at a minimum fixed frequency, not to exceed 10 years, as agreed upon by the Director.

When monitoring data differ significantly from modeled predictions, or when there are appreciable operational changes (e.g., injection rates), reevaluation may be mandated prior to the minimum fixed frequency. At no time would area of review reevaluations occur less frequently than every 10 years.

Reevaluations of the AoR would be based on revision and calibration of the original computational model used to delineate the AoR. If site monitoring data agrees with the existing AoR delineation, a model recalibration may not be necessary. In these cases, an AoR reevaluation may consist simply of a demonstration that the current AoR delineation is adequate based on site monitoring data.

There are many potential benefits to periodically reevaluating the AoR. Each revised model prediction would estimate the full extent of the CO_2 plume and area of elevated pressure; however, the near-term predictions (e.g., over the subsequent 10 years) would have the highest degree of certainty and could be the basis of corrective action. Re-running the models would allow refinement to the AoR delineation based on real-world conditions and monitoring results, and thus increase confidence in the modeled predictions. The revised model predictions would also be used to identify monitoring sites so that monitoring would occur in any areas subject to the greatest potential risk.

EPA seeks comment on requiring the reevaluation of the site AoR on a periodic basis, under what conditions the AoR should be reevaluated, and the appropriateness of a 10 year minimum fixed frequency for AoR reevaluation.

Phased Corrective Action: In the UIC program, corrective action is typically

performed on all wells in the AoR in advance of the injection project. Today's proposal recognizes that this may not always be appropriate for GS projects. The AoR for a GS site may be quite large, requiring considerable time and resources to perform corrective action on all wells that may eventually be affected by the GS project over the course of decades of injection. In addition, if the periodic reevaluations of the AoR indicate that the AoR has grown or shifted to areas not originally included, additional wells may need to be identified for potential corrective action.

Today's proposal would give the Director the discretion to allow owners or operators to perform corrective action on an iterative, phased basis over the operational life of a GS project. Prior to injection, the owner or operator would identify all wells penetrating the confining or injection zone within the site AoR. However, the owner or operator may limit pre-injection corrective action to those wells in the portion of the AoR that would be intersected by the CO_2 plume or pressure front during the first years of injection. As the project continues and the plume expands, the owner or operator would continue to perform corrective action on wells further from the well to assure that all wells in the AoR that need corrective action eventually receive it. This approach would ensure that any necessary corrective action is taken in advance of the CO_2 plume and associated area of elevated pressure approaching USDWs.

There are potential benefits to implementing phased corrective action. Phasing in the corrective action would benefit the owner or operator by spreading out the burden and costs of corrective action and not delaying initiation of the GS project while corrective action is performed at wells that may not be affected by the injection for several decades. Initial corrective action would focus on those penetrations that pose a potential endangerment to USDWs from injection of CO_2 in the near term. Deferring corrective action on some of the wells at the outer reaches of the predicted plume can improve USDW protection by giving these later corrective action efforts the benefit of newer corrective action techniques. Additionally, this approach can prevent the unnecessary burden of performing corrective action in areas far from the injection zone that may never be impacted. This approach would still assure that all wells in the AoR that need corrective action eventually receive it, as is the case in current UIC requirements.

Participants at the technical workshops on ''Geological Considerations and AoR Studies'' and ''Modeling and Reservoir Simulation for Geologic Carbon Storage'' agreed that the AoR should be reevaluated over time based on incoming monitoring and site characterization data. In addition, participants at the February 2008 Stakeholder Workshop generally supported reevaluation of the AoR and a phased corrective action approach.

EPA recognizes that a phased approach to corrective action may not be appropriate in all situations; therefore EPA is proposing that the Director have the discretion to decide to allow this approach, based on the understanding of relevant geologic and site conditions. EPA invites public comment on the merits and frequency of reevaluation of the AoR as well as the phased corrective action approach for GS wells.

Proposed Area of Review and Corrective Action Plan: For typical UIC wells, the AoR is delineated only once, and corrective action on all wells in the AoR is performed prior to commencing injection. However, AoR and corrective action for GS wells will involve multiple steps over many years, so EPA proposes that the owner or operator of a GS well submit an AoR and corrective action plan as part of their permit application. After approved by the Director, the owner or operator would implement the plan.

In the AoR and corrective action plan, the owner or operator would describe plans to delineate the AoR, including the model to be used, assumptions made, and the site characterization data on which the modeling would be based. It would include a strategy for the owner or operator to periodically reevaluate the AoR in response to operational changes (e.g., injection rates), when monitoring data varies from modeled predictions, or at a minimum fixed frequency, not to exceed 10 years, as agreed upon by the Director. It should describe what monitoring data would be used to determine whether the AoR needs to be adjusted and how that data would be incorporated into the model. A description of how the public would be informed of changes in the AoR would be included.

The AoR and corrective action plan would also specify where corrective action would be performed prior to injection, what, if any areas would be addressed on a phased basis, and how the timing of each phase of corrective action would be determined. In addition, the plan would identify how site access would be guaranteed for areas requiring future corrective action, and how corrective action may change to address potential changes in the AoR.

EPA also proposes that, as owners or operators periodically reevaluate the AoR delineation, they must either amend the Director-approved AoR and corrective action plan (i.e., to perform additional corrective action) or report to the Director that no changes to the plan are necessary. This approach promotes continued communication between the Director and the owner or operator regarding expectations over the long duration of CO_2 injection, and assures that the AoR delineation methodology reflects local conditions. The proposed requirement to periodically revisit the modeling effort, which was advocated by stakeholders, would help to verify that the CO_2 plume is moving as predicted and provides an opportunity to adjust the injection operation and corrective action to address changes in the predicted AoR. The reevaluation process would also help account for new wells in the AoR.

3. Proposed Injection Well Construction Requirements

Well Construction Procedures: Properly constructing an injection well is a technologically complex yet well understood undertaking. An appropriately designed and constructed well would prevent endangerment to USDWs and would maintain integrity throughout the lifetime of the project, from the injection operation period through and beyond the post-injection site care period once the well is permanently plugged. Current drilling and well construction practices for CO_2 injection wells are based on existing knowledge and practices from the oil and gas industry.

A typical well is constructed by placing multiple strings of high strength steel alloy or fiberglass concentric pipe and tubing into a drilled wellbore. Typically, the first step in well construction is the drilling of a large borehole (e.g., 10″ to 30″) through the base of the lowermost USDW. A large diameter pipe, termed surface casing, is then placed in the wellbore to protect shallow aquifers or underground sources of drinking water during the drilling and injection phases. This casing is usually cemented by circulating cement between the outside of the surface casing and the side of the borehole to ensure that the wellbore is stabilized, that the casing is completely sealed to the rock of the wellbore, and that the geologic formations are isolated from each other and the surface.

Next, a smaller diameter wellbore (e.g., 7″ to 15″) is drilled further downwards, into the injection zone, and

a smaller diameter pipe, usually designated as the long-string casing, is run into the hole. Similar to the surface casing, the long-string casing is cemented in place to the borehole by circulating cement from the bottom back up to the surface casing, filling the gap between the outside of the long-string casing and the wellbore. This cementing process again ensures that rock formations are isolated and no fluid movement occurs between formations.

Depending on the depth to the injection formation, additional strings of casing may be necessary, but in each case, these casings are engineered and designed to withstand internal and external pressures at depth. The final result is multiple barriers of cement and casing between formations above the injection zone and the fluids being injected. Typically a portion of the wellbore in the injection zone is left open or the casing is perforated to allow injected fluid to enter into the injection zone.

Inside the long string casing, injection tubing is run from the surface to a depth within the injection zone. This tubing may be engineered of steel, an alloy, fiberglass, or a composite material most suitable for the injectate's composition. The tubing extends from the wellhead down to the storage zone where it is sealed by a mechanical device known as a packer. The area between the tubing and long string casing is isolated and the fluid injected into the well can only enter the geologic formation for which it is targeted. With this type of well construction, the fluid within the well tubing has minimal contact with the components of the well that protect USDWs.

The space between the injection tubing and the long string casing and above the packer is called the annulus. The annulus between the wellhead and the packer is a water-tight space filled with a non-corrosive fluid that helps to protect the inside of the casing and outside of the tubing from damage due to chemical reactions. In addition, monitoring the pressure of the annulus using standard pressure devices can easily detect any leaks in the tubing, long string casing, or packer.

Due to the buoyancy of CO_2, today's proposal includes enhancements to typical deep well construction procedures to provide additional barriers to CO_2 leakage outside of the injection zone. The proposal would require that surface casing for GS wells be set through the base of the lowermost USDW and cemented to the surface. The long-string casing would be cemented in place along its entire length. GS wells would also be constructed with a packer that is set opposite a cemented interval, at a location approved by the Director. EPA seeks comment on the proposed GS well requirements for depth of surface casing, the cementing of long-string casing, and construction with a packer set opposite a cemented interval. EPA also seeks comment on how the proposed grandfathering provisions for existing wells (construction requirements) may affect compliance with the above, proposed construction requirements.

More information on well drilling may be found by consulting various sources including the Department of Energy, the American Petroleum Institute (API), and the Society of Petroleum Engineers (SPE). Please consult information or links on EPA's Web site: *http://www.epa.gov/safewater/uic.html*, or similar sources.

Horizontal Well Construction: While horizontal well construction is not typical in deep injection wells in the UIC program, there are examples of horizontal well completions being used with success to improve the production of EOR and ECBM operations (e.g., Westermark *et al.*, 2004; Sams *et al.*, 2005). EPA understands that the In Salah project in Algeria is using horizontal well construction for GS purposes. Horizontal wells are constructed by use of a directional drilling system, which generally consists of both a curve and lateral drilling assembly. After the vertical portion of the well is constructed, the curve drilling assembly is used to drill a curve of prescribed radius to change the path from vertical to horizontal. The lateral drilling assembly is then used to construct the horizontal section, which can be lined or remain as an open hole. Importantly, several horizontal sections can be completed stemming from a single vertical completion.

The use of horizontal wells for a GS project could provide several benefits over vertical wells. Horizontal wells provide enhanced connectivity with permeable sections of the formation, increasing injectivity. The use of horizontal wells increases the sweep, or formation contact area, of the injected CO_2 plume, as vertical channeling through high permeability regions is reduced. Increasing the sweep results in enhanced residual-phase CO_2 trapping and dissolution favorable for the purposes of permanent storage. Horizontal wells also reduce the pressures needed to inject any given volume of fluid. In addition, fewer vertical completions are required with the use of horizontal wells, which reduces the number of artificial penetrations in the formation through which fluid could migrate, as well as reducing overall costs.

EPA seeks comment on the merits of horizontal well drilling techniques for GS wells and the applicability of well construction requirements discussed in this proposal.

Well Component Degradation: The potentially corrosive nature of the injectate must be taken into consideration in the design and construction of CO_2 GS wells. The quality of the well materials, proper well construction, composition and placement of appropriate cement along the wellbore, and appropriate maintenance are crucial, because a leaking annulus would be a significant route of escape for CO_2 (IPCC, 2005).

CO_2 mixed with water or impurities (NO_X, SO_X and H_2S) can be corrosive to well materials and cements. Conventional cement formulations (e.g., Portland cement) are potentially vulnerable to acid attack. Acid attack on the calcium carbonate in cement can lead to altered permeability and mechanical instability. Defects in the well cement, such as channels, cracks, and microannuli (i.e., small spaces between the casing and cement) can provide pathways for acid to migrate and accelerate degradation.

Experience with CO_2 injection for EOR includes the use of acid-resistant cements. Cements with a reduced Portland content are more resistant to acid because they contain less calcium carbonate ($CaCO_3$). Acid resistant cements can be formulated by adding fly ash, silica fume (microsilica), latex, epoxy, or other substances. Calcium phosphate cement is a blend of high-alumina cement, phosphate, and fly ash that can retain integrity under conditions where other cements lose a substantial portion of their weight, according to one manufacturer (*http://www.eandpnet.com/area/exp/153.htm*).

EPA examined available information to determine the rate at which cement degrades in acidic environments. Laboratory studies provide evidence of deterioration of cement and other well components due to exposure to acid. For example, Duguid *et al.*, (2004) performed a laboratory study in which Portland cement experienced significant damage within seven days. Similar experiments by Kutchko *et al.*, (2007) showed less cement alteration. Differences between these studies may be due to different experimental conditions, such as temperature and pressure.

Limited results of field studies show clear evidence of reactions between CO_2 and well cement, but do not show such severe corrosion. Cement samples from

a well at the Scurry Area Canyon Reef Operators Committee (SACROC) site did not show serious degradation (Carey *et al.*, 2007). In another study, cement samples were collected and analyzed from a CO_2 production well in a natural CO_2 reservoir in Colorado exposed to a CO_2-water environment for 30 years (Crow *et al.,* 2008). The study found considerable reactions between the CO_2 and cement, and CO_2 migration up the wellbore along the cement-formation interface. However, the cement alteration was not significant enough to enable CO_2 migration through the cement itself and the distance of CO_2 migration along the cement-formation interface was very limited. Although the field corrosion looks surprisingly low, these are only limited examples. Laboratory studies are conducted under aggressive chemical conditions in an attempt to mimic the cumulative effects of long-term exposure to CO_2-rich formation fluids. Given the high injection rates, long lifespan, and potential impurities in GS, careful selection of acid-resistant materials and practices may be necessary.

Metal components of the injection well, such as carbon steel, are subject to corrosion. To minimize problems, Meyer (2007) recommends the use of Grade 316 stainless steel. One company working on GS projects indicates that they use stainless steel well casing to avoid corrosion problems (Buller *et al.,* 2004). Stainless steels consist of iron, small amounts of carbon, and at least 10 percent chromium. Grade 316 stainless steel also contains molybdenum, which endows it with corrosion resistance in a variety of corrosive media, although it is subject to corrosion in warm chloride environments and to stress corrosion cracking at warmer temperatures (above 60 degrees C). According to the report, recovered CO_2 injection well components at the SACROC site in Texas were made of Grade 316 stainless steel and did not exhibit signs of corrosion. Industry representatives at the Technical Workshop on Well Construction and MIT noted that many casing options (e.g., titanium and fiberglass casing) are available. Useful packer products include swell-resistant elastomer materials such as Buna-N and Nitrile rubbers (Meyer, 2007). Teflon and nylon are options for anti-corrosion seals.

The use of corrosion-resistant materials is crucial to the success of long-term GS operations. UIC program experience, industry experience, and stakeholder input suggest that appropriate materials are available. Today's proposal does not specify materials that may be used, rather, proposes providing the owner or operator with the flexibility to choose, as long as the materials used in GS wells are corrosion-resistant and meet or exceed standards developed for such materials by API or ASTM International, or comparable standards approved by the Director. Well materials must be compatible with injected fluids, including any co-injected impurities or additives, throughout the life of the project, and be appropriate for the well's depth, the size of the well bore, and the lithology of injection and confining zones.

GS projects are anticipated to have long lifespans in comparison to other types of deep injection wells. Not only must GS wells be able to function safely and properly over the lifespan of the GS project, but they must be constructed such that USDWs remain protected after well plugging. Today's proposal would require that the cements and cement additives used in GS wells be appropriate to address long-term injection of CO_2 and assure that the well can maintain integrity throughout the proposed life span of the project, including the post-injection site care period and beyond once the well is permanently plugged. Owners or operators must use corrosion-resistant cement approved by the Director and be able to verify the integrity of the cement using logs or other acceptable methods.

EPA seeks comment regarding requirements for degradation-resistant well construction materials, such as acid-resistant cements and corrosion resistant casing.

4. Proposed Injection Well Operating Requirements

EPA's operating requirements for deep injection wells provide multiple safeguards to ensure that injected fluids do not escape and are confined within the injection zone and that the integrity of the confining zone is not compromised by non sealing artificial penetrations or geologic features. In today's proposal, some well operating requirements are consistent with existing UIC well types and some requirements are tailored specifically for CO_2 injection.

Injection Parameter Limitations: Limitations on injection parameters are intended to prevent the movement of injected or other fluids to USDWs via fractures in confining layers or vertical migration. In order to drive the injected fluids away from the well and into the formation, fluids must be injected at a higher pressure than the pressure of fluids in the injection zone. However, the sustained pressure should not be as high as fracture pressure, that is, high enough to initiate or propagate fractures in the injection or confining zone. If the pressure within the reservoir becomes high enough, induced stresses may reactivate existing faults (Rutqvist *et al.,* 2007), though injection pressure limitations may be employed to prevent this (Li *et al.,* 2006). Several geomechanical methods are available to assess the stability of faults and estimate maximum sustainable pore fluid pressures for CO_2 storage. For example, one way of deriving these is to calculate the effective stresses on faults and reservoir rocks based on fault orientations, pore fluid pressures, and in-situ stresses (Streit and Hillis, 2004).

Today's proposal would require an injection pressure limitation similar to existing UIC Class I deep well requirements. Owners or operators of GS wells must limit CO_2 injection pressures, except during well stimulation, so that injection does not initiate new fractures, propagate existing fractures in the injection zone, or cause movement of injection or formation fluids that endanger USDWs. Under this proposal, during injection, the pressure in the injection zone must not exceed 90 percent of the fracture pressure of the injection zone. Calculation of fracture pressure is fundamental to evaluating the appropriateness of the site. The 90 percent requirement, suggested by permit writers and IOGCC, provides an added margin of safety in the well operation.

There are some circumstances, however, where fracturing of the injection zone would be acceptable provided the integrity of the confining system remains unaffected. For example, hydraulic fracturing is a process where a fluid is injected under high pressure that exceeds the rock strength, and the fluid opens or enlarges fractures in the rock. EPA recognizes that there may be well completions which require intermittent treatments, including hydraulic fracturing of the injection zone, to improve wellbore injectivity. Such stimulation of the injection zone during a well workover (as defined in 40 CFR 144.86(d)) approved by the Director would be permissible.

Fracturing of the confining zone would be prohibited at all times during injection and/or stimulation.

It is also possible that CO_2 GS may be associated with ECBM, where more extensive hydraulic fracturing would be necessary to open pre-existing fractures in the coal and provide additional surfaces onto which CO_2 may adsorb and to extract methane. These hydraulic fracturing operations are used to

enhance oil and gas recovery and for ECBM recovery, and in general are exceptions to the definition of underground injection under the SDWA.

EPA is requesting comment on the extent and scope to which hydraulic fracturing should be allowed during GS injection, and whether the use of fracturing for the purposes of well stimulation is appropriate. EPA is also requesting information to better qualify the use of fracturing for GS injection in specific geologic settings and rock formation lithologies.

Continuous Monitoring: Monitoring within the injection well system is important to assure that the injection project is operating within permitted limits. It can also protect the owner or operator's investment, as significant divergences in any of these parameters could damage well components. Deep injection well owners or operators typically monitor injection pressure, flow rate, temperature, and volumes. Owners or operators usually choose to maintain pressure on the annulus between the tubing and the long string casing and monitor this pressure to ensure protection of USDWs from well leakage. Monitoring is generally performed on a continuous basis, through the use of automated equipment that typically takes readings several times per minute and records them in a computer system.

Alarms and automatic shut-off devices connected to the monitoring equipment can engage if operational limits are exceeded. Available computer-driven monitoring systems have the ability to continuously monitor injection parameters and engage the shut-off devices. Though these systems are not required for all UIC well classes, the complexity of GS operations and the potential for movement of the CO_2 in the event of a mechanical integrity loss makes a shut-off system an important safety consideration for GS projects.

Traditionally, owners or operators have installed monitoring and shut-off equipment at the wellhead (i.e., at the surface), however, down-hole devices have been used in offshore applications for several years. Today's proposal requires that automatic shut-off valves be installed down-hole in addition to at the surface. This requirement is supported by many participants at the technical workshops and the IOGCC's recommendations.

The down-hole valves provide a safety backstop in case damage to the wellhead prevents the proper operation of wellhead shut-off valves. Direct pressure measurements used to trigger shut-off devices are more accurate than wellhead calculations of down-hole pressure. The down-hole valves are an integral part of the tubing string and can be positioned anywhere along the tubing string. Gauges can be either inside or outside of the casing; installation on the outside of the casing may cause less interference with well maintenance. The down-hole valves are kept in an open position by hydraulic pressure from a connection to the surface. Damage to the wellhead or an upset in operations causes the positive hydraulic pressure to fall, forcing the valve into a ''failsafe'' closed position. In case of well failure, a down-hole shut-off device would isolate the injectate below USDWs, rather than just below the surface. By engaging near the injection zone, they can prevent pressure-induced damage to the well casing. This would also require less expensive repairs if pressure exceedances were to occur.

While there would be some cost and downtime associated with replacing failed down-hole valves, such costs are considered small in comparison to the costs if large amounts of CO_2 should escape into USDWs or to the surface. It is possible to place a new valve down-hole without removing the existing valve, so downtime can be minimized if an appropriate parts inventory is kept on hand. A Norwegian study found that the failure rate of down-hole safety valves was 2 failures per million operating hours (Norwegian Oil Industry Association, 2001). This is a relatively low failure rate as the valves are designed to withstand harsh conditions and operate well after years of inactivity. Overall, it is likely that costs for replacing failed valves would be insignificant in comparison with costs of a CO_2 leak.

Several types of valves are available and in use, including flappers and ball valves. The flapper types seem to be more reliable, at least for oilfield applications (Garner *et al.*, 2002). EPA seeks comment on the merits of requiring down-hole shut-off valves in GS wells.

Corrosion Monitoring and Control: Existing UIC Class I deep well operating requirements allow Director's discretion to require corrosion monitoring and control in the case of corrosive fluids. Corrosion monitoring can help avoid or provide early warning of corrosion of well materials that could compromise the well's integrity. This is accomplished by exposing ''coupons,'' or small samples of the well material to the injection stream. The samples are periodically removed from the flow line, cleaned and weighed; the weight is compared to previous values to calculate a corrosion rate. Other methods of corrosion monitoring/control include: The use of wireline enhanced caliper or imaging logs to inspect the casing, the use of ultrasonic and electromagnetic techniques in well pipes (Brondel *et al.*, 1994), the use of cathodic protection (where the casing would become the cathode of an electrochemical cell), or the use of biocide/corrosion inhibitor fluid in the annular space between the casing and tubing.

CO_2 reacts with water to become acidic, potentially accelerating corrosion of well materials. The CO_2 stream for a GS project may also contain small volumes of impurities that could be corrosive. Thus, EPA is proposing to require corrosion monitoring for GS wells. Corrosion monitoring is further discussed in the monitoring and testing section of this preamble.

Injection Depth in Relation to USDWs: Today's proposal specifies a requirement that such injection should be allowed only beneath the lowermost formation containing a USDW. This is consistent with the siting and operational requirements for all Class I hazardous injection wells, and a very important protective component of the UIC program. Placing distance between the point of injection and USDWs allows for the necessary confining and buffer formations, and further provides for opportunity for additional monitoring to detect any excursions from the intended injection zone.

However, EPA is not prescribing a minimum injection depth to keep the CO_2 in a supercritical, liquid state after it is injected, as some well operators may choose to inject the CO_2 as a gas. If the trapping mechanism is sufficiently protective, the injected CO_2 should be contained regardless of its phase.

Some stakeholders and co-regulators have proposed other approaches for specifying an injection depth and these merit consideration by EPA. For example, one approach would be to require a minimum injection depth of approximately 800 m (2,625 feet) for GS of CO_2. The geothermal gradient and weight of the fluid and rock layers above this target depth would maintain CO_2 at a sufficiently high pressure to keep it in a supercritical, liquid state. Storing CO_2 at supercritical pressure would allow storage of greater volumes and thereby increase available underground storage capacity. Additionally, storing CO_2 in a supercritical, liquid state may prevent the frequency of well mechanical integrity failure. When supercritical CO_2 is injected into shallow formations where pressures are not high enough to

maintain its supercritical state, it will revert to a gas. The expansion of gaseous CO_2 will cause a drop in temperature (the Joule-Thomson effect), and if this temperature drop is large enough, freezing and thermal shock may take place in the vicinity of the well. Thermal shock is a common cause of cracking in many types of pressure equipment, and repeated exposure to such stresses could compromise the integrity of the injection well's tubular components. Participants at the Technical Workshop on Well Construction and MIT suggested that these phase changes (i.e., supercritical liquid to gas) are potentially a greater mechanical integrity concern than corrosivity. Modeling by Oldenburg (2007) shows that if the pressure drop is not large (less than 10 bars), this effect will not be great enough to cause significant problems. However, technical workshop participants concluded that more research is needed on the effects of phase changes on well mechanical integrity.

EPA is aware that the proposed requirement of injecting CO_2 below the lowermost USDW may preclude injection into certain targeted geologic formations, which may be storage sites currently under consideration for GS. These formations may include unmineable coal seams (those not being used for Class II enhanced coal bed methane production), zones in between or above USDWs, and other formations also under consideration. In areas of the country with very deep USDWs, the need to construct GS wells beneath them may render GS technically impractical. As a result, the Agency is considering and requesting comment on alternative approaches that would allow injection between and/or above the lowermost USDW, and thus potentially allow for more areas to be available for GS while preventing USDW endangerment.

One alternative under consideration is a provision for Director's discretion to allow injection above or between USDWs in specific geologic settings where the depth of the USDWs may preclude GS, make GS technically challenging, or significantly limit CO_2 storage capacity. Such approval by the Director would allow injection between USDWs (and thereby allowing injection above the lowermost USDW) in circumstances in which it may be demonstrated that USDWs would not be endangered. An example where such injection may be appropriate presents itself in areas such as the Williston and Powder River Basins in Wyoming, North Dakota, and South Dakota, where receiving formations (formations with large CO_2 storage capacity) for GS have been identified above the lowermost USDW and where there may be thousands of feet of rock strata between the injection zone and the overlying and underlying USDWs. In these cases, injection above or between USDWs may be appropriate, however, the Agency currently lacks data to demonstrate that such practices are or are not protective of USDWs.

Also, EPA is considering allowing Directors to exempt all USDWs below the injection zone. Currently, Directors may issue ''aquifer exemptions'' which when approved, essentially determine that an aquifer is no longer afforded protection as a USDW, in accordance with the requirements of 40 CFR 144.7(b)(1). Aquifer exemptions are permitted for mineral or hydrocarbon exploitation by Class III solution mining wells, or by Class II oil and gas-related wells, respectively, and when there is no reasonable expectation that the exempted aquifer will be used as a drinking water supply (please see specific aquifer exemption criteria at 40 CFR 146.4). When EPA exempts an aquifer, it is no longer considered a USDW now or in the future. EPA limits aquifer exemptions for injection operations to the circumstances where the necessary criteria at 40 CFR 146.4 are met and not, in general, for the purpose of creating additional capacity for the emplacement of fluids.

EPA carefully considers all aspects of ensuring the protection of USDWs before approving an aquifer exemption request for any injection purpose in UIC programs which it implements. The Agency's interpretation of the SDWA, and its own UIC regulations, currently allows for aquifer exemptions sought for specific reasons (as outlined above) and not solely for the purpose of relaxing well owner/operator requirements, such as operating, monitoring, or testing. Therefore, in general, the Agency does not consider aquifer exemption requests for non-injection formations. It has also been EPA's long-standing policy not to grant aquifer exemptions for the purpose of hazardous waste disposal because of the infeasibility of meeting Class I hazardous waste siting requirements (i.e., injection must be below the lowermost USDW).

However, aquifer exemptions could be issued for GS wells where receiving formations are situated above the lowermost USDW and where there are thousands of feet between the injection zone and the overlying and underlying USDWs. In these circumstances, the permit applicant would be required to meet all Class VI permit requirements.

It is also anticipated that some aquifers previously exempted for Class II injection operations may be appropriate formations for GS and permit applicants may seek to use these formations. In such circumstances, the permit applicant for a GS Class VI well would be required to seek a new aquifer exemption for the purpose of GS, and provide a non-endangerment demonstration that reflects the predicted extent of the CO_2 plume, the associated pressure front, and the scope of the injection activities.

Furthermore, there may be other geologic settings with formations that could receive and store CO_2 that are not below the lowermost USDW. Such formations include deep, marginal USDWs directly overlying crystalline basement rock and/or unmineable coal seams. Under today's proposal, these formations would not qualify for GS without aquifer exemptions. In these areas where USDWs directly overlie crystalline basement rock, permit applicants may seek aquifer exemptions and permits to inject CO_2 for GS into these exempted aquifers. In unmineable coal seams that are USDWs or contain or are bounded by formations that are USDWs, permit applicants may also seek aquifer exemptions and permits for GS.

In summary, EPA is soliciting comment on whether CO_2 injection should be allowed into an injection zone above the lowermost USDW, when the Director determines that geologic conditions (*e.g.*, thousands of feet of intervening formations between the injection zone and the overlying and/or underlying USDWs) exist that will prevent fluid movement into adjacent USDWs. EPA is also requesting comments on whether aquifer exemptions should be allowed for the purpose of Class VI injection, and under what conditions should such aquifer exemptions be approved. Finally, EPA seeks comment on whether the Agency should set a minimum injection depth requirement for CO_2 GS, rather than require that such injection take place below the lowermost USDW.

Tracers: While the UIC Program's protective elements greatly reduce the potential for leakage, leakage is a possibility in any underground injection project. Tracers may help facilitate leak detection. Though use of tracers is not required under existing deep well requirements, the buoyancy of CO_2 and the large volumes that are expected to be injected may warrant improved leak detection for GS wells. Detection of leakage of injected CO_2 at the surface would indicate potential endangerment to USDWs. Additionally, if tracers are

used for CO_2 GS projects, they may also help owners or operators to infer geochemical processes caused by CO_2 (e.g., dissolution or precipitation of calcium carbonate) that may pose risks.

Gaseous CO_2 is odorless and invisible. Tracers can be odorants, such as those added to domestic natural gas, in order to serve as a warning of a natural gas leak. Mercaptans are the most effective odorants, however, they are not generally suitable for GS because they are degraded by oxygen, even at very low concentrations. The experience from the natural gas storage industry is that they are scrubbed from the gas by adsorption to the formation in the subsurface. Disulphides, thioethers and ring compounds containing sulfur are options for CO_2 GS odorants (IPCC, 2005). However, there has been no testing of these substances for GS, and it is unknown whether using them for GS would be effective.

Participants at the technical workshop on monitoring, measurement, and verification (MMV) discussed the use of tracers in monitoring. Measurement of stable isotopes of carbon (i.e., C12/C13 ratio) can serve as tracers and may be useful for identifying the source of CO_2 (e.g., anthropogenic or biological). Panelists also addressed the potential utility of perfluorocarbon (PFC) and other inert tracers in detecting CO_2 leakage. According to some researchers, PFCs are conservative and will remain with the CO_2. Unique suites (or batches) of PFCs can be created using different combinations of PFCs. Different PFC suites can be used to establish unique signatures for different time periods of prolonged injection or for multiple CO_2 injections, making it feasible to detect if a leak is transient versus long-term in nature.

There may be potential benefits of tracers for CO_2 GS operations, though tracers' effectiveness and cost-effectiveness are debated. There are also technical challenges, such as false positives, associated with their use that will vary on a case-by-case basis. In addition, in the case of PFCs, which have a global warming potential many orders of magnitude higher than CO_2, there may be concerns about the consequences of potential releases to the atmosphere. Today's proposal allows Directors' discretion on whether to require the use of tracers, and if so, what types of tracers. EPA seeks comment on the use of tracers in CO_2 GS operations, and any potential impact of tracers on human health or ecosystems as they relate to USDWs.

5. Proposed Mechanical Integrity Testing Requirements

Injection well mechanical integrity testing (MIT) is a critical component of the UIC Program's goal to protect USDWs. Testing and monitoring the integrity of an injection well, at the appropriate frequency, can verify that the injection activity is operating as intended and does not endanger USDWs. MIT requirements for GS wells should be tailored to address the unique properties of CO_2, specifically its buoyancy and potential corrosivity, so that owners or operators of GS projects will be able to detect defects within the well, and between the well and the borehole, before these defects could allow GS-related fluids to move into unintended formations or toward USDWs.

Currently, all UIC injection well owners or operators must demonstrate that their wells have both internal and external mechanical integrity (MI) (40 CFR 146.8). An injection well has internal MI if there is an absence of leakage in the injection tubing, casing, or packer. Typically, internal mechanical integrity testing is accomplished with a periodic pressure test of the annular space between the injection tubing and long string casing of this annual space. Usually, loss of internal MI is due to corrosion or mechanical failure of the injection well's components. Rarely, because of the multiple-barrier nature of injection well construction, do internal MI losses result in leakage outside of the well and present an endangerment to a USDW.

Injection well external integrity is demonstrated by establishing the absence of fluid flow along the outside of the casing, generally between the cement and the well structure, although such flow may also occur between the cement and the well bore itself. This is typically accomplished through the use of down-hole geophysical logs or surveys designed to detect such leaks, once every five years. Failure of an external MIT can indicate improper cementing or degradation of the cement that was emplaced to fill and seal the annular space between the outside of the casing and the well borehole. This type of failure can lead to movement of injected fluids out of intended injection zones and toward USDWs. As with internal MI failure, temporary loss of external MI rarely results in endangerment to USDWs.

Failure of either external or internal mechanical integrity may mean that one of the multiple protective layers in an injection well is not operating as intended. Proper testing can serve as an early warning to owners or operators that the well is not performing optimally and that maintenance or repair of a component of the well is needed before the injectate moves to unintended zones or a USDW is impacted.

The decades of State and EPA experience with Class I and Class II mechanical integrity testing requirements provides the best knowledge base for identifying appropriate MIT requirements for GS projects. This is supported by findings from technical workshops, conferences, and research. However, because of the buoyant and corrosive properties of a GS stream, current deep well internal and external MIT requirements will need to be tailored in order to ensure the protection of USDWs.

As previously discussed, internal MI testing is designed to evaluate the condition of internal well components. The evaluation is typically accomplished with an annual pressure test. However, due to the nature of the GS injection stream, corrosivity must be considered when planning for MITs in GS projects. Studies conducted by EPA of previous MIT results suggest that wells injecting corrosive fluids fail MITs at rates 2 to 3 times higher than those that inject non-corrosive fluids. Thus, a more corrosive injectate is a potential risk factor for MIT failure.

Therefore, today's proposal would require owners or operators of Class VI GS projects to monitor internal mechanical integrity of their injection wells by continuously monitoring injection pressure, flow rate, and injected volumes, as well as the annular pressure and fluid volume to assure that no anomalies occur that may indicate an internal leak. EPA requests comment on the practicability of this requirement.

Continuous internal mechanical integrity monitoring of GS project injection wells, instead of periodic testing (which is required for most other types of deep injection wells) is important because the corrosive nature of GS waste streams makes immediate identification of corrosion-related well integrity loss critical. Today's proposal would also require automatic down-hole shut-off mechanisms (see proposed injection well operating requirements section) in the event of an MI loss. Continuous computer-driven monitoring of internal MI would need to be performed in order for automatic shut-off systems to be activated. This combination of computer-driven continuous internal monitoring linked to an automatic down-hole injection shut-off provides the maximum protection to USDWs and the earliest

warning to owners or operators that repairs need to be performed.

This proposed requirement would eliminate the necessity of conducting other periodic internal MITs. However, today's proposal would provide the Director with the discretion to request any other additional tests necessary to ensure the protection of USDWs.

As mentioned above, external mechanical integrity testing is used to determine the absence of fluid leaks behind the long string casing. Instead of requiring external MI to be demonstrated every five years (which is typical for other types of deep injection wells), today's proposal would require owners or operators of CO_2 wells to demonstrate injection well external mechanical integrity at least once annually. This increase in testing frequency (from once every five years to once a year) is justifiable for the protection of USDWs given the potential corrosive effects on injection well components (steel casing and cement) that are exposed to the GS stream and the buoyant nature of the injected fluid that tends to force it upward toward USDWs.

Today's proposal does not change the existing allowable methods for demonstrating external MI in deep injection wells. They would include the use of a tracer survey, a temperature or noise log, a casing inspection log if required by the Director, or an alternative approved by the Administrator and, subsequently, the Director. Today's proposal would also provide the Director with the discretion to request additional tests.

EPA proposes that owners or operators report semi-annually on the injection pressure, flow rate, temperature, volume and annular pressure, and on the results of MITs. This reporting frequency, which is the same as for other deep injection well classes, has proven to be timely for notification to permitting authorities on the status of the operation.

EPA seeks comment on the appropriate frequency of internal and external MITs for GS injection wells, the appropriate types of MITs, and how to optimize MIT methods for GS.

6. Proposed Plume and Pressure Front Monitoring Requirements

Monitoring associated with UIC injection wells is required to ensure that the injectate is safely confined in the intended subsurface geologic formations and USDWs are not endangered. Certain existing UIC program monitoring requirements apply to all wells, while others are based on site-specific information and Director's discretion. Information obtained through monitoring may be used to maintain the efficiency of the storage operation, minimize costs, and confirm that injection zone pressure decline follows predictions. Monitoring results of GS wells would also be used as data inputs for reevaluation of the site computational model and AoR and corrective action.

EPA considers CO_2 plume and associated pressure front monitoring to be necessary for verification of model predictions. An integrated monitoring and modeling strategy should be used to track the evolution of the CO_2 plume and associated pressure front. Monitoring may be conducted with a combination of direct and indirect techniques appropriate for the conditions of specific GS projects. Monitoring is necessary to verify initial model predictions given the uncertainty of CO_2 fate and transport; because large volumes of CO_2 will be injected during GS operations; and because of the challenges of comprehensive site characterization in large formations that may be used for GS projects. Monitoring results should be used to assess CO_2 movement through high-permeability regions (i.e., faults, fractures) not detected in site characterization and included in initial site modeling. Early pilot-projects have indicated that the most complete understanding of the site-specific behavior of CO_2 will result from monitoring the movement of CO_2 itself (e.g., Doughty *et al.*, 2007).

EPA seeks comment on the requirement for monitoring of GS sites for the purpose of tracking the location of the CO_2 plume and associated pressure front over time.

Testing and Monitoring Plan: A monitoring program for a GS project should be designed to detect changes in ground water quality and track the extent of the CO_2 plume and area of elevated pressure. Today, EPA is proposing that owners or operators of Class VI wells would submit, with their permit application, a testing and monitoring plan to verify that the GS project is operating as intended and is not endangering USDWs. This plan would be implemented upon Director approval and would include, at a minimum, analysis of the chemical and physical characteristics of the CO_2 stream; monitoring of injection pressure, rate, and volume; monitoring of annular pressure and fluid volume; corrosion monitoring; a demonstration of external mechanical integrity (see proposed mechanical integrity testing requirements section of the preamble); a determination of the position of the CO_2 plume and area of elevated pressure; monitoring of geochemical changes in the subsurface; and, at the discretion of the Director, monitoring for CO_2 fluxes in surface air and soil gas, and any additional tests requested by the Director.

Monitoring within multiple layers (i.e., in the primary confining system; in USDWs and other shallow layers; and, at the surface) supports a multi-barrier approach to protecting USDWs. Surface air and/or soil gas monitoring may be used as the last line of monitoring to ensure that there has not been vertical CO_2 leakage, which could endanger USDWs. The program should also be site-specific, based on the identification and assessment of potential CO_2 leakage routes complemented by computational modeling of the site.

Under today's proposal, owners or operators would be required to analyze the CO_2 stream at a frequency sufficient to yield data representative of its chemical and physical characteristics. This analysis will provide information on the content and corrosivity of the injected stream, which in turn will support improvements in well construction and optimization of well operating parameters. EPA also proposes that owners or operators would monitor well materials for signs of corrosion, such as loss of mass, thickness, cracking, or pitting. The proposed requirements are critical to address the potential well integrity concerns associated with the corrosive nature of the CO_2 stream, to avoid (or provide early warning of) corrosion of well materials, and to protect the integrity of GS wells. Today's proposal would also require continuous monitoring of the injection pressure, rate and volume, as well as annular pressure and fluid volume discussed in the well construction and operation section of the preamble.

Monitoring CO_2 Movement and Reservoir Pressure: Monitoring subsurface geochemistry and the position of the CO_2 plume and pressure front are necessary to verify predictions of plume movement, provide inputs for modeling, identify needed corrective actions, and target geochemical and surface monitoring activities.

Under today's proposal, owners or operators would be required to track the subsurface extent of the CO_2 plume and pressure front using pressure gauges in the first formation overlying the confining zone or using indirect geophysical techniques (e.g., seismic, electrical, gravity, or electromagnetic surveys) or other down-hole CO_2 detection tools, monitor for geochemical changes in subsurface formations, and if directed, monitor at the surface. Today's

proposal would also require owners or operators to monitor ground water quality and geochemical changes above the confining system. The results of this monitoring would be compared to baseline geochemical data to identify changes that may indicate unacceptable movement of CO_2 or formation fluids.

In order to provide guidance related to monitoring of GS sites, EPA invited expert advice and reviewed technical documentation. EPA held a technical workshop on measurement, monitoring, and verification focused on the availability and utility of various subsurface and near-surface monitoring techniques that may be applicable to GS projects. This workshop, co-sponsored by the Ground Water Protection Council (GWPC), took place in New Orleans, LA, on January 16, 2008.

Monitoring within the confining zone for pressure, pH, salinity, or the presence of dissolved minerals, heavy metals, or organic contaminants requires direct access to the subsurface via monitoring wells. Wells installed for this purpose would be strategically placed in areas predicted to overlie the eventual CO_2 plume and area of elevated pressure. Well number and placement would be based on project specific information such as injection rate and volume, site specific geology, baseline geochemical data, and the presence of artificial penetrations. Predictive models of the extent and direction of plume movement can support decisions about monitoring well placement. This has the dual benefit of targeting resources associated with what is an expensive monitoring activity and minimizing the number of artificial penetrations near the injection well, which could potentially become conduits for fluid movement into USDWs.

Today's proposal would require that owners or operators perform a pressure fall-off test at least once every five years. Pressure fall-off tests are designed to ensure that reservoir injection pressures are tracking to predicted pressures and modeling input. They may be used in project siting and AoR calculations. Results of pressure fall-off tests may indicate mischaracterization of the site specific geology and potentially unidentified leakage pathways. EPA seeks comment on the use and frequency of pressure fall-off testing for GS wells.

Pressure monitoring, both at the surface and in the formation, is a routine part of CO_2 injection projects that serves several purposes. For instance, monitoring pressure in injection wells allows for use of shut-off valves in the event that injection pressure exceeds the formation fracture pressure, or pressure drop-offs indicate a subsurface leak (IPCC, 2005). Pressure monitoring in monitoring wells provides an indication of whether there is potential for brine intrusion into USDWs and CO_2 leakage. When combined with information on temperature, pressure data provide an indication of the phase (e.g., gas, supercritical) and amount of the injected CO_2.

Various pressure sensors are available, and monitoring can be conducted continuously. Conventional sensor types include piezo-electric transducers, strain gauges, diaphragms, and capacitance gauges (Burton *et al.*, 2007). Fiber optic pressure and temperature sensors are also now commercially available and can be installed down-hole and connected to the surface through fiber optic cables. According to Burton *et al.* (2007), current monitoring technologies are more than adequate for monitoring pressure in a GS project.

Direct geochemical monitoring is an important part of a monitoring program. Temperature, salinity, and pH should be monitored, as these parameters provide basic information for understanding water and gas geochemistry. Additionally, obtaining ground water samples via monitoring wells allows direct measurement of aqueous and pure-phase CO_2. By studying the interactions between brine and CO_2, it can be determined whether precipitation and/or dissolution of minerals is occurring (Nicot and Hovorka, 2008). These analyses will also indicate the rate of CO_2 trapping mechanisms, and whether mineral dissolution may be causing permeability changes in the formation or impacting USDWs. Geochemical monitoring may also be conducted for heavy metals and organic contaminants that may potentially be mobilized in the formation due to injection.

Information and discussions from EPA technical and public workshops indicate that the collection of adequate baseline (pre-injection) data is critical for planning monitoring and for detecting CO_2 movement and leakage during and after injection.

While the use of tracers is not a specific monitoring requirement in today's proposal (per III.A.4), some Directors may require owners or operators to use them. EPA has considered the merits of tracers for CO_2 monitoring and recognizes that they may also be voluntarily employed by owners or operators. Tracers can also be measured through direct geochemical sampling to indicate the speed and direction of movement of CO_2 after injection. Naturally occurring tracers include stable isotopes (atoms of a particular element with different numbers of neutrons) of carbon and oxygen. Analyses of the amounts of carbon-13 and oxygen-18 isotopes in water are commonly used to track movement through the environment and to elucidate geochemical processes. It is also possible to include tracers, such as perfluorocarbons or noble gases, with the injected CO_2 (Nimz and Hudson, 2005). Loss of tracers between the injection well and monitoring well may indicate diffusion into low-permeability materials, sorption, partitioning into non-aqueous phase liquids, partitioning into trapped gas phases, or leakage of CO_2 (Nicot and Hovorka, 2008). Tracers were more fully discussed in the well construction and operation section of the preamble.

There are several technical challenges associated with in-situ monitoring of formation fluids via wells. In the course of sample retrieval, there will be pressure changes, causing changes in CO_2 solubility and pH. To address this, LBNL developed a ''U-tube'' sampling apparatus to enable collection of fluid and gas samples at in-situ pressure conditions. Also, samples collected from monitoring wells are point measurements that may not fully represent the entire reservoir, especially if there are extensive physical heterogeneities.

Geophysical Methods for Plume Tracking: Various non-invasive deep subsurface monitoring techniques are available to track the movement of the CO_2 plume. Many of these methods have been developed for use in the oil and gas industry, and some may also support certain aspects of baseline geologic characterization. Seismic and electrical techniques have been used to gather data related to rock composition, porosity, fluid content, and in-situ stress state.

In seismic surveying, a controlled source of seismic energy is used to send vibrations through the ground. The time it takes for the seismic waves to reflect off of a subsurface feature and reach a receiver at the surface provides information about the depth of the feature. By using an array of receivers, possible plume and leakage flowpaths may be discerned. Seismic surveys may also be useful for monitoring how rock properties change with time during injection and for mapping of the CO_2 plume. This method has been used to study the subsurface in the area near the injection well for the CO_2-SINK project in Germany (Juhlin *et al.*, 2006) and at the Sleipner and In Salah sites. Seismic

studies can also be done in a crosswell arrangement by placing an array of receivers in one borehole and drawing a seismic source upwards in another borehole, firing at periodic intervals. Current crosswell experience relevant to CO_2 sequestration includes successful imaging of CO_2 saturation and pressure effects in a carbonate reservoir in West Texas (Harris and Langan, 2001). Vertical seismic profiling (VSP), conducted by placing geophones in a vertical array inside a borehole and measuring sound sources originating at the surface, is another promising technology for plume detection and monitoring.

Electrical methods rely on the electrical properties of the medium being studied and offer promise for CO_2 plume monitoring. Electromagnetic (EM) surveys induce a current in subsurface materials, and conductivity meters detect areas with increased conductivity. Near the surface, EM can detect buried metal objects and contaminated soils. In the deeper subsurface, EM surveys can be used to detect certain contaminant plumes. EM surveys can also be done in crosswell fashion. At Lawrence Livermore National Laboratory, researchers are conducting a long-term study using time-lapse multiple frequency EM survey characterization to image CO_2 injected as part of an EOR operation (Kirkendall and Roberts, 2001).

Electrical resistance tomography (ERT) measures electrical resistance by means of electrodes that may be placed at the surface, but are more commonly arrayed down boreholes in a crosswell configuration. Because the electrical properties of a medium are sensitive to fluid chemistry, ERT can be used for monitoring fluid migration in the subsurface. The oil industry has used ERT, and it has been also used for environmental applications such as detection of contaminant plumes at waste sites. Newmark (2003) reported preliminary data on the use of crosswell ERT at an EOR site to monitor for CO_2.

Microgravity surveys detect density variations in the subsurface using sensitive gravity measurements made at the (ground) surface. Microgravity surveys have been used to characterize subsurface formations, and given the density differences between CO_2 and formation brines, may be useful for tracking a CO_2 plume. Nooner *et al.* (2003) discuss use of microgravity surveys at the Sleipner CO_2 GS project in Norway.

GEO–SEQ (2004) discusses the capabilities of seismic and electrical crosswell methods for CO_2 GS. The authors note the high spatial resolution of these methods and state that they can image leaks and fluid saturation within a reservoir. Simulations discussed in the manual confirm that seismic and electrical conductivity crosswell methods could provide information on the saturation of CO_2 within the reservoir between wells. The authors note that seismic crosswell methods could also be used to detect CO_2 phase changes. Although these methods are costly and time consuming, they may prove useful at GS sites in the future. To fully implement these technologies, additional research is needed regarding the electrical and seismic properties of subsurface media containing CO_2.

Some stakeholders expressed concerns about the usefulness of seismic surveys as a CO_2 tracking tool under certain geologic conditions, particularly given the cost of specific technologies. Based on information evaluated to date, EPA believes that tracking the plume and pressure front is an important companion step to address any uncertainties associated with initial AoR modeling and requests comment on this approach and more efficient alternatives that may be used to track the plume and pressure front.

As such, allowing flexibility in choosing the plume tracking methods and other monitoring technologies may provide an appropriate balance between the protective nature of indirect monitoring and cost considerations, as well as allowing for the adoption of continuously advancing technology.

Surface Air and Soil Gas Monitoring: Surface air measurements can be used to monitor the flux of CO_2 out of the deep subsurface, with deviations from background levels representing potential leakage. If deviation in the flux of CO_2 is detected, it may indicate potential endangerment of USDWs. While subsurface monitoring forms the primary basis for protecting USDWs, near-surface and surface techniques could be the last line of monitoring. Under today's proposal, owners or operators could, at the Director's discretion, be required to conduct surface air monitoring and/or soil gas monitoring in the AoR. Knowledge of leaks to shallow USDWs is of critical importance since these USDWs are more likely to serve public water supplies than deeper formations. If leakage to a USDW should occur, near-surface and surface monitoring can identify the general location of the leak.

A range of techniques employed at varied monitoring frequencies are available for implementation. Optimal spacing of monitoring wells, eddy covariance towers, or soil gas chambers would need to be selected, and may be based on the outcome of other monitoring techniques such as seismic or Electrical Resistance Tomography (ERT).

For surface air monitoring, chambers can be placed directly on the soil and trapped gases are passed through an infrared gas analyzer to determine CO_2 content (GEO–SEQ, 2004). Changes in CO_2 concentration and air flow rates are used to calculate a flux. Measurements using chambers are typically conducted along a grid, which has the benefit of defining spatial and temporal variations in CO_2 flux that could be used for pinpointing and quantifying any leaks. Chamber measurements, however, are labor-intensive and are not efficient for sampling over large areas. For each of these methods, baseline (pre-injection) monitoring is very important in order to establish conditions for future comparison. There are natural sources of CO_2 that can have wide variability and thus could mask leakage from a GS operation.

Eddy covariance techniques have been used for ecological applications to measure carbon fluxes from vegetated areas, and show promise for CO_2 monitoring for GS operations (Miles *et al.*, 2005). The equipment is installed on a tower and CO_2 is measured with an infrared gas analyzer (GEO–SEQ, 2004). Wind velocity, relative humidity, and temperature are also measured and the information is integrated to calculate a CO_2 flux. The height of the tower controls the aerial coverage, with higher towers averaging over larger areas. Because of the large coverage, the exact location of a leak would be difficult to pinpoint, and this method may be better for detecting slow, diffuse leaks. Eddy covariance also assumes a horizontal and homogeneous land surface, which may not hold true for all GS locations. It does have the advantage of being automated, greatly reducing the labor involved.

Hyperspectral image analysis is a form of remote sensing that has been used, among other applications, for mapping vegetation habitat boundaries and for differentiating species types. Scanners collect images of a given feature using a number of relatively small wavelength bands, including the visible and infrared portions of the spectrum. Because different elements have different spectral signatures, a hyperspectral image can convey information about composition. The potential utility for CO_2 monitoring would be the ability to map the response of vegetation to elevated soil CO_2 concentrations (Pickles and Cover, 2005).

LIDAR (light detection and ranging) is a remote sensing method that is used extensively in atmospheric science, and is currently under investigation as an option for CO_2 detection to monitor GS sites (Benson and Myer, 2002). Similar in principle to RADAR, LIDAR uses light instead of radio waves, permitting resolution of very small features, such as aerosols. Light is pulsed from a laser and various constituents in the atmosphere reflect back some of the light. A number of properties of the backscattered light allow one to infer the atmospheric composition, including concentrations of CO_2. Currently, differential absorption LIDAR (DIAL) is being studied by researchers at Montana State University for detecting CO_2 leaks in pipelines.

EPA proposes that owners and operators report semi-annually on the characteristics of injection fluids, injection pressure, flow rate, temperature, volume and annular pressure, and on the results of MITs, ground water monitoring, and any required atmospheric/soil gas monitoring.

EPA seeks comment on the appropriate amount and types of monitoring that should be conducted at a GS site. Specifically, EPA seeks comment regarding the usefulness of indirect geophysical monitoring and surface air and soil gas monitoring. In addition, EPA seeks comment regarding the use of a Director-approved monitoring plan for GS sites.

7. Proposed Recordkeeping and Reporting Requirements

Submissions Required for Consideration of Permit Applications: Today's proposal would require that owners and operators submit relevant site information to the permitting authority for consideration of permit applications. This information includes maps of the injection wells, the AoR as determined through computational modeling, all artificial penetrations within the AoR, maps of the general vertical and lateral limits of USDWs, maps of the geologic cross sections of the local area, the proposed operating data and injection procedures, proposed formation testing program, and stimulation program, well schematics and construction procedures, and contingency plans for shut-ins or well failures. EPA is also proposing that permit applicants submit a demonstration of financial responsibility to plug the well, to provide for post-injection site care, and site closure.

EPA is proposing today that permit applications for GS sites include several plans not currently required under existing UIC regulations. These plans include a monitoring and testing plan, an AoR and corrective action plan, and a post-injection site care and site closure plan. The requirement for additional plans is intended to provide the Director the opportunity to assess proposed project operating procedures, and addresses GS requirements that are seen to be site-specific (e.g., what monitoring techniques will be used). In addition, these plans are intended to establish an ongoing dialogue between the operator and the permitting authority which is more substantial than that required for other classes of injection wells. EPA seeks comment on the merits of requiring plans for monitoring, AoR, and post-injection site care as part of a permit application.

Operational Recordkeeping and Reporting Requirements: Under current UIC requirements, operators must report on a regular basis to the permitting authority, the physical and chemical characteristics of the injected fluids, as well as other operational data. For Class I industrial and Class I hazardous waste wells and Class III wells, operators must submit this information on a quarterly basis. For Class II wells, operators must submit this information on an annual basis. Today's proposal would require that owners or operators of Class VI wells report semi-annually to the permitting authority, on the physical and chemical characteristics of injection fluids, injection pressure, flow rate, temperature, volume and annular pressure, annulus fluid volume added, and the results of MITs, plume tracking, and atmospheric/soil gas monitoring. Additionally, owners and operators will be required to submit the results of AoR modeling revisions; any updates to the information on the type, number, and location of all wells within the site AoR; and information on additional corrective action performed or planned based on AoR reevaluations. EPA considers a less frequent reporting requirement for Class VI wells compared to Class I wells appropriate considering the ongoing dialogue for Class VI wells established by multiple plans as discussed above.

Under today's proposal, owners and operators would also be required to maintain recordkeeping and reporting information for the duration of the project, as well as three years after site closure (following the post-injection site care period); and to keep their most recent plugging and abandonment report for one year following site closure.

Reporting Associated with Well Plugging, Post-injection Site Care, and Site Closure: EPA proposes that owners or operators notify the Director at least 60 days prior, or at a Director-determined time, of their intent to plug the well and of any updates to the post-injection site care and site closure plan. After the well is plugged, owners and operators would submit a well plugging report stating that the well was plugged in accordance with the approved post-injection site care and site closure plan or specify the differences between the plan and the actual well plugging. During the post-injection site care (monitoring) period, owners or operators would report periodically on the results of monitoring. At the end of the post-injection site care period, owners or operators would submit a site closure report, along with a non-endangerment demonstration showing that conditions within the subsurface indicate that no additional monitoring is necessary to assure that there is no endangerment to USDWs associated with the injection.

EPA seeks comment on the frequency of all proposed reporting requirements.

Electronic Reporting and Recordkeeping: Under today's proposal, EPA would require owners or operators to report data specified in section 146.91 in an electronic format acceptable to the Director for site, facility, and monitoring information. At the discretion of the Director, formats other than electronic may be accepted after a determination has been made that the entity does not have the capability to use the required format. Long-term retention of records in an electronic format may also be required at the Director's discretion. If records are stored in an electronic format, information should be maintained digitally in multiple locations (i.e., backed-up) in accordance with best practices for electronic data.

EPA has previously required electronic reporting of monitoring data in the program implemented under the Unregulated Contaminant Monitoring Rule (64 FR 50611, September 17, 1999, 40 CFR 141.35(e)). EPA believes that the permit applicants will have the resources to provide electronic data to the permit authority and that electronic reporting will reduce future burden related to recordkeeping. In addition, electronic data submissions will facilitate the application review process and make it easier to track progress of GS projects. EPA is committed to providing resources to States to develop the capability to exchange data electronically. Several States have received grants to develop electronic data exchange capability for their current UIC programs.

EPA seeks comment on the requirement for electronic reporting in today's proposed rule. In addition to the above recordkeeping and reporting requirements, EPA considered a requirement for owners or operators of GS sites to provide an annual report during the lifetime of the project, including the post-injection period, regarding the GS operation. This report would describe the status of the operation, any new data about the site including operational and monitoring data, new GS operations, or other activities that may affect the plume movement, any non-compliance, and knowledge gained on GS technology that could contribute to the state of the science on GS. This requirement would address the unique and large-scale nature of CO_2 GS operations, provide the public with information regarding the operation, and facilitate information transfer about GS technology. Although EPA has not included a requirement for this report in today's proposal, EPA seeks comment regarding the necessity for such an annual report.

8. Proposed Well Plugging, Post-Injection Site Care, and Site Closure Requirements

Today's proposal outlines well plugging and post injection site care requirements for CO_2 injection sites after injection activities end. If finalized, these new requirements at 40 CFR 146.92–146.93 would ensure that owners or operators plug wells and manage sites in a manner so that wells do not serve as a conduit for escape of stored CO_2 through unexpected migration from the injection site after injection ends, preventing endangerment of USDWs. EPA is proposing to give owners or operators flexibility in meeting the well plugging requirements by allowing the owner or operator to choose from available materials and tests to carry out the proposed requirements. EPA is not specifying the types of materials or tests that must be used during well plugging because there are a variety of methods that are appropriate and new materials and tests may become available in the future. EPA is also proposing that a combination of a fixed timeframe and performance standard be used to determine the duration of the post-injection site care period.

Steps in Injection Well Plugging: EPA is proposing that owners or operators develop a well plugging plan, and conduct several activities associated with the plugging of GS wells. Injection well plugging must comply with requirements of 40 CFR 144.12(a). The plan includes: (1) Providing notice of intent to plug a well at least 60 days prior to well plugging, (2) flushing each well to be plugged with a buffer fluid, (3) testing the mechanical integrity of each well, (4) plugging each well in a manner that will prevent the movement of fluid that may endanger USDWs, and (5) submitting a plugging report within 60 days after plugging the well or at the time of the next semi-annual report (whichever is less).

Notice of intent to plug: The notice of intent to plug provides a 60-day advance notice to the Director that the owner or operator intends to close the well. If circumstances warrant a shorter time period for giving notice of intent to plug, the Director may approve a shorter notice period.

Well Flushing: Flushing removes fluids remaining in the long string casing that could react with the well components over time. Fluids used for flushing may vary, but must provide sufficient buffering ability to avoid the possibility of reactions due to residual CO_2 or other contaminants in the fluid.

Mechanical Integrity Testing: Mechanical integrity testing allows owners or operators to ensure that the long string casing and cement that are left in the ground after well plugging and site closure maintain integrity over time. For GS wells, there are a number of methods that can be used to test mechanical integrity, including pressure tests with liquid or gas, radioactive tracer surveys, and noise, temperature, pipe evaluation, or cement bond logs.

Well Plugging: The Agency is proposing that owners or operators plug wells in a manner that does not endanger USDWs. This may be accomplished in a number of ways using a number of different types of materials. In the case of GS wells, the plugging materials must be compatible with the fluids with which the materials may be expected to come into contact and plugged to prevent the movement of fluids either into or between USDWs.

Plugging Report: The owner or operator would be required to submit a report which includes information on the implementation of the plugging plan, including the date the well was plugged, the activities conducted to prepare the well for plugging, the materials used for plugging, and the location of the well. The owner or operator may either submit the plugging report as a separate report within 60 days after the plugging activity, or update the semi-annual report required at 40 CFR 146.92 of this proposed rule to include plugging information and submit the updated report within 60 days after the plugging activity. EPA is proposing that the owner or operator must certify that the plugging report is accurate. If the well was plugged by an entity other than the owner or operator, that entity must also certify that the plugging report is accurate.

In addition, EPA is proposing the owners or operators prepare for eventual site closure in advance of the time when well plugging activities take place to ensure that a plan is in place in the event of an unexpected need to plug a well or close the site. Today's proposal would require owners or operators to submit a well plugging plan at the same time the permit application is submitted and to have this plan approved by the Director. As part of the well plugging plan, the owner/operator would be required to conduct certain activities related to well plugging, and provide the information related to well plugging, including the following: (1) Testing methods used to determine that the components of the well will maintain mechanical integrity over time; (2) type and number of plugs to be used; (3) placement of each plug, including the elevation of the top and bottom of each plug; (4) type, grade, and quantity of material to be used in plugging; and (5) method used to put plugs in place. In addition, if for any reason the well plugging activities stated in the plan no longer reflect what is likely to occur upon plugging of the well, the owner or operator would be required to make changes to the plan and submit to the Director for approval before notifying the Director of intent to plug the well.

Post-Injection Site Care: Today's proposal would also require that owners or operators (1) develop a post-injection site care and closure plan, (2) monitor the site following cessation of the injection activity, and (3) plug all monitoring wells in a manner which prevents movement of injection or formation fluids that could endanger a USDW.

The post-injection site care and site closure plan would be required to be submitted as part of the permit application and approved by the Director. It describes several activities associated with the post-injection site care and site closure of GS sites. Activities that would be required in the post-injection site care and site closure plan include: (1) Record of the pressure differential between pre-injection and anticipated post-injection pressures in the injection zone; (2) predicted position of the plume and associated pressure front at the time the site is closed; (3) description of post-injection monitoring location(s), methods, and proposed frequency of monitoring; and (4) schedule for submitting post-injection site care and monitoring

results to the Director. In addition, if for any reason the post-injection site care and site closure activities stated in the plan no longer reflect what is likely to occur upon closing the site, the owner or operator would be required to make changes to the plan and submit the plan to the Director for approval within 30 days of such change. Examples of factors which may require a modified post-injection site care and site closure plan would include changes in injection procedures or volumes or plume movement in an unanticipated direction.

Upon permanent cessation of injection, the owner or operator would either submit an amended post-injection site care and site closure or demonstrate to the Director through monitoring and modeling results that no amendment to the plan is needed. Owners or operators would also be required to use any other information deemed necessary by the Director to make this demonstration.

The post-injection site care and site closure plan would include a description of the monitoring that will occur after injection ceases. The owner or operator would monitor the site to show the position of the CO_2 plume and pressure front and demonstrate that USDWs are not being endangered. A record of the pressures in the injection formation and surrounding areas as well as the pressure decay rate can help the owner or operator determine that the injected fluid does not pose endangerment to USDWs.

Post-Injection Site Care Timeframe: Current UIC regulations do not limit the duration of the post-injection site care period; however, many environmental programs use a 30-year period as a frame of reference. In many cases, a 30-year timeframe has been sufficient to determine that remaining pressure in plugged wells containing liquids will not lift fluid to overlying strata (53 FR 28143, July 26, 1988). However, characterizing post-injection site care timeframes for GS is more challenging. Given the buoyancy of CO_2, viscosity, and large injection volumes associated with GS, the area over which CO_2 will spread in the subsurface is likely to be larger than for existing well classes and therefore, the area over which there is potential for endangerment of USDWs is likely to be greater. The presence of physical and geochemical trapping mechanisms is likely to reduce the mobility of CO_2 over time and research also suggests that pressure within the storage system will drop significantly when injection ceases, thus decreasing the risks of induced seismic activity, and faulting and fracturing and making storage more secure over longer timeframes. However, the timeframe over which this happens is difficult to define because it is based on site-specific considerations.

EPA considered three distinct alternatives for determining post-injection site care and monitoring timeframes (1) establishing a fixed timeframe for post-injection site care; (2) allowing a performance-based approach to the post-injection site care time period; and (3) a combination of fixed timeframe and performance standard.

EPA considered the approach of specifying a fixed duration of time after which the post-injection site care ends. As part of this approach, EPA evaluated four different timeframes: 10, 30, 50, and 100 years.

EPA reviewed studies, industry reports and environmental programs to determine appropriate post-injection site care timeframes. Studies reviewed included those done by: Flett M., Gurton R., and G. Weir. 2007; Obi E.I., and M.J. Blunt. 2006; and Doughty, C. 2007 (see USEPA, 2008d). A review of these studies suggests that the actual time for CO_2 plume stabilization (i.e., slowing down or cessation of plume movement, and/or immobilization of most of the CO_2 mass through various trapping mechanisms) will be very site specific, being influenced by geologic factors such as formation permeability, geochemistry, and the degree of capillary trapping. In addition, predicted results will depend on several modeling considerations and assumptions, and thus will be to some degree model specific. Based on a review of the three studies used for this preliminary analysis, modeling results indicate that the CO_2 plume stabilized on the time frame of 10–100 years after the cessation of injection (USEPA, 2008d).

EPA also reviewed an IOGCC Task Force report which suggests a 10-year time frame for the post-injection site care period which commences when injection ceases until the release of the operator from liability. Alternatively, some environmental programs—including the UIC Program—use a 30-year period as a frame of reference.

While 10 years may be within the timeframe suggested in some studies, there are circumstances under which the potential risks of endangering USDWs will not decline within that timeframe given that stabilization may continue for several decades (USEPA, 2008d). Also, a 30-year timeframe can be appropriate for the types of fluids typically injected under the UIC Program (i.e., fluids that are liquids at standard pressure and temperature). Longer timeframes may be more appropriate for GS wells, because the fluid is likely to be stored in a supercritical phase, the plume for a full-scale GS project will likely be large, and substantial pressure increases will likely be observed during operation. However, once injection ceases, pressure will likely begin to dissipate and 30 years may be enough time for the plume and pressure front to stabilize.

Another option considered by the Agency is to apply a performance standard, i.e., that post-injection site care will continue until the plume is stabilized and cannot endanger USDWs. Current UIC regulations at 40 CFR 146.71 utilize a performance type approach by requiring that the owner or operator of a Class I hazardous well observe and record pressure decay for a time specified by the Director. A similar performance standard could be considered for GS wells. Pressure decay data help to define the appropriate period of regulatory concern, because the likelihood that the injected fluid will migrate into USDWs above or adjacent to the injection zone decreases as injection-induced pressures in the formation decay. The post-injection site care period ends when the models predicting CO_2 movement are consistent with monitoring results demonstrating that there is no potential threat of endangerment to USDWs.

Combination of Fixed Timeframe and Performance Standard: EPA is proposing using a combination of fixed timeframe and a performance standard as described above. EPA is tentatively proposing a post-injection site care (monitoring) period of 50 years with Director's discretion to change that period to lengthen or shorten the 50-year period if appropriate. The default timeframe could be lengthened by the Director if potential for endangerment to USDWs still exists after 50 years or if modeling and monitoring results demonstrate that the plume and pressure front have not stabilized in this period. Conversely, the Director could reduce the 50-year time period if data on pressure, fluid movement, mineralization, and/or dissolution reactions support a determination that movement of the plume and pressure front have ceased and the injectate does not pose a risk to USDWs. EPA requests comment on the proposed use of a tentative 50-year fixed timeframe that could be modified at the Director's discretion based on monitoring and modeling data.

To ensure that the post-injection site care monitoring timeframe is long enough to determine that there is no threat of endangerment to USDWs from injection activities, EPA is proposing a

default post-injection site care period of 50 years. During this 50-year period, the owner or operator would be required to submit periodic reports providing monitoring results and updated modeling results as appropriate until a demonstration of non-endangerment to USDWs can be made. Once the owners or operators provide documentation that demonstrates that the models predicting CO_2 movement are consistent with monitoring results and that there are no longer risks of endangerment to USDWs, they could request that the Director authorize site closure.

EPA is also proposing to allow the Director to shorten or lengthen the 50-year timeframe based on performance of the site. The Director may require that the post-injection site care period extend beyond the 50-year time frame if a demonstration of non-endangerment to USDWs cannot be made. Alternately, if the owner or operator can demonstrate that the remaining pressure front and plume will not endanger USDWs, then owners or operators may request a decreased post-injection site care period.

While EPA considered the 10-year, 30-year, and 100-year timeframes, the Agency is proposing a 50-year timeframe because there are circumstances under which the potential risks of endangerment to USDWs will not decline within 10 years. Furthermore, the time needed to allow pressures to equalize within the subsurface because of the higher levels of mobility of injected CO_2 may exceed 30 years, and EPA wishes to emphasize that site closure cannot occur until monitoring and modeling data establish to the Director's satisfaction that potential risks of endangerment to USDWs have ceased. EPA is not proposing 100 years as the default because EPA believes that in general plume stabilization will occur before this time. However post-injection site care requirements could be extended for 100 years (or longer) if monitoring and modeling information suggest that the plume may still endanger USDWs throughout this period. EPA considers that a 50-year timeframe represents a reasonable mid-point for the default time frame, which may be modified with the approval of the Director based on a demonstration (by the owner or operator) using monitoring and modeling, that the injected CO_2 will not endanger USDWs.

Site Closure: The Director would determine that the post-injection site care period has ended and authorize site closure when the following have occurred:

- The Director receives all information required of the post-injection site care and site closure plan;
- The data demonstrate to the satisfaction of the Director that there is no threat of endangerment to USDWs.

Once the Director approves site closure, the owner or operator is required to submit a site closure report within 90 days. The report would provide documentation of injection and monitoring well plugging; copies of notifications to State and local authorities that may have authority over future drilling activities in the region; and records reflecting the nature, composition, and volume of the injected carbon dioxide stream. The purpose of this report would be to provide information to potential users and authorities of the land surface and subsurface pore space regarding the operation. In addition, the owner or operator of the injection site must record a notation on the deed to the facility property or any other document that is normally examined during title search that will, in perpetuity, provide notification to any potential purchaser of the property information that the land has been used to sequester CO_2.

EPA is requesting comments on the proposed requirements for well plugging, post-injection site care, and site closure, including the proposed requirements for the post-injection time period. In addition, EPA seeks comment on whether the Director should be allowed to shorten the timeframe based on performance information, and whether EPA should require a shorter or longer post-injection period if data suggests the time frame should be adjusted.

9. Proposed Financial Responsibility and Long-Term Care Requirements

Today's proposal would require that owners or operators demonstrate and maintain financial responsibility, and have the resources for activities related to closing and remediating GS sites. EPA is proposing that the rule only specify a general duty to obtain financial responsibility acceptable to the Director, and will provide guidance to be developed at a later date that describes recommended types of financial mechanisms that owners or operators can use to meet this requirement.

Although the SDWA does not have explicit provisions for financial responsibility, as included in RCRA, EPA believes that the general authorities provided under the SDWA authority to prevent endangerment of USDWs include the authority to set standards for financial responsibility to prevent endangerment of USDWs from improper plugging, remediation, and management of wells after site closure. The SDWA authority does not extend to financial responsibility for activities unrelated to protection of USDWs (e.g., coverage of risks to air, ecosystems, or public health unrelated to USDW endangerment). It also does not cover transfer of owner or operator financial responsibility to other entities, or creation of a third party financial mechanism where EPA is the trustee.

Today's proposal would require owners or operators to demonstrate financial responsibility for corrective action described in 40 CFR 146.84 of this notice, including injection well plugging, post-injection site care and site closure, and emergency and remedial response using a financial mechanism acceptable to the Director. The Director would determine whether the mechanism the owner or operator submits is adequate to pay for well plugging, post-injection site care, site closure, and remediation that may be needed to prevent endangerment of underground sources of drinking water.

Owners or operators would no longer need to demonstrate that they have financial assurance after the post-injection site care period has ended. This generally occurs when the Director approves the completed post-injection site care and site closure plan and then determines that the injected fluid no longer poses a threat of endangerment to USDWs (e.g., the fluid no longer exhibits a propensity to move or migrate out of the injection zone to any point where it could endanger a USDW).

The Agency is proposing that the owner or operator periodically update the cost estimate for well plugging, post-injection site care and site closure, and remediation to account for any amendments to the area of review and corrective action plan (40 CFR 146.84), the plugging and abandonment plan, and the post-injection site care and site closure plan (40 CFR 146.93). EPA is also proposing that the owner or operator submit an adjusted cost estimate to the Director if the original demonstration is no longer adequate to cover the cost of the injection well plugging, post-injection site care, and site closure. As proposed, the Director would set the frequency for owner or operator re-demonstration of financial responsibility and resources. It may be appropriate to re-demonstrate financial responsibility on a periodic basis. Such re-demonstration would take into account any amendments to the area of review and corrective action plan (40 CFR 146.84) and adjustments for inflation. It may also be necessary to

adjust cost estimates if the Director has reason to believe that the original demonstration is no longer adequate to cover the cost of the well plugging and post-injection site care and site closure. EPA is also proposing that the owner or operator notify the Director of adverse financial conditions, including but not limited to bankruptcy proceedings, which name the owner or operator as debtor, within 10 business days after the commencement of the proceeding.

EPA plans to develop guidance that is similar to current UIC financial responsibility guidance for Class II owners or operators. Currently, EPA guidance (USEPA, 1990) describes several options owners or operators can use to meet the requirements to demonstrate financial responsibility for well plugging. Financial assurance is typically demonstrated through two broad categories of financial instruments: (1) Third party instruments, including surety bond, financial guarantee bond or performance bond, letters of credit (the above third party instruments must also establish a trust fund), and an irrevocable trust fund; (2) self-insurance instruments, including the corporate financial test and the corporate guarantee.

Supplemental Information: In recent years, the EPA's Office of the Inspector General (OIG) and the U.S. Government Accountability Office (GAO) have raised issues regarding the use of financial responsibility instruments applicable to site closure for several EPA programs. Information regarding these reviews and EPA's responses are available at *http://www.gao.gov/new.items/d03761.pdf; http://www.epa.gov/oig/reports/2001/finalreport330.pdf; http://www.epa.gov/oig/reports/2005/20050926-2005-P-00026.pdf.* The OIG and GAO recommendations suggest that EPA may need to update or provide additional guidance in the following areas: Cost estimation methodology; pay-in period for trust funds; the type of insurance provider that may be used; requirements for acceptable surety bonds and/or their providers; and the way by which corporations demonstrate financial strength/credit worthiness.

In response to evaluations of financial responsibility instruments, EPA's RCRA program has issued a comprehensive financial responsibility strategy to improve the implementation of the financial responsibility requirements, as well as assess whether regulatory changes to certain mechanisms and financial responsibility requirements are warranted. EPA has begun implementing this strategy by providing additional guidance to support implementation and oversight of RCRA financial responsibility programs, providing training to EPA Regions and states, and developing tools (e.g., cost-estimating software) to assist staff in performing reviews of complex cost information.

In addition, EPA's RCRA program has enlisted the experience and expertise of the Environmental Finance Advisory Board (EFAB) to evaluate specific issues related to financial responsibility. EFAB has completed assessments of the corporate financial test and captive insurance, and is currently in the process of undertaking analyses of third-party insurance and uncertainties associated with estimating costs that must be covered by the financial assurance requirements. In January 2006, the EFAB summarized its findings and recommendations on the corporate financial test, as a means of demonstrating financial assurance. EFAB's recommendations in this area were not based on specific failures of the test, but on their ''knowledge of prudent financial practices and the availability of existing expertise in the financial services sector.'' In March 2007, the EFAB summarized its preliminary findings and conclusions on its review of insurance, specifically captive insurance, as a means of demonstrating financial assurance. The Agency plans to continue to track these efforts by the EFAB, because they may provide key directions for future GS requirements with respect to financial responsibility.

EPA is considering updating mechanisms for demonstrating financial responsibility for GS projects. EPA is evaluating revising guidance to address the current financial responsibility requirements on the following topics: Cost estimation for plugging, pay-in period for trust funds, insurance providers, surety bonds and/or their providers, and corporate demonstration of financial strength/credit worthiness.

Cost estimation for plugging: One of the most critical aspects to ensuring that owners or operators have the resources to pay for injection well plugging is cost estimation. Sound cost estimation requirements ensure that sufficient funds are set aside in the financial assurance instrument to properly undertake covered activities (e.g., plugging and post-injection site care) at any time during the operating life of the facility and during the post-injection site care period.

EPA is assessing whether the cost estimate underpinning financial assurance should be based on the cost of retaining an independent, third party to conduct covered activities, such as well plugging. EPA also is considering provisions for annual inflationary adjustments and is weighing the inclusion of a third-party certification requirement, or provisions for a third-party audit, in cases where the owner or operator self-prepares its cost estimate. Revision in this area will reduce the possibility of undervalued cost estimates. EPA will also consider EFAB's findings on this issue when they become available.

Pay-in period for trust funds: Current UIC guidance describes trust funds as a form of financial assurance. The owner or operator may deposit funds into the trust fund in phases; that is, either over the term of the initial permit or over the remaining operating life of the injection well, as estimated in the well plugging plan, whichever period is shorter. Because of the possibility that the owner or operator may face financial distress prior to the trust being fully funded, EPA is considering a guidance approach that would recommend adopting a pay in period of three years for GS projects, consistent with other similar programs in the Agency.

Insurance providers: Current UIC regulations for Class I hazardous waste injection allow for the use of insurance for purposes of demonstrating financial responsibility. However, insurance was not included as part of the guidance provided for Class II injection because this insurance mechanism was and still is, rarely used for the purpose of demonstrating financial assurance for injection wells. EPA is assessing whether to provide guidance on the use of insurance providers and, if so, whether to update eligibility requirements for insurers for GS wells consistent with other current Federal agency practices.

In addition, EPA is evaluating recommendations from the Office of the Inspector General (OIG), the Government Accountability Office (GAO), and EFAB on the use of insurance as a financial responsibility mechanism. EPA will also consider any additional recommendations EFAB may have on the use of third party insurance.

Surety bonds and/or their providers: Current UIC guidance describes several options for using surety bonds for purposes of demonstrating financial responsibility. The regulations at 40 CFR 144 for Class I wells stipulate that eligible surety bond providers must be listed by the U.S. Department of Treasury on its Circular 570. Because surety bonds are a specialized line of insurance, EPA is assessing whether additional eligibility requirements for sureties, similar to those under consideration for insurers, are necessary for GS wells.

Corporate demonstration of financial strength/credit worthiness: UIC program guidance also describes options for owners or operators to self-assure their obligations to plug the well. To be approved by the Director, the owner or operator would likely need to self-assure in the form of either a corporate financial test filed by the owner or operator of the injection well, or a corporate guarantee (including a corporate financial test) filed by the parent corporation of the owner or operator of the injection well. A corporate guarantee may also be provided by a ''sibling'' corporation (that is a company that shares the same higher-tier parent) or a company with whom they have a substantial business relationship. The guidance explains that demonstrating self-assurance typically includes either use of a bond rating or a series of financial ratios. Both the UIC financial responsibility provisions for Class I hazardous waste injection and the RCRA subtitle C provisions allow the use of self-assurance through a financial test or corporate guarantee.

EPA is assessing whether a financial ratings threshold for all companies using a self-guarantee, similar to those used by other Federal agencies, is appropriate. The Agency also is considering what constitutes an appropriate financial rating threshold, and whether a financial rating greater than BBB or Baa (i.e., the current rating threshold established under the UIC regulations) is appropriate for GS wells.

In addition, EPA is considering whether adjustments should be made to the absolute net worth threshold of $10 million currently required under the UIC regulations. Specifically, EPA is assessing the net worth requirements of other Federal agencies and EPA programs to determine whether to make adjustments. For example, the Minerals Management Service within the Department of the Interior, requires a net worth threshold at least 10 times the amount of the obligations being assured (see 30 CFR 253.25). Additionally, the Agency is in the process of evaluating potential changes to the RCRA subtitle C financial test requirements, including an option recommended by EFAB to require a financial ratings threshold for all companies using a financial test to self-assure their environmental obligations. EPA will consider the outcome of that process for possible application to GS wells guidance.

EPA is requesting comments on whether financial responsibility mechanisms to be recommended in EPA guidance should be adjusted in the manner described, whether additional instruments should be included, and whether other adjustments to the financial responsibility mechanisms should be considered, all subject to EPA's authority under the SDWA. The Agency is also requesting comment on allowing separate financial demonstrations to be submitted for the plugging of the injection well and for the post-injection site care requirements. Since post-injection site care has the potential to extend many years into the future, subsequent to the time a permit is issued, the Agency believes that it may be advantageous to require the approval of the well plugging financial demonstration at permit issuance and the post-injection site care financial demonstration at a later time (e.g., within 180 days of notifying the Director that the well will be plugged and abandoned). Trying to determine the cost for post-injection site care, possibly 30 to 50 years in the future, could be difficult, as could the approval of a financial demonstration.

Considerations for Long-term Care: While EPA has authority to require financial responsibility for well plugging and post-injection site care (e.g., monitoring, remediation) to ensure the protection of USDWs, the SDWA does not provide authority under financial responsibility or other provisions for coverage of risks to air, ecosystems, or public health. Thus, while obligation for financial responsibility ends for owners or operators after the post-injection site care period has ended and the Director has authorized site closure, owners or operators may still be held responsible after the post-injection site care period has ended (e.g., for unanticipated migration that endangers a USDW). In addition, the SDWA does not provide EPA with the authority to transfer liability from one entity to another. Trust responsibility for potential impacts to USDWs remains with the owner or operator indefinitely under current SDWA provisions.

Responsibility for long-term care is often considered an important topic related to GS because of cost implications of indefinite responsibility for GS sites. Because of the focus of the SDWA on endangerment to USDWs and the absence of provisions to allow transfer of liability, stakeholders have expressed interest in alternative instruments for addressing financial responsibility after the post injection care period has ended. As a result of the interest in alternative instruments, including indemnity programs, EPA has compiled information on a variety of alternative instruments not currently available under the SDWA. This discussion is in *Approaches to GS Site Stewardship After Site Closure* in the docket for this proposed rule. EPA has not determined whether any of the models are appropriate for GS wells, however, EPA is aware that these models may contain important concepts that may become the model for future strategies for long-term care.

B. Adaptive Approach

To meet the potentially fast pace of implementation of GS, EPA is using an adaptive approach to regulating CO_2 injection for GS. In 2007, EPA issued UIC Program Guidance #83, which allows limited-scale experimental GS projects to proceed under the Class V experimental technology well classification. An adaptive approach allows regulatory development to move ahead in time to meet the future demand for permits, while recognizing the need to continue to gather data from pilot projects and other research as it becomes available.

EPA will continue to evaluate ongoing research and demonstration projects, review input received on this proposal, and gather other relevant information, as needed, to make refinements to the rulemaking process. If appropriate, EPA will publish notices to collect new data before issuing a final rule on CO_2 injection for GS. EPA plans to issue a final rule in advance of full-scale deployment of GS. EPA will track implementation of the final GS rule to determine whether these requirements continue to meet SDWA objectives and, if not, revise them as needed. If new information gathered during implementation suggests the requirements need revisions, EPA will initiate the appropriate procedure, including public notice and comment.

IV. How Should UIC Program Directors Involve the Public in Permitting Decisions for GS Projects?

Public participation has been an important part of the UIC Program since its inception. Public participation has a number of benefits, including (1) providing citizens with access to decision-making processes that may affect them; (2) enabling the owner/operator and the permit writer to educate the community about the project; (3) ensuring that the public receives adequate information about the proposed injection; (4) allowing the permitting authority to become aware of public viewpoints, preferences and environmental justice concerns; and (5) ensuring that public viewpoints, preferences and concerns have been considered by the decision-making officials.

GS of CO_2 is a new technology that is unfamiliar to most people, and maximizing the public's understanding of the technology can result in more meaningful public input and constructive participation as new GS projects are proposed and developed. Critical to the success of GS is early and frequent involvement through education and information exchange. Such exchange can provide early insight into how the local community and surrounding communities perceive potential environmental, economic or health effects.

Owners or operators and permitting authorities can maximize the public participation process, thereby increasing the likelihood of success, by integrating social, economic, and cultural concerns of the community into the permit decision making process.

EPA examined existing requirements for public participation across the Agency's environmental programs. EPA is proposing to adopt the requirements at 40 CFR Part 25 and the permit procedures at 40 CFR Part 124 for long-term storage of CO_2. Under today's proposal, the permitting authority would be required to provide public notice and opportunity for public input. This includes providing public notice of pending actions via newspaper advertisements, postings, or mailings to interested parties and providing a fact sheet or statement of basis that describes the planned injection operation and the principal facts and issues considered in preparing the draft permit. Under today's proposal, permitting authorities would provide a 30-day comment period during which public hearings may be held. At the conclusion of the comment period, the permitting authority would be required to prepare a responsiveness summary that becomes part of the public record.

EPA recognizes that advances in information technology and the available avenues for communication have changed the way that people receive news and information and that new means of engaging stakeholders are now available. Roundtables, constituency meetings, charrettes (workshops designed to involve the public in a planning or design process), information gathering sessions, cable TV, and the Internet are just a few tools the Agency has come to rely upon over the past decade to ensure more effective stakeholder involvement and public participation. These technologies provide a host of opportunities to educate the public about and involve them in GS technology and pending decisions.

In addition, electronic information technology has become widely available to inform and involve the public. Web pages, discussion boards, list serves, and broadcast text messages via cell phones are all available to keep the public informed.

EPA encourages permit applicants and permit writers to use the Internet and other available tools to explain potential GS projects; describe the technology; and post information on the latest developments including schedules for hearings, briefings, and other opportunities for involvement.

EPA requests comment on adopting the existing requirements for public participation at 40 CFR Part 25 and 40 CFR Part 124 and whether additional requirements should be included to reflect the availability of new tools for disseminating and gathering information. Such tools include cable networks, the Internet, and other new technology. EPA also requests comment on ways to enhance the public participation process, including engaging communities in the site characterization process as soon as candidate locations are identified.

V. How Will States, Territories, and Tribes Obtain UIC Program Primacy for Class VI Wells?

As described in section II.C above, EPA may approve primary enforcement authority for States, Territories, and Tribes that wish to implement the UIC Program. To gain authority for Class VI wells, States, Territories, and Tribes will be required to show that their regulations are at least as stringent as, and may be more stringent than, the proposed minimum Federal requirements (e.g., inspection, operation, monitoring, and recordkeeping requirements that well owners or operators must meet). Such Primacy States, Territories, and Tribes are authorized under section 1422 of the SDWA.

Historically, EPA has approved State and Territorial UIC Program primacy in whole or in part as follows: (1) For all five classes of wells under section 1422 of SDWA; (2) for Classes, I, III, IV, and V under Section 1422 of SDWA; or for (3) Class II wells only under section 1425 of SDWA. Several States with large Class II inventories may have primacy for a combination of wells, i.e., authority under section 1425 for their Class II wells and 1422 authority for other well classes.

EPA is aware that some States may wish to obtain primacy for only Class VI wells. Section 1422 does not explicitly allow for approval of State UIC programs for individual well classes, however there appears to be no express prohibition.

There may be benefits to parsing out primacy for Class VI wells, however EPA has not made a decision on this. Allowing States, Territories, and Tribes to acquire primacy for only Class VI wells may encourage them to assume the responsibility of implementation and provide for a more comprehensive approach to managing CCS projects (e.g., capture, transportation, and geologic sequestration). EPA is seeking comment on the merits and possible disadvantages of allowing primacy approval for Class VI wells independent of other well classes.

VI. What Is the Proposed Duration of a Class VI Injection Permit?

Existing UIC regulations allow injection wells to be permitted individually or as part of an area permit. Because GS projects would likely use multiple injection wells per project, the Agency anticipates that most owners or operators would seek area permits for their injection wells.

Additionally, 40 CFR 144.36 sets forth the permit duration for the current classes of injection wells. Permits for Class I and Class V wells are effective for up to 10 years. Permits for Class II and III wells may be issued for the operating life of the facility; however they are subject to a review by the permitting authority at least once every 5 years.

Implementation of the AoR and corrective action plan as described in today's proposal would involve periodic re-evaluation of site data, status of corrective action, monitoring results and modification of operating parameters, as needed. These periodic evaluations would provide the same effect and assurances obtained through the permit renewal process without the associated administrative burden. Additionally, the frequent level of ongoing interaction between the owner or operator and the Director as required by the AoR and corrective action plan is more substantial than that required for other classes of injection wells. The periodic evaluations and revisions driven by the various rule-required plans and the underlying computational model should provide abundant opportunities for technical reassessment by operators and regulators, and through permit amendments and modifications.

Therefore, EPA proposes that Class VI injection well permits would be issued for the operating life of the GS project including the post-injection site care period. EPA seeks comment on the merits of this approach.

VII. Cost Analysis

While today's proposed rulemaking proposes regulations for the protection of USDWs, it does not require entities to sequester CO_2. Thus, the costs and benefits associated with protection of USDWs is the focus of this proposed rule and the costs associated with the mitigation of climate change are not directly attributable to this proposed rulemaking.

To calculate the costs and benefits of compliance for today's proposal, EPA selected the existing UIC program Class I industrial waste disposal well category as the baseline for costs and benefits. EPA used this baseline to determine the incremental costs of today's proposal.

The incremental costs of the proposed rule include elements such as geologic characterization, well construction and operation, monitoring equipment and procedures, well plugging, and post-injection site care (monitoring). The benefits of this proposed rulemaking could include the decreased risk of endangerment to USDWs and the decreased potential for health-related risks associated with contaminated USDWs.

The scope of the Cost Analysis includes the full range of an injection project, from the end of the CO_2 pipeline at the GS site, to the underground injection and monitoring, as it occurs during the time frame of the analysis. The scope does not include capturing or purifying the CO_2, nor does it include transporting the CO_2 to the GS site.

The 25-year timeframe of the Cost Analysis is comparable to the timeframes used in recent drinking water-related economic analyses. Costs attributed to the proposed rule are inclusive of geologic sequestration projects begun during the 25 years of the analysis and all cost elements that occur during the 25-year timeframe are discounted to present year values. EPA recognizes the need to revisit the Cost Analysis prior to the promulgation of a final rule as new data become available. The number of GS projects projected over the timeframe of the Cost Analysis includes pilot projects and other projects driven by regulations that are in place today. Projections of GS projects may need to be revisited in light of any new climate change legislation prior to promulgation of a final rule. However, it is important to note that the proposed rule does not require anyone to inject CO_2.

A. National Benefits and Costs of the Proposed Rule [1]

1. National Benefits Summary

This section summarizes the risk (and benefit) tradeoffs between compliance with existing requirements and the preferred regulatory alternative (RA) selected during the regulatory development process. Evaluations in the Cost Analysis include a non-quantitative analysis of the relative risks of contamination to USDWs for the regulatory alternatives under consideration. The expected change in risk based on promulgation of the preferred RA and the potential nonquantified benefits of compliance with this RA are also discussed.

a. Relative Risk Framework—Qualitative Analysis

Table VII–1 below presents the estimated relative risks of the preferred regulatory alternative selected for compliance with the proposed rule relative to the baseline. The term ''baseline'' in the exhibit refers to risks as they exist under current UIC Program regulations for Class I industrial wells. The term ''decrease'' indicates the change in risk relative to this baseline. The Agency has used best professional judgment to qualitatively estimate the relative risk of each regulatory alternative. This assessment was made with contributions from a wide range of injection well and hydrogeological experts, ranging from scientists and well owners or operators to administrators and regulatory experts.

TABLE VII–1.—RELATIVE RISK OF REGULATORY COMPONENTS FOR PREFERRED PROPOSED REGULATORY ALTERNATIVE VERSUS THE CURRENT REGULATIONS

Baseline	Direction of change in risk (relative to baseline)
1. Geologic Characterization	
Geologic system consisting of a receiving zone; trapping mechanism; and confining system to allow injection at proposed rates and volumes.	Decrease.
Operators provide maps and cross sections of local and regional geology, AoR, and USDWs; characterize the overburden and subsurface; and provide information on fractures, stress, rock strength, and in situ fluid pressures within cap rock.	
2. Area of Review (AoR) Study and Corrective Action	
The AoR determined as either a ¼ mile radius or by mathematical formula. Identify all wells in the AoR that penetrate the injection zone and provide a description of each; identify the status of corrective action for wells in the AoR; and remediate those posing the greatest risk to USDWs.	Decrease.
3. Injection Well Construction	
The well must be cased and cemented to prevent movement of fluids into or between USDWs and to withstand the injected materials at the anticipated pressure, temperature and other operational conditions.	Decrease.
4. Well Operation	
Limit injection pressure to avoid initiating new fractures or propagate existing fractures in the confining zone adjacent to the USDWs.	Decrease.
5. Mechanical Integrity Testing (MIT)	
Demonstrate internal and external mechanical integrity, conduct a radioactive tracer survey of the bottom-hole cement, and conduct a pressure fall-off test every 5 years.	Decrease.
6. Monitoring	
Monitor the nature of injected fluids at a frequency sufficient to yield data representative of their characteristics; Conduct ground water monitoring within the AoR. Report semi-annually on the characteristics of injection fluids, injection pressure, flow rate, volume and annular pressure, and on the results of MITs, and ground water and atmospheric monitoring.	Decrease.
7. Well Plugging	

[1] Although both estimated costs and benefits are discussed in detail, the final policy decisions regarding this rulemaking are not premised solely on a cost/benefit basis.

TABLE VII–1.—RELATIVE RISK OF REGULATORY COMPONENTS FOR PREFERRED PROPOSED REGULATORY ALTERNATIVE VERSUS THE CURRENT REGULATIONS—Continued

Baseline	Direction of change in risk (relative to baseline)
Ensure that the well is in a state of static equilibrium and plugged using approved methods. Plugs shall be tagged and tested. Conduct post-injection site care monitoring to confirm that CO_2 movement is limited to intended zones.	Decrease.
8. Financial Responsibility	
Demonstrate and maintain financial responsibility and resources to plug the injection well and for post-injection site care.	Decrease.
Overall	Decrease.

Note: See Chapter 2 of the GS proposed rule Cost Analysis for a detailed description of the components for each regulatory alternative.

In the consideration of benefits of the proposed GS rule, the direction of change in risk mitigation compared to the baseline regulatory scenario was assessed for each component of the four regulatory alternatives considered. An overall assessment for each alternative as a whole requires consideration of the relative importance of risk being mitigated by each component of the proposed rule.

As shown in Table VII–1, EPA estimates that under the Preferred Alternative, RA3, risk will decrease relative to the baseline for each of the eight components assessed.

b. Other Nonquantified Benefits

Promulgation of the proposed rule will result in direct benefits, that is, protection of the USDWs which EPA is required by statute to protect; and indirect benefits, which are those protections afforded to entities as a by-product of protecting USDWs. Indirect benefits are described in the *Risk and Occurrence Document for Geologic Sequestration Proposed Rulemaking* (USEPA, 2008e) and summarized in Chapter 4 of the GS Rule Cost Analysis. They include mitigation of potential risk to surface ecology and to human health through exposure to elevated concentrations of CO_2. Potential benefits from potential climate change mitigation are not included in the assessment.

2. National Cost Summary

a. Cost of Preferred Regulatory Alternative

EPA estimated the incremental, one-time, capital, and operation and maintenance (O&M) costs associated with today's proposed rulemaking. As Table VII–2 shows, the total incremental cost associated with the Preferred Alternative is $15.0 million and $15.6 million, using a 3 percent and 7 percent discount rate, respectively. These costs are in addition to the baseline costs that would be incurred if CO_2 sequestration was instead subject to the current rules for UIC Class I industrial wells. As can be seen from Table VII–2, today's proposed rule would increase the costs of complying with UIC regulations for these wells from approximately a baseline of $32.3 million to $47.3 million using a 3 percent discount rate, which is an increase of 46%. EPA believes these increased costs are needed to address the unique issues associated with CO_2 geological sequestration. The costs of the other regulatory alternatives considered are detailed in the Cost Analysis, along with a discussion of how EPA derived these estimates.

TABLE VII–2.—INCREMENTAL COSTS OF PREFERRED REGULATORY ALTERNATIVE FOR 22 PROJECTS

[2007$, $million]

Regulatory alternative	One-time costs	Capital costs	O&M costs	Total
	3 Percent Discount Rate			
Baseline	$2.5	$10.6	$19.2	$32.3
Alternative 3	3.8	15.5	28.1	47.3
Alt 3—Incremental	1.3	4.9	8.8	15.0
	7 Percent Discount Rate			
Baseline	$2.9	$12.7	$18.0	$33.6
Alternative 3	4.2	18.6	26.4	49.2
Alt 3—Incremental	1.3	5.9	8.4	15.6

Table VII–3 presents a breakout of the incremental costs of the Preferred Alternative by rule component.

- Monitoring activities account for 60 percent of the incremental regulatory costs. Most of this cost is for the construction, operation, and maintenance of corrosion-resistant monitoring wells. This cost also includes tracking of the plume and pressure front as well as the cost of incorporating monitoring results into fluid flow models that are used to reevaluate the AoR. These activities are a key component of decreasing risk associated with GS because they facilitate early detection of unacceptable movement of CO_2 or formation fluids.
- The next largest cost component of the Preferred Alternative is injection well operation, accounting for 22 percent of the total incremental cost. This component ensures that the wells operate within safety parameters and the injection does not cause unacceptable fluid movement.
- Well plugging and post-injection site care activities, which ensure that the injection well is properly closed in a way that addresses the corrosive

nature of the CO_2 and does not allow it to serve as a conduit for fluid movement, account for 5 percent of the total incremental cost of RA 3.

• Mechanical Integrity Testing, including continuous pressure monitoring, which can provide timely warning that CO_2 may have compromised the well, accounts for an additional 4 percent of the cost.

• Construction of GS wells using the corrosion resistant design and materials necessary to withstand exposure to CO_2 accounts for 4 percent of the incremental cost of the Preferred Alternative.

TABLE VII–3.—INCREMENTAL RULE COSTS OF PREFERRED REGULATORY ALTERNATIVE FOR 22 PROJECTS BY RULE COMPONENT

[2007$, $million]

Regulatory alternative	Rule component									
	Geologic site characterization	Monitoring	Injection well construction	Area of review	Well operation	MIT	Well plugging and post-injection site care	Financial responsibility [1]	Permitting authority admin	Total
	3 Percent Discount Rate									
Baseline	$0.7	$1.8	$10.4	$0.6	$18.5	$0.1	$0.1	$0.0	$0.1	$32.3
Alternative 3	1.2	10.9	11.0	0.7	21.8	0.7	0.9	0.0	0.1	47.3
Alt 3 Incremental	0.4	9.1	0.6	0.1	3.3	0.6	0.8	0.0	0.0	15.0
Incremental—% of Total	3%	60%	4%	1%	22%	4%	5%	0%	0%	100%
	7 Percent Discount Rate									
Baseline	$0.9	$2.1	$12.5	$0.6	$17.3	$0.1	$0.1	$0.0	$0.1	$33.6
Alternative 3	1.4	12.0	13.3	0.8	20.3	0.7	0.7	0.0	0.1	49.2
Alt 3 Incremental	0.5	9.9	0.8	0.2	3.0	0.6	0.6	0.0	0.0	15.6
Incremental—% of Total	3%	63%	5%	1%	19%	4%	4%	0%	0%	100%

[1] Costs related to demonstration of Financial Responsibility are less than $100,000 in annualized terms.

b. Nonquantified Costs and Uncertainties in Cost Estimates

The purpose of the GS proposed rule is to mitigate any risk introduced by CO_2 GS activity to the quality, and indirectly the quantity, of current and potential future USDWs. Furthermore, the rule proposes requirements that are intended to provide redundant safeguards. In the rare case where the rule, if finalized, is non-implementable or not readily comprehensible, contamination could occur to a USDW. In that case, the cost of cleaning up the USDW or finding an alternative source of drinking water could be attributable to the rule. Based on data from States regarding implementation of the UIC program and current research, EPA considers the likelihood of this occurring very small, and has not quantified this risk.

Should the final GS rule somehow impede CO_2 GS from happening, then the opportunity costs of not capturing the benefits associated with GS of CO_2 could be attributed to the regulations; however, the Agency has tried to develop a proposed rule that balances risk with practicability and economic considerations, and believes the probability of such impedance is very low. If finalized, the GS rule would ensure protection of USDWs from GS activities while also providing regulatory certainty to industry and permitting authorities and an increased understanding of GS through public participation and outreach. Thus, EPA believes the proposed rule will not impede CO_2 GS from happening and has not quantified such risk.

Uncertainties in the analysis are included in some of the basic assumptions as well as some detailed cost items. Uncertainties related to economic trends, the future rate of CCS deployment, and GS implementation choices may affect three basic assumptions on which the analysis is based: (1) The estimated number of projects that will be affected by the GS proposed rule; (2) the labor rates applied; and (3) the estimated number of monitoring wells to be constructed per injection well to adequately monitor in a given geologic setting.

First, the number of projects that will deploy from 2012 through 2036 may be significantly underestimated in this analysis given the uncertainty in future deployment of this technology. The current baseline assumption is that 22 projects will deploy during the 25-year period, as described in Chapter 3 of the proposed rule Cost Analysis and explained in detail in the Geologic CO_2 Sequestration Activity Baseline (USEPA, 2008f) document.

Second, the labor rate adopted for each of the labor categories described in Section 5.2.1 of the Cost Analysis (Geoscientist, Geological Engineer, State Geologist, and Agency Geologist) may be underestimated. The practice of CO_2 injection represents an activity that, although already practiced widely in some contexts (i.e., EOR), is expected to expand rapidly in the coming years. This expansion may be exponential under certain climate legislative scenarios, which may lead to shortages in labor and equipment in the short term, resulting in rapid cost escalation for many of the cost components discussed in this chapter. (Anecdotal evidence based on discussions with industry representatives suggests that there may already be labor shortages developing in some critical disciplines.) Because the cost analyses presented in this chapter are based on current industry costs, the level and pace of price responses as the level of CO_2 GS increases represent a highly uncertain component in the cost estimates presented in this chapter.

Third, the Agency assumes three monitoring wells per injection well for the purpose of estimating national costs; however, the Agency recognizes that

operators and primacy agency Directors may choose more or fewer monitoring wells depending on project site characteristics. Because the monitoring wells and associated costs represent a significant component of the Cost Analysis, the Agency acknowledges that this factor may be significant in the overall uncertainty of the Cost Analysis. EPA requests comment on whether three monitoring wells per injection well is an appropriate costing assumption.

Additional uncertainties correspond more directly to specific assumptions made in constructing the cost model. If the assumptions for such items are incorrect, there may be significant cost implications outside of the general price level uncertainties discussed above. These cost items are described in section 5.9.2 of the GS proposed rule Cost Analysis.

c. Supplementary Cost Information

To better establish the context in which to evaluate the Cost Analysis for this proposal, we consider three types of costs that are not accounted for explicitly for this proposed rule: (1) Costs that are incurred beyond the 25-year timeframe of the Cost Analysis, (2) costs that could arise due to a higher rate of deployment of CCS in the future, and (3) the proportion of overall CCS costs attributable to the proposed requirements. Because geologic sequestration of CO_2 is in the early phase of development, and given the significant interest in research, development, and eventual commercialization of CCS, EPA provides a preliminary discussion of the impact of these costs below.

The Cost Analysis for this proposed rule explores costs that might be incurred during a 25-year timeframe.[2] When analyzing costs for a commercial size sequestration project that begins in year one of the Cost Analysis, EPA assumes that the first year is a construction period, followed by 20 years of injection, followed by 50 years of post-injection site care as indicated in the proposal. The 20-year injection period reflects the assumption that a source such as a coal-fired power plant, with a potential operational lifetime of 40 to 60 years, would plan for the sequestration of only half of its emissions at a time, rather than incur those costs all at once. EPA requests comment on this assumption. Given the 25-year timeframe of the analysis, only the first four years of post-injection care period would be captured in the Cost Analysis for a project beginning in year 1, and fewer or no years of post-injection care for a project beginning later in the 25-year analytical time frame. Based on estimates of the first four years of the post-injection care period, EPA estimates that the average costs for one large deep saline project incurred beyond the 25-year timeframe of the Cost Analysis are approximately \$0.30/t CO_2 for the remaining 46 years of post-injection site care. The full amount of the 46 years of post-injection site care is incremental to the baseline. The incremental sequestration costs above the baseline, over the full lifetime of the sequestration project, are estimated to be \$1.20/t CO_2. Thus the 25-year timeframe captures approximately 75% of the lifetime incremental costs associated with implementing this rule. It should be noted that the longer the time horizon over which costs are estimated, the greater the uncertainty surrounding those estimates.

The Cost Analysis assumes that 22 projects will inject 350 Mt CO_2 cumulatively over the next 25 years.[3] The start years of these projects, for both pilot and large sizes, are staggered over the 25 years.[4] Based on the assumed deployment schedule, the analysis captures the full injection periods for three large-scale projects (with an injection period of 20 years), 12 pilot projects (with an injection period of seven years), and partial injection periods for the remaining seven projects. While the baseline injection amount represents a significant step towards demonstrating the feasibility of CCS, it represents a small amount of current CO_2 emissions in the U.S.

The U.S. fleet of 1,493 coal-fired generators emits 1,932 Mt CO_2 per year. The technical or economic viability of retrofitting these or other industrial facilities with CCS is not the subject of this proposed rulemaking. However, if some percentage of these facilities undertook CCS, they (or the owner or operator of the CO_2 injection wells) would be subject to the UIC requirements. For example, if 25% of these facilities undertook CCS (assuming a 90% capture rate and the incremental proposed rule sequestration costs outlined in Table VII–4) the incremental sequestration costs associated with meeting the proposed Class VI requirements, assuming they are finalized, would be on the order of \$500 million. Similarly, if 100% of these plants undertook CCS, the incremental costs would be on the order of \$2 billion, although it is unlikely that all coal plants would deploy CCS simultaneously. These preliminary cost estimates represent the annualized incremental cost of meeting the additional sequestration requirements in the proposed rule that would be incurred over the lifetime of the sequestration projects, assuming that all sequestration projects begin in the same year. These cost estimates were not generated from a full economic analysis or included in the Cost Analysis for this proposal, due to the uncertainty of what percentage, if any, of such facilities will deploy CCS in the future. These estimates represent a snapshot of potential costs assuming 25% or 100% of all plants undertake CCS beginning in the same year, and do not take into consideration CCS deployment rates and project-specific costs. Actual annualized costs incurred as CCS deploys in the future could be higher or lower, depending on a number of factors including deployment rates, capital and labor cost trends, and the shape of the learning curve.

Based on current literature, sequestration costs are expected to be a small component of total CCS project costs. Table VII–4 shows example total CCS project costs broken down by capture, transportation, and sequestration components. The largest component of total CCS project costs is the cost of capturing CO_2 (\$42/t CO_2 for capture from an Integrated Gasification Combined Cycle power plant[5]). Transportation costs vary widely depending on the distance from emission source to sequestration site, but we can use a long-term average estimate of \$3/t CO_2.[6] We estimate total sequestration costs for a commercial size deep saline project to be approximately \$3.40/t CO_2, of which approximately \$1.20/t CO_2 is attributable to complying with requirements of this proposed rule (including the full 50 years of post-injection site care). Based on the project costs outlined in Table VII–4, the proposed requirements amount to approximately 3% of the total CCS project costs.

[2] A detailed discussion of timeframe over which the proposed requirements were estimated can be found in the Cost Analysis.

[3] A more detailed discussion of these projects can be found in the Cost Analysis.

[4] A detailed table of the scheduled deployment of projects assumed in the baseline over the 25-year timeframe can be found in Exhibit 3.1 of the Cost Analysis.

[5] Cost and Performance Baseline for Fossil Energy Plants, Vol. 1, DOE/NETL–2007/1281, May 2007.

[6] On the Long-Term Average Cost of CO_2 Transport and Storage, JJ Dooley, RT Dahowski, CL Davidson, Pacific Northwest National Laboratory Operated for the U.S. Department of Energy by Battelle Memorial Institute, PNNL–17389, March 2008.

TABLE VII–4.—EXAMPLE TOTAL CCS PROJECT COSTS

Example Total CCS project costs (including capture at an IGCC plant, transportation, and deep saline reservoir at commercial scale sequestration)	Cost over lifetime of project ($/t$CO_2$)	Percentage of total CCS project cost (%)
Capture (IGCC plant)	$42.00	87
Transportation Estimate	3.00	6
Baseline Sequestration	2.20	4
Incremental Proposed Rule Sequestration Requirements	1.20	3
Total CCS Project Cost	48.40	.....

B. Comparison of Benefits and Costs of Regulatory Alternatives of the Proposed Rule

a. Costs Relative to Benefits; Maximizing Net Social Benefits

Because EPA lacks the data to perform a quantified analysis of benefits, a direct numerical comparison of costs to benefits cannot be done. Costs can only be compared to qualitative relative risks as discussed in section VII–1.

Compared to the baseline, RA3 provides greater protection to USDWs because it is specifically tailored to the injection of CO_2. The current regulatory requirements do not specifically consider the injection of a buoyant corrosive fluid. In particular, RA3 includes increased monitoring requirements that provide the amount of protection the Agency estimates is necessary for USDWs. As described in the prior section (A. National Benefits and Costs of the Proposed Rule), monitoring requirements account for 60 percent of the incremental regulatory costs, of which 70 percent is incurred for the construction, operation, and maintenance of monitoring wells, and the other 30 percent for tracking of the plume and pressure front through complex modeling at a minimum of every 10 years for all operators (the cost model assumes every 5 years) and monitoring for CO_2 leakage. Public awareness of these protective measures would be expected to enhance public acceptance of CO_2 GS.

RA1 and RA2 do not provide the specific safeguards against CO_2 migration that RA3 does because of a significantly greater amount of discretion allowed to Directors and operators for interpreting requirements, and less stringent requirements for some compliance activities. (Only RA3 and RA4 require the periodic complex modeling exercise for tracking the plume, for example.) RA4 provides greater safeguards against CO_2 migration, but at a much higher cost.

b. Cost Effectiveness and Incremental Net Benefits

RA1 and RA2 provide lower costs than RA3 but at increased levels of risk to USDWs. Although RA4 has more stringent requirements, EPA does not believe that the increased requirements and the increased costs are necessary to provide protection to USDWs. Therefore EPA believes that RA3 is the best alternative.

C. Conclusions

RA3 provides a high level of protection to USDWs overlying injection zones of CO_2. It does so at lower costs than the more stringent RA4 while providing significantly more protection than RA1 or RA2. Therefore EPA believes RA3 is the preferred regulatory alternative. The Agency seeks comment on cost assumptions in today's proposal.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act (PRA)

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2309.01.

The information collected as a result of this proposed rule will allow EPA and State permitting authorities to review geologic information about a proposed GS site to evaluate its suitability for safe and effective GS. It also allows the Agency to verify throughout the life of the injection project that UIC protective requirements are in place and that USDWs are protected. The Paperwork Reduction Act requires EPA to estimate the burden on owners or operators of CO_2 GS wells, and States, Territories, and Tribes with primacy. Burden is defined at 5 CFR 1320.3(b).

For GS well operators applying for permits, this burden includes the time, effort, and financial resources needed to collect information to furnish EPA with the following information:

—UIC permit applications and information to support the site characterization, such as maps and cross sections, information on the geologic structure, hydrogeologic properties, and baseline geochemical data on the proposed site.
—AoR and corrective action plan.
—Testing and monitoring plan.
—Well plugging and post-injection site care plans.
—Emergency and remedial response plans.
—Reports of well logs and tests performed during well construction.
—Periodic updates to the AoR models and corrective action status.
—Demonstration of financial responsibility and periodic updates.
—Periodic reports of monitoring and testing.
—Reports of post-injection monitoring.
—Non-endangerment demonstrations and the conclusion of all post-injection site care.

For the first 3 years after publication of the final rule in the **Federal Register**, the major information requirements apply to operators of GS wells that are submitting an application for the construction of a CO_2 GS well (or seeking a Class VI permit for an existing well) or monitoring and MIT data during the operation of the GS project.

States and Tribes with primacy will incur burden associated with the following activities:

—Applying for primacy.

—Reviewing permit applications and associated data submitted by operators (including the testing and monitoring plan, AoR and corrective action plan, injection well plugging plan, post-injection site care and closure plan, and emergency and remedial response plan).

—Making decisions on whether to grant or deny permits and writing permits.

—Reviewing testing and monitoring data submitted by operators, e.g., continuous monitoring and MIT results.

For the first 3 years after publication of the final rule in the **Federal Register**, preparing primacy applications will account for the majority of primacy agency burden. This is a one-time burden to each State or Tribe that seeks primacy and, in subsequent ICRs, primacy agency burden is expected to decrease by approximately 90 percent.

The collection requirements are mandatory under the SDWA (42 U.S.C. 300h *et seq.*). Calculation of the information collection burden and costs associated with today's proposal can be found in the *Information Collection Request for the Federal Requirements Under the Underground Injection Control Program for Carbon Dioxide Geologic Sequestration Wells* (USEPA, 2008g), available through *http://www.regulation.gov* under Docket ID EPA–HQ–OW–2008–0390.

As shown in Table VIII–1, the total burden associated with the proposed rule over the 3 years following promulgation is 62,117 hours, or an average of 20,706 hours per year. The total cost over this period is $7.3 million, or an average of $2.4 million per year. The average burden per response for each activity that requires a collection of information is 164 hours; the average cost per response is $19,310.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information request unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR Part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this proposed rule under Docket ID number EPA–HQ–OW–2008–0390. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 25, 2008, a comment to OMB is best assured of having its full effect if OMB receives it by August 25, 2008. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

TABLE VIII–1.—ANNUAL, TOTAL, AND ANNUAL AVERAGE BURDEN HOURS AND COSTS FOR THE PROPOSED RULE INFORMATION COLLECTION REQUEST 3-YEAR APPROVAL PERIOD

	Year 1	Year 2	Year 3	Total	Annual average
Total (Owners/Operators, Primay Agencies, and DI Programs/EPA Headquarters)					
Burden (in hours)	21,934.2	18,293.7	18,435.2	62,117.0	20,705.7
Respondents	24.3	28.2	29.9	47.0	27.5
Responses	131.0	113.0	129.0	378.0	126.0
Costs ($)	$3,412,795	$2,428,168	$2,702,335	$7,299,064	$2,433,021
Labor ($)	$1,132,302	$877,087	$887,616	$3,145,843	$1,048,614
Non-Labor ($)	$2,280,493	$1,551,081	$1,814,719	$4,119,644	$1,373,215
Burden per Response	167.4	161.9	142.9	164.3	164.3
Cost per Response	$26,052	$21,488	$20,948	$19,310	$19,310
Burden per Respondent	901.4	648.4	615.9	1,321.6	753.1
Cost per Respondent	$140,252	$86,065	$90,278	$155,299	$88,495
Operators/Owners					
Burden (in hours)	5,359.5	2,118.0	2,228.5	13,160.0	4,386.7
Respondents	3.0	4.0	5.0	5.0	4.0
Responses	63.0	54.0	65.0	187.0	62.3
Costs ($)	$2,678,179	$1,711,130	$1,983,931	$5,129,006	$1,709,669
Labor ($)	$397,687	$160,049	$169,212	$975,786	$325,262
Non-Labor ($)	$2,280,493	$1,551,081	$1,814,719	$4,119,644	$1,373,215
Avg. Burden per Response	85.1	39.2	34.3	70.4	70.4
Avg. Cost per Response	$42,511	$31,688	$30,522	$27,428	$27,428
Burden per Respondent	1,786.5	529.5	445.7	2,632	1,096.7
Cost per Respondent	$892,726	$427,783	$396,786	$1,025,801	$427,417
Primacy Agencies					
Burden (in hours)	11,278.8	10,990.7	11,013.1	33,281.8	11,093.9
Respondents	10.3	13.2	13.9	31.0	12.5
Responses	36.3	29.8	33.4	99.4	33.1
Costs ($)	$475,547	$463,433	$464,374	$1,403,354	$467,785
Labor ($)	$475,547	$463,433	$464,374	$1,403,354	$467,785
Non-Labor ($)	.....	.....	.....	.....	.....
Burden per Response	311.1	369.1	330.0	1,010.2	336.7
Cost per Response	$13,117	$15,565	$13,915	$42,597	$14,199
Burden per Respondent	1,091.4	831.8	790.4	2,713.6	904.5

TABLE VIII–1.—ANNUAL, TOTAL, AND ANNUAL AVERAGE BURDEN HOURS AND COSTS FOR THE PROPOSED RULE INFORMATION COLLECTION REQUEST 3-YEAR APPROVAL PERIOD—Continued

	Year 1	Year 2	Year 3	Total	Annual average
Cost per Respondent	$46,021	$35,073	$33,328	$114,422	$38,141
DI Programs/EPA Headquarters					
Burden (in hours)	5,296.6	5,184.9	5,193.6	15,675.2	5,225.1
Respondents	11.0	11.0	11.0	11.0	11.0
Responses	31.7	29.2	30.6	91.6	30.5
Costs ($)	$259,069	$253,605	$254,029	$766,703	$255,568
Labor ($)	$259,069	$253,605	$254,029	$766,703	$255,568
Non-Labor ($)	.....	.....	.....	.....	.....
Burden per Response	166.8	177.4	169.6	171.1	171.1
Cost per Response	$8,161	$8,677	$8,294	$8,370	$8,370
Burden per Respondent	481.5	471.4	472.1	1,425.0	475.0
Cost per Respondent	$23,552	$23,055	$23,094	$69,700	$23,233

Note: Numbers may not appear to add due to rounding.

C. Regulatory Flexibility Act (RFA)

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 that 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 today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. Sequestering CO_2 via injection wells is a voluntary action that would only be undertaken by a small entity if it were in its interest compared to other alternatives it may have. GS of CO_2 is still a scientifically complex activity, the cost of which is anticipated to be prohibitive to small entities. Therefore it is anticipated small entities would not elect to sequester CO_2 via injection wells. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act (UMRA)

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 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 regulation for which a written statement is needed, section 205 of 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 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 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.

Based on the analysis of 22 pilot projects, EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Expenditures associated with compliance for these projects, defined as the incremental costs beyond the existing regulations under which a CO_2 GS well could be permitted and deployed, will not surpass $100 million in the aggregate in any year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of UMRA. However, EPA recognizes that if CCS is used more widely, the incremental costs of the requirements associated with this rule could exceed $100 million in the aggregate in some years. EPA will determine the applicability of UMRA for the final rule and provide any necessary analysis.

EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Most regulated entities are anticipated to be private entities, not governments.

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 proposed 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. Currently, States may gain the authority to regulate a full or partial UIC program in their State by applying for primacy. States with primacy must develop a program incorporating all new Federal requirements for Class VI wells if they wish to regulate CO_2 GS, and all programs will be subject to EPA approval. Since application for primacy is a voluntary process, the addition of this proposed regulation to the UIC regulations should not significantly impact States or their right to primacy for other classes of wells. If States do not develop a program for Class VI wells, EPA will oversee CO_2 GS in those States. Thus, Executive Order 13132 does not apply to this proposal.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with State and local officials early in the process of developing this proposed rule to permit them to have meaningful and timely input in its development. EPA sent letters with background about the rulemaking and an invitation for consultation to the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, and the County Executives of America. EPA held a meeting with interested parties from these organizations in April 2008.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials. A summary of the concerns raised during that consultation and EPA's response to those concerns will be provided in the preamble to the final 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 proposed rule does not have tribal implications as specified in Executive Order 13175. Currently, no Indian Tribes have primacy. However, Indian Tribes may acquire authority to regulate a partial or full UIC program in lands under their jurisdiction by applying for and gaining primacy from the Agency. Tribes seeking primacy must develop requirements at least as stringent as the new proposed Federal requirements for Class VI wells if they wish to regulate CO_2 GS, and all programs will be subject to EPA approval. If Tribes do not develop a program for Class VI wells, EPA is responsible for regulating the GS of CO_2 on tribal lands. The application for primacy is a voluntary process. Furthermore, this proposal clarifies regulatory ambiguity rather than placing new requirements on tribal or other governmental entities. Therefore, this proposed rule should not change the Tribal-Federal relationship and should not significantly impact Tribes. Thus, Executive Order 13175 does not apply to this proposed rule.

Although Executive Order 13175 does not apply to this proposed rule, EPA consulted with tribal officials in developing this proposed rule. EPA sent letters with background about the rulemaking and an invitation for consultation to all of the federally recognized Indian Tribes. EPA held a meeting with interested parties from Tribal governments in April 2008.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Moreover, this proposed rule will not require that CO_2 GS be undertaken; but does require that if it is undertaken, operators will conduct the activity in such a way as to protect USDWs from endangerment caused by CO_2. This action's health and risk assessments are contained in *Risk and Occurrence Document for Geologic Sequestration Proposed Rulemaking* (USEPA, 2008e).

The public is invited to submit comments or identify peer-reviewed studies and data that assess the effects of early life exposure to changes in drinking water quality that may be caused by geologic sequestration of carbon dioxide.

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

EPA has tentatively determined that this rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because application of these requirements to the 22 pilot projects is not likely to have a significant adverse effect on the supply, distribution, or use of energy. EPA will consider the potential effects of more widespread application of the rule requirements and make a final determination regarding EO 13211 applicability for the final rule (see UMRA discussion above).

The higher degree of regulatory certainty and clarity in the permitting process may, in fact, have a positive effect on the energy sector. Specifically, if climate change legislation that imposes caps or taxes on CO_2 emissions is passed in the future, energy generation firms and other CO_2 producing industries will have an economic incentive to reduce emissions, and this rule will provide regulatory certainty in determining how to maximize operations (for example, by increasing production while staying within the emissions cap or avoiding some carbon taxes). The proposed rule may allow some firms to extend the life of their existing capital investment in plant machinery or plant processes.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards 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 voluntary consensus standards

bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards, and none were brought to our attention. Thus the Agency decided to convene numerous workshops (discussed further in Chapter 2 of the Cost Analysis for the GS proposed rule) to develop standards based on current information available from experts in industry, government, and non-governmental organizations. EPA proposes to use a combination of technologies and standard practices that it estimates will provide the necessary protection to USDWs with regard to site characterization, construction, operation, monitoring, closure, and post-closure requirements for CO_2 GS wells, without placing undue burden on well operators. These methods are listed in Chapter 2 of the Cost Analysis for the GS proposed rule and described in further detail in the *Geologic CO_2 Sequestration Technology & Cost Analysis* (USEPA, 2008h) developed in support of this proposed rule.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 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, any 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 proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

Existing electric power generation plants that burn fossil fuels may be more prevalent in areas with higher percentages of people who are minorities or have lower incomes on average, but it is hard to predict where new plants with CCS will be built. This proposed rule would not require that CO_2 GS be undertaken; but does require that if it is undertaken, operators will conduct the activity in such a way as to protect USDWs from endangerment caused by CO_2. Additionally, this proposed rule if finalized will ensure that all areas of the United States are subject to the same minimum Federal requirements for protection of USDWs from endangerment from GS. Additional detail regarding the potential risk of the proposed rule is presented in the *Risk and Occurrence Document for Geologic Sequestration Proposed Rulemaking* (USEPA, 2008e).

EPA believes that UIC permit writers should consider the impact of GS on any communities in the geographic areas of GS sites. Permit writers can ask specific questions to specifically address any potentially different impacts on minority and/or low-income communities. Examples include: In reviewing the application or Notice of Intent (NOI) for a GS permit, is there any indication that a minority and/or low-income community would be adversely affected? Are there measures that should be undertaken to understand minority and/or low-income community concerns during the permit drafting and development phase, including the development of permit conditions? If an environmental justice issue is identified, does the program solicit input and participation from minority and/or low-income populations?

EPA seeks comment on environmental justice considerations for GS permit writers.

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List of Subjects

40 CFR Part 144

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Indians—lands, Reporting and recordkeeping requirements, Surety bonds, Water supply.

40 CFR Part 146

Environmental protection, Hazardous waste, Indian lands, Reporting and recordkeeping requirements, Water supply.

Dated: July 15, 2008.

Stephen L. Johnson,

Administrator.

For the reasons set forth in the preamble, title 40 chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 144—UNDERGROUND INJECTION CONTROL PROGRAM

1. The authority citation for part 144 continues to read as follows:

Authority: 42 U.S.C. 300f *et seq.*; Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

Subpart A—General Provisions

2. Section 144.1 is amended as follows:

a. Adding new paragraph (f)(1)(viii); and

b. Revising the first two sentences in paragraph (g) introductory text.

§ 144.1 Purpose and scope of part 144.

* * * * *

(f) * * *

(1) * * *

(viii) Subpart H of this part sets forth requirements for owners or operators of Class VI injection wells.

* * * * *

(g) *Scope of the permit or rule requirement.* The UIC Permit Program regulates underground injections by six classes of wells (see definition of ''well injection,'' § 144.3). The six classes of wells are set forth in § 144.6. All owners or operators of these injection wells must be authorized either by permit or rule by the Director. * * *

* * * * *

3. Section 144.6 is amended as follows:

a. Revising paragraph (e); and

b. Adding new paragraph (f).

§ 144.6 Classification of wells.

* * * * *

(e) *Class V.* Injection wells not included in Class I, II, III, IV, or VI. Specific types of Class V injection wells are described in § 144.81.

(f) *Class VI.* Wells used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW.

Subpart B—General Program Requirements

4. Adding § 144.15 to read as follows.

§ 144.15 Prohibition of non-experimental Class V wells for geologic sequestration.

The construction, operation or maintenance of any non-experimental Class V geologic sequestration well is prohibited.

5. Adding § 144.18 to read as follows.

§ 144.18 Requirements for Class VI wells.

Owners or operators of Class VI wells must obtain a permit. Class VI wells are not authorized by rule to inject.

Subpart D—Authorization by Permit

6. Section 144.36 is amended by revising the first two sentences in paragraph (a) to read as follows:

§ 144.36 Duration of permits.

(a) Permits for Class I and V wells shall be effective for a fixed term not to exceed 10 years. UIC Permits for Class II, III and VI wells shall be issued for a period up to the operating life of the facility. * * *

* * * * *

7. Section 144.39 is amended by revising the second sentence in paragraph (a) introductory text and by revising the second sentence in paragraph (a)(3) introductory text to read as follows:

§ 144.39 Modification or revocation and reissuance of permits.

* * * * *

(a) * * * For Class I hazardous waste injection wells, Class II, Class III or Class VI wells the following may be causes for revocation and reissuance as well as modification; and for all other wells the following may be cause for revocation or reissuance as well as modification when the permittee requests or agrees. * * *

* * * * *

(3) * * * Permits other than for Class I hazardous waste injection wells, Class II, Class III or Class VI wells may be modified during their terms for this cause only as follows: * * *

* * * * *

Subpart E—Permit Conditions

8. Section 144.51 is amended by revising the first sentence in paragraph (q)(1) and the first sentence in paragraph (q)(2) to read as follows:

§ 144.51 Conditions applicable to all permits.

* * * * *

(q) * * *

(1) The owner or operator of a Class I, II, III or VI well permitted under this part shall establish mechanical integrity prior to commencing injection or on a schedule determined by the Director. Thereafter the owner or operator of Class I, II, and III wells must maintain mechanical integrity as defined in § 146.8 and the owner or operator of Class VI wells must maintain mechanical integrity as defined in § 146.89 of this chapter. * * *

(2) When the Director determines that a Class I, II, III or VI well lacks mechanical integrity pursuant to § 146.8 or § 146.89 for Class VI of this chapter, he/she shall give written notice of his/her determination to the owner or operator. * * *

* * * * *

9. Section 144.52 is amended by revising paragraph (a)(8) to read as follows:

§ 144.52 Establishing permit conditions.

(a) * * *

(8) *Mechanical integrity.* A permit for any Class I, II, III or VI well or injection project which lacks mechanical integrity shall include, and for any Class V well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Director under § 146.08 or § 146.89 for Class VI that the well has mechanical integrity.

* * * * *

10. Section 144.55 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 144.55 Corrective action.

(a) *Coverage*. Applicants for Class I, II, (other than existing), III or VI injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone, or in the case of Class II wells operating over the fracture pressure of the injection formation, all known wells within the area of review penetrating formations affected by the increase in pressure. Applicants for Class VI shall perform corrective action as specified in § 146.84.* * *

* * * * *

Subpart G—Requirements for Owners and Operators of Class V Injection Wells

11. Section 144.80 is amended by revising the first sentence in paragraph (e) and by adding paragraph (f) to read as follows:

§ 144.80 What is a Class V injection well?

* * * * *

(e) *Class V*. Injection wells not included in Class I, II, III, IV or VI. * * *

(f) *Class VI*. Wells used for geologic sequestration of carbon dioxide.

PART 146—UNDERGROUND INJECTION CONTROL PROGRAM: CRITERIA AND STANDARDS

12. The authority citation for part 146 continues to read as follows:

Authority: Safe Drinking Water Act 42, U.S.C. 300f *et seq.*; Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

13. Section 146.5 is amended as follows:

a. Revising the first sentence in paragraph (e) introductory text; and

b. Adding paragraph (f).

§ 146.5 Classification of injection wells.

* * * * *

(e) *Class V*. Injection wells not included in Class I, II, III, IV or VI. * * *

* * * * *

(f) *Class VI*. Wells used for geologic sequestration of carbon dioxide beneath the lowermost formation containing an underground source of drinking water (USDW).

14. Subpart H is added to read as follows:

Subpart H—Criteria and Standards Applicable to Class VI Wells

Sec.

146.81 Applicability.
146.82 Required Class VI permit information.
146.83 Minimum criteria for siting.
146.84 Area of review and corrective action.
146.85 Financial responsibility.
146.86 Injection well construction requirements.
146.87 Logging, sampling, and testing prior to injection well operation.
146.88 Injection well operating requirements.
146.89 Mechanical integrity.
146.90 Testing and monitoring requirements.
146.91 Reporting requirements.
146.92 Injection well plugging.
146.93 Post-injection site care and site closure.
146.94 Emergency and remedial response.

Subpart H—Criteria and Standards Applicable to Class VI Wells

§ 146.81 Applicability.

(a) This subpart establishes criteria and standards for underground injection control programs to regulate Class VI carbon dioxide geologic sequestration injection wells.

(b) This subpart applies to wells used to inject carbon dioxide specifically for the purpose of geologic sequestration, i.e., the long-term containment of a gaseous, liquid or supercritical carbon dioxide stream in subsurface geologic formations.

(c) This subpart applies to owners and operators of permit or rule-authorized Class I industrial, Class II, or Class V experimental carbon dioxide injection projects who seek to apply for a Class VI geologic sequestration permit for their well or wells. If the Director determines that USDWs will not be endangered, such wells are exempt, at the Director's discretion, from the casing and cementing requirements at §§ 146.86(b) and 146.87(a)(1) through (3).

(d) *Definitions*. The following definitions apply to this subpart. To the extent that these definitions conflict with those in § 146.3 these definitions govern:

Area of review means the region surrounding the geologic sequestration project that may be impacted by the injection activity. The area of review is based on computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream.

Carbon dioxide plume means the underground extent, in three dimensions, of an injected carbon dioxide stream.

Carbon dioxide stream means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. This subpart does not apply to any carbon dioxide stream that meets the definition of a hazardous waste under 40 CFR part 261.

Confining zone means a geologic formation, group of formations, or part of a formation stratigraphically overlying the injection zone that acts as a barrier to fluid movement.

Corrective action means the use of Director approved methods to assure that wells within the area of review do not serve as conduits for the movement of fluids into underground sources of drinking water (USDW).

Geologic sequestration means the long-term containment of a gaseous, liquid or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to its capture or transport.

Geologic sequestration project means an injection well or wells used to emplace a carbon dioxide stream beneath the lowermost formation containing a USDW. It includes the subsurface three-dimensional extent of the carbon dioxide plume, associated pressure front, and displaced brine, as well as the surface area above that delineated region.

Injection zone means a geologic formation, group of formations, or part of a formation that is of sufficient areal extent, thickness, porosity, and permeability to receive carbon dioxide through a well or wells associated with a geologic sequestration project.

Post-injection site care means appropriate monitoring and other actions (including corrective action) needed following cessation of injection to assure that USDWs are not endangered as required under § 146.93.

Pressure front means the zone of elevated pressure that is created by the injection of carbon dioxide into the subsurface. For the purposes of this subpart, the pressure front of a carbon dioxide plume refers to a zone where there is a pressure differential sufficient to cause the movement of injected fluids or formation fluids into a USDW.

Site closure the point/time, as determined by the Director following the requirements under § 146.93, at which the owner or operator of a GS site is released from post-injection site care responsibilities.

Transmissive fault or fracture means a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

§ 146.82 Required Class VI permit information.

This section sets forth the information which the owner or operator must submit to the Director in order to be permitted as a Class VI well. The application for a permit for construction and operation of a Class VI well must include the following:

(a) Information required in 40 CFR 144.31(e)(1) through (6);

(b) A map showing the injection well(s) for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name and location of all injection wells, producing wells, abandoned wells, plugged wells or dry holes, deep stratigraphic boreholes, State or EPA approved subsurface cleanup sites, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features including structures intended for human occupancy and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;

(c) The area of review based on modeling, using data obtained during logging and testing of the well and the formation as required by paragraphs (l), (r), and (s) of this section;

(d) Information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, including:

(1) Maps and cross sections of the area of review;

(2) Location, orientation, and properties of known or suspected faults and fractures that may transect the confining zone(s) in the area of review and a determination that they would not interfere with containment;

(3) Information on seismic history including the presence and depth of seismic sources and a determination that the seismicity would not interfere with containment;

(4) Data on the depth, areal extent, thickness, mineralogy, porosity, permeability and capillary pressure of the injection and confining zone(s); including geology/facies changes based on field data which may include geologic cores, outcrop data, seismic surveys, well logs, and names and lithologic descriptions;

(5) Geomechanical information on fractures, stress, ductility, rock strength, and in situ fluid pressures within the confining zone; and

(6) Geologic and topographic maps and cross sections illustrating regional geology, hydrogeology, and the geologic structure of the local area.

(e) A tabulation of all wells within the area of review which penetrate the injection or confining zone(s). Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require;

(f) Maps and stratigraphic cross sections indicating the general vertical and lateral limits of all USDWs, water wells and springs within the area of review, their positions relative to the injection zone(s) and the direction of water movement, where known;

(g) Baseline geochemical data on subsurface formations, including all USDWs in the area of review;

(h) Proposed operating data:

(1) Average and maximum daily rate and volume of the carbon dioxide stream;

(2) Average and maximum injection pressure;

(3) The source of the carbon dioxide stream; and

(4) An analysis of the chemical and physical characteristics of the carbon dioxide stream;

(i) The compatibility of the carbon dioxide stream with fluids in the injection zone and minerals in both the injection and the confining zone(s), based on the results of the formation testing program, and with the materials used to construct the well;

(j) Proposed formation testing program to obtain an analysis of the chemical and physical characteristics of the injection zone and confining zone;

(k) Proposed stimulation program and a determination that stimulation will not interfere with containment;

(l) The results of the formation testing program as required in paragraph (j) of this section;

(m) Proposed procedure to outline steps necessary to conduct injection operation;

(n) Schematic or other appropriate drawings of the surface and subsurface construction details of the well;

(o) Injection well construction procedures that meet the requirements of § 146.86;

(p) Proposed area of review and corrective action plan that meets the requirements under § 146.84;

(q) The status of corrective action on wells in the area of review;

(r) All available logging and testing program data on the well required by § 146.87;

(s) A demonstration of mechanical integrity pursuant to § 146.89;

(t) A demonstration, satisfactory to the Director, that the applicant has met the financial responsibility requirements under § 146.85;

(u) Proposed testing and monitoring plan required by § 146.90;

(v) Proposed injection well plugging plan required by § 146.92(b);

(w) Proposed post-injection site care and site closure plan required by § 146.93(a);

(x) Proposed emergency and remedial response plan required by § 146.94; and

(y) Any other information requested by the Director.

§ 146.83 Minimum criteria for siting.

(a) Owners or operators of Class VI wells must demonstrate to the satisfaction of the Director that the wells will be sited in areas with a suitable geologic system. The geologic system must be comprised of:

(1) An injection zone of sufficient areal extent, thickness, porosity, and permeability to receive the total anticipated volume of the carbon dioxide stream;

(2) A confining zone(s) that is free of transmissive faults or fractures and of sufficient areal extent and integrity to contain the injected carbon dioxide stream and displaced formation fluids and allow injection at proposed maximum pressures and volumes without initiating or propagating fractures in the confining zone(s); and

(b) At the Director's discretion, owners or operators of Class VI wells must identify and characterize additional zones that will impede vertical fluid movement, are free of faults and fractures that may interfere with containment, allow for pressure dissipation, and provide additional opportunities for monitoring, mitigation and remediation.

§ 146.84 Area of review and corrective action.

(a) The area of review is the region surrounding the geologic sequestration project that may be impacted by the injection activity. The area of review is based on computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream.

(b) The owner or operator of a Class VI well must prepare, maintain, and comply with a plan to delineate the area of review for a proposed geologic sequestration project, periodically reevaluate the delineation, and perform corrective action that meets the requirements of this section and is acceptable to the Director. As a part of the permit application for approval by the Director, the owner or operator must submit an area of review and corrective action plan that includes the following information:

(1) The method for delineating the area of review that meets the

requirements of paragraph (c) of this section, including the model to be used, assumptions that will be made, and the site characterization data on which the model will be based;

(2) A description of:

(i) The minimum fixed frequency, not to exceed 10 years, the owner or operator proposes to reevaluate the area of review;

(ii) The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation as determined by the minimum fixed frequency established in paragraph (b)(2)(i) of this section.

(iii) How monitoring and operational data (e.g., injection rate and pressure) will be used to inform an area of review reevaluation; and

(iv) How corrective action will be conducted to meet the requirements of paragraph (d) of this section, including what corrective action will be performed prior to injection and what, if any, portions of the area of review will have corrective action addressed on a phased basis and how the phasing will be determined; how corrective action will be adjusted if there are changes in the area of review; and how site access will be guaranteed for future corrective action.

(c) Owners or operators of Class VI wells must perform the following actions to delineate the area of review, identify all wells that require corrective action, and perform corrective action on those wells:

(1) Predict, using computational modeling, the projected lateral and vertical migration of the carbon dioxide plume and formation fluids in the subsurface from the commencement of injection activities until the plume movement ceases, pressure differentials sufficient to cause the movement of injected fluids or formation fluids into a USDW are no longer present, or after a fixed time period as determined by the Director. The model must:

(i) Be based on detailed geologic data collected to characterize the injection zone, confining zone and any additional zones; and anticipated operating data, including injection pressures, rates and total volumes over the proposed life of the geological sequestration project;

(ii) Take into account any geologic heterogeneities, data quality, and their possible impact on model predictions; and

(iii) Consider potential migration through faults, fractures, and artificial penetrations.

(2) Using methods approved by the Director, identify all penetrations, including active and abandoned wells and underground mines, in the area of review that may penetrate the confining zone. Provide a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the Director may require; and

(3) Determine which abandoned wells in the area of review have been plugged (as required by § 146.92) in a manner that prevents the movement of carbon dioxide or associated fluids that may endanger USDWs.

(d) Owners or operators of Class VI wells must perform corrective action on all wells in the area of review that are determined to need corrective action using methods necessary to prevent the movement of fluid into or between USDWs including use of corrosion resistant materials, where appropriate.

(e) If monitoring data indicate an endangerment to USDWs, the owner or operator must notify the Director and cease operations as required by § 146.94.

(f) At the minimum fixed frequency, not to exceed 10 years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, owners or operators must:

(1) Reevaluate the area of review in the same manner specified in paragraph (c)(1) of this section;

(2) Identify all wells in the reevaluated area of review that require corrective action in the same manner specified in paragraph (c)(2) of this section;

(3) Perform corrective action on wells requiring corrective action in the reevaluated area of review in the same manner specified in paragraph (c)(3) of this section; and

(4) Submit an amended area of review and corrective action plan or demonstrate to the Director through monitoring data and modeling results that no amendment to the area of review and corrective action plan is needed.

(g) The emergency and remedial response plan (as required by § 146.94) and a demonstration of financial responsibility (as described by § 146.85) must account for the entire area of review, regardless of whether or not corrective action in the area of review is phased.

§ 146.85 Financial responsibility.

(a) The owner or operator must demonstrate and maintain financial responsibility and resources for corrective action (that meets the requirements of § 146.84), injection well plugging (that meets the requirements of § 146.92), post-injection site care and site closure (that meets the requirements of § 146.93), and emergency and remedial response (that meets the requirements of § 146.94) in a manner prescribed by the Director until:

(1) The Director receives and approves the completed post-injection site care and site closure plan; and

(2) The Director determines that the site has reached the end of the post-injection site care period.

(b) The owner or operator must provide to the Director, at a frequency determined by the Director, written updates of adjustments to the cost estimate to account for any amendments to the area of review and corrective action plan (§ 146.84), the injection well plugging plan (§ 146.92), and the post-injection site care and site closure plan (§ 146.93).

(c) The owner or operator must notify the Director of adverse financial conditions such as bankruptcy, that may affect the ability to carry out injection well plugging and post-injection site care and site closure.

(d) The operator must provide an adjustment of the cost estimate to the Director if the Director has reason to believe that the original demonstration is no longer adequate to cover the cost of injection well plugging (as required by § 146.92) and post-injection site care and site closure (as required by § 146.93).

§ 146.86 Injection well construction requirements.

(a) *General.* The owner or operator must ensure that all Class VI wells are constructed and completed to:

(1) Prevent the movement of fluids into or between USDWs or into any unauthorized zones;

(2) Permit the use of appropriate testing devices and workover tools; and

(3) Permit continuous monitoring of the annulus space between the injection tubing and long string casing.

(b) *Casing and Cementing of Class VI Wells.*

(1) Casing and cement or other materials used in the construction of each Class VI well must have sufficient structural strength and be designed for the life of the geologic sequestration project. All well materials must be compatible with fluids with which the materials may be expected to come into contact and meet or exceed standards developed for such materials by the American Petroleum Institute, ASTM International, or comparable standards acceptable to the Director. The casing and cementing program must be designed to prevent the movement of fluids into or between USDWs. In order to allow the Director to determine and specify casing and cementing

requirements, the owner or operator must provide the following information:

(i) Depth to the injection zone;

(ii) Injection pressure, external pressure, internal pressure and axial loading;

(iii) Hole size;

(iv) Size and grade of all casing strings (wall thickness, external diameter, nominal weight, length, joint specification and construction material);

(v) Corrosiveness of the carbon dioxide stream, and formation fluids;

(vi) Down-hole temperatures;

(vii) Lithology of injection and confining zones;

(viii) Type or grade of cement; and

(ix) Quantity, chemical composition, and temperature of the carbon dioxide stream.

(2) Surface casing must extend through the base of the lowermost USDW and be cemented to the surface.

(3) At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages.

(4) Circulation of cement may be accomplished by staging. The Director may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement does not allow fluid movement behind the well bore.

(5) Cement and cement additives must be compatible with the carbon dioxide stream and formation fluids and of sufficient quality and quantity to maintain integrity over the design life of the geologic sequestration project. The integrity and location of the cement shall be verified using technology capable of evaluating cement quality radially and identifying the location of channels to ensure that USDWs are not endangered.

(c) *Tubing and packer.*

(1) All owner and operators of Class VI wells must inject fluids through tubing with a packer set at a depth opposite a cemented interval at the location approved by the Director.

(2) In order for the Director to determine and specify requirements for tubing and packer, the owner or operator must submit the following information:

(i) Depth of setting;

(ii) Characteristics of the carbon dioxide stream (chemical content, corrosiveness, temperature, and density);

(iii) Injection pressure;

(iv) Annular pressure;

(v) Injection rate (intermittent or continuous) and volume of the carbon dioxide stream;

(vi) Size of casing; and

(vii) Tubing tensile, burst, and collapse strengths.

§ 146.87 Logging, sampling, and testing prior to injection well operation.

(a) During the drilling and construction of a Class VI injection well, the owner or operator must run appropriate logs, surveys and tests to determine or verify the depth, thickness, porosity, permeability, and lithology of, and the salinity of any formation fluids in, all relevant geologic formations to assure conformance with the injection well construction requirements under § 146.86, and to establish accurate baseline data against which future measurements may be compared. The owner or operator must submit to the Director a descriptive report prepared by a knowledgeable log analyst that includes an interpretation of the results of such logs and tests. At a minimum, such logs and tests must include:

(1) Deviation checks during drilling on all holes constructed by drilling a pilot hole which are enlarged by reaming or another method. Such checks must be at sufficiently frequent intervals to determine the location of the borehole and to assure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling; and

(2) Before and upon installation of the surface casing:

(i) Resistivity, spontaneous potential, and caliper logs before the casing is installed; and

(ii) A cement bond and variable density log, and a temperature log after the casing is set and cemented.

(3) Before and upon installation of the long string casing:

(i) Resistivity, spontaneous potential, porosity, caliper, gamma ray, fracture finder logs, and any other logs the Director requires for the given geology before the casing is installed; and

(ii) A cement bond and variable density log, and a temperature log after the casing is set and cemented.

(4) A series of tests designed to demonstrate the internal and external mechanical integrity of injection wells, which may include:

(i) A pressure test with liquid or gas;

(ii) A tracer survey such as oxygen-activation logging;

(iii) A temperature or noise log;

(iv) A casing inspection log, if required by the Director; and

(5) Any alternative methods that provide equivalent or better information and that are required of and/or approved of by the Director.

(b) The owner or operator must take and submit to the Director whole cores or sidewall cores of the injection zone and confining system and formation fluid samples from the injection zone(s). The Director may accept cores from nearby wells if the owner or operator can demonstrate that core retrieval is not possible and that such cores are representative of conditions at the well. The Director may require the owner or operator to core other formations in the borehole.

(c) The owner or operator must record the fluid temperature, pH, conductivity, reservoir pressure and the static fluid level of the injection zone(s).

(d) At a minimum, the owner or operator must determine or calculate the following information concerning the injection and confining zone(s):

(1) Fracture pressure;

(2) Other physical and chemical characteristics of the injection and confining zones; and

(3) Physical and chemical characteristics of the formation fluids in the injection zone.

(e) Upon completion, but prior to operation, the owner or operator must conduct the following tests to verify hydrogeologic characteristics of the injection zone:

(1) A pump test; or

(2) Injectivity tests.

(f) The owner or operator must provide the Director with the opportunity to witness all logging and testing by this subpart. The owner or operator must submit a schedule of such activities to the Director 30 days prior to conducting the first test and submit any changes to the schedule 30 days prior to the next scheduled test.

§ 146.88 Injection well operating requirements.

(a) Except during stimulation, the owner or operator must ensure that injection pressure does not exceed 90 percent of the fracture pressure of the injection zone so as to assure that the injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case may injection pressure initiate fractures in the confining zone(s) or cause the movement of injection or formation fluids that endangers a USDW.

(b) Injection between the outermost casing protecting USDWs and the well bore is prohibited.

(c) The owner or operator must fill the annulus between the tubing and the long string casing with a non-corrosive fluid approved by the Director. The owner or operator must maintain on the annulus a pressure that exceeds the operating injection pressure, unless the

Director determines that such requirement might harm the integrity of the well.

(d) Other than during periods of well workover (maintenance) approved by the Director in which the sealed tubing-casing annulus is of necessity disassembled for maintenance or corrective procedures, the owner or operator must maintain mechanical integrity of the injection well at all times.

(e) The owner or operator must install and use continuous recording devices to monitor: The injection pressure; the rate, volume, and temperature of the carbon dioxide stream; and the pressure on the annulus between the tubing and the long string casing and annulus fluid volume; and must install and use alarms and automatic down-hole shut-off systems, designed to alert the operator and shut-in the well when operating parameters such as annulus pressure, injection rate or other parameters approved by the Director diverge beyond permitted ranges and/or gradients specified in the permit;

(f) If a down-hole automatic shutdown is triggered or a loss of mechanical integrity is discovered, the owner or operator must immediately investigate and identify as expeditiously as possible the cause of the shutoff. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required under paragraph (e) of this section otherwise indicates that the well may be lacking mechanical integrity, the owner or operator must:

(1) Immediately cease injection;

(2) Take all steps reasonably necessary to determine whether there may have been a release of the injected carbon dioxide stream into any unauthorized zone;

(3) Notify the Director within 24 hours;

(4) Restore and demonstrate mechanical integrity to the satisfaction of the Director prior to resuming injection; and

(5) Notify the Director when injection can be expected to resume.

§ 146.89 Mechanical integrity.

(a) A Class VI well has mechanical integrity if:

(1) There is no significant leak in the casing, tubing or packer; and

(2) There is no significant fluid movement into a USDW through channels adjacent to the injection well bore.

(b) To evaluate the absence of significant leaks under paragraph (a)(1) of this section, owners or operators must, following an initial annulus pressure test, continuously monitor injection pressure, rate, injected volumes, and pressure on the annulus between tubing and long stem casing and annulus fluid volume as specified in § 146.88(e);

(c) At least once per year, the owner or operator must use one of the following methods to determine the absence of significant fluid movement under paragraph (a)(2) of this section:

(1) A tracer survey such as oxygen-activation logging;

(2) A temperature or noise log; or

(3) A casing inspection log, if required by the Director.

(d) The Director may require any other test to evaluate mechanical integrity under paragraph (a)(1) or (a)(2) of this section. Also, the Director may allow the use of a test to demonstrate mechanical integrity other than those listed above with the written approval of the Administrator. To obtain approval, the Director must submit a written request to the Administrator, which must set forth the proposed test and all technical data supporting its use. The Administrator must approve the request if it will reliably demonstrate the mechanical integrity of wells for which its use is proposed. Any alternate method approved by the Administrator will be published in the **Federal Register** and may be used in all States in accordance with applicable State law unless its use is restricted at the time of approval by the Administrator.

(e) In conducting and evaluating the tests enumerated in this section or others to be allowed by the Director, the owner or operator and the Director must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Director, he/she shall include a description of the test(s) and the method(s) used. In making his/her evaluation, the Director must review monitoring and other test data submitted since the previous evaluation.

(f) The Director may require additional or alternative tests if the results presented by the owner or operator under paragraph (d) of this section are not satisfactory to the Director to demonstrate that there is no significant leak in the casing, tubing or packer or significant movement of fluid into or between USDWs resulting from the injection activity as stated in paragraphs (a)(1) and (2) of this section.

§ 146.90 Testing and monitoring requirements.

The owner or operator of a Class VI well must prepare, maintain, and comply with a testing and monitoring plan to verify that the geologic sequestration project is operating as permitted and is not endangering USDWs. The testing and monitoring plan must be submitted with the permit application, for Director approval, and must include a description of how the owner or operator will meet the requirements of this section. Testing and monitoring associated with geologic sequestration projects must, at a minimum, include:

(a) Analysis of the carbon dioxide stream with sufficient frequency to yield data representative of its chemical and physical characteristics;

(b) Installation and use, except during well workovers as defined in § 146.86(d), of continuous recording devices to monitor injection pressure, rate and volume; the pressure on the annulus between the tubing and the long string casing; and the annulus fluid volume;

(c) Corrosion monitoring of the well materials for loss of mass, thickness, cracking, pitting and other signs of corrosion must be performed on a quarterly basis to ensure that the well components meet the minimum standards for material strength and performance set forth in § 146.86(b) by:

(1) Placing coupons of the well construction materials in contact with the carbon dioxide stream; or

(2) Routing the carbon dioxide stream through a loop constructed with the material used in the well; or

(3) Using an alternative method approved by the Director;

(d) Periodic monitoring of the ground water quality and geochemical changes above the confining zone(s) that may be a result of carbon dioxide movement through the confining zone or additional identified zones:

(1) The location and number of monitoring wells must be based on specific information about the geologic sequestration project, including injection rate and volume, geology, the presence of artificial penetrations and other factors;

(2) The monitoring frequency and spatial distribution of monitoring wells must be based on baseline geochemical data that has been collected under § 146.82(a)(6) and any modeling results in the area of review evaluation required by § 146.84(b);

(e) A demonstration of external mechanical integrity pursuant to § 146.89(c) at least once per year throughout the duration of the geologic sequestration project;

(f) A pressure fall-off test at least once every five years unless more frequent testing is required by the Director based on site specific information;

(g) Testing and monitoring to track the extent of the carbon dioxide plume and the position of the pressure front by either monitoring for pressure changes in the first formation overlying the confining zone or using indirect, geophysical techniques (*e.g.*, seismic, electrical, gravity, or electromagnetic surveys and/or down-hole carbon dioxide detection tools);

(h) At the Director's discretion, surface air monitoring and/or soil gas monitoring to detect movement of carbon dioxide that could endanger a USDW.

(1) The testing and monitoring plan must be based on potential vulnerabilities within the area of review;

(2) The monitoring frequency and spatial distribution of surface air monitoring and/or soil gas monitoring must reflect baseline data and the monitoring plan must include how the proposed monitoring will yield useful information on the area of review delineation and/or compliance with standards under 40 CFR 144.12;

(i) Any additional monitoring, as required by the Director, necessary to support, upgrade, and improve computational modeling of the area of review evaluation required under § 146.84(b) and to determine compliance with standards under 40 CFR 144.12; and

(j) A quality assurance and surveillance plan for all testing and monitoring requirements.

§ 146.91 Reporting requirements.

The owner or operator must, at a minimum, provide the following reports to the Director, for each permitted Class VI well:

(a) Semi-annual reports containing:

(1) Any changes to the physical, chemical and other relevant characteristics of the carbon dioxide stream from the proposed operating data;

(2) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;

(3) A description of any event that exceeds operating parameters for annulus pressure or injection pressure as specified in the permit;

(4) A description of any event which triggers a shutdown device required pursuant to § 146.88(e) and the response taken;

(5) The monthly volume of the carbon dioxide stream injected over the reporting period and project cumulatively;

(6) Monthly annulus fluid volume added; and

(7) The results of monitoring prescribed under § 146.90.

(b) Report, within 30 days the results of:

(1) Periodic tests of mechanical integrity;

(2) Any other test of the injection well conducted by the permittee if required by the Director; and

(3) Any well workover.

(c) Owners or operators must submit reports in an electronic format acceptable to the Director. At the discretion of the Director, other formats may be accepted.

§ 146.92 Injection well plugging.

(a) Prior to the well plugging, the owner or operator must flush each Class VI injection well with a buffer fluid, determine bottomhole reservoir pressure, and perform a final mechanical integrity test.

(b) *Well Plugging Plan.* The owner or operator of a Class VI well must prepare, maintain, and comply with a plan that is acceptable to the Director. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The well plugging plan must be submitted as part of the permit application and must include the following information:

(1) Appropriate test or measure to determine bottomhole reservoir pressure;

(2) Appropriate testing methods to ensure mechanical integrity as specified in § 146.89;

(3) The type and number of plugs to be used;

(4) The placement of each plug including the elevation of the top and bottom of each plug;

(5) The type and grade and quantity of material to be used in plugging. The material must be compatible with the carbon dioxide stream; and

(6) The method of placement of the plugs.

(c) *Notice of intent to plug.* The owner or operator must notify the Director at least 60 days before plugging of a well. At this time, if any changes have been made to the original well plugging plan, the owner or operator must also provide the revised well plugging plan. At the discretion of the Director, a shorter notice period may be allowed.

(d) *Plugging report.* Within 60 days after plugging or at the time of the next semi-annual report (whichever occurs earlier) the owner or operator must submit a plugging report to the Director. If the semi-annual report is due less than 15 days after completion of plugging, then the report must be submitted within 60 days after plugging. The report must be certified as accurate by the owner or operator and by the person who performed the plugging operation (if other than the owner or operator.)

§ 146.93 Post-injection site care and site closure.

(a) The owner or operator of a Class VI well must prepare, maintain, and comply with a plan for post-injection site care and site closure that meets the requirements of paragraph (a)(2) of this section and is acceptable to the Director.

(1) The owner or operator must submit the post-injection site care and site closure plan as a part of the permit application to be approved by the Director.

(2) The post-injection site care and site closure plan must include the following information:

(i) The pressure differential between pre-injection and predicted post-injection pressures in the injection zone;

(ii) The predicted position of the carbon dioxide plume and associated pressure front at site closure as demonstrated in the area of review evaluation required under § 146.84(b);

(iii) A description of post-injection monitoring location, methods, and proposed frequency; and

(iv) A proposed schedule for submitting post-injection site care monitoring results to the Director.

(3) Upon cessation of injection, owners or operators of Class VI wells must either submit an amended post-injection site care and site closure plan or demonstrate to the Director through monitoring data and modeling results that no amendment to the plan is needed.

(4) The owner or operator may modify and resubmit the post-injection site care and site closure plan for the Director's approval within 30 days of such change.

(b) The owner or operator shall monitor the site following the cessation of injection to show the position of the carbon dioxide plume and pressure front and demonstrate that USDWs are not being endangered.

(1) The owner or operator shall continue to conduct monitoring as specified in the Director-approved post-injection site care and site closure plan for at least 50 years following the cessation of injection. At the Director's discretion, the monitoring will continue until the geologic sequestration project no longer poses an endangerment to USDWs.

(2) If the owner or operator can demonstrate to the satisfaction of the Director before 50 years, based on monitoring and other site-specific data, that the geologic sequestration project

no longer poses an endangerment to USDWs, the Director may approve an amendment to the post-injection site care and site closure plan to reduce the frequency of monitoring or may authorize site closure before the end of the 50-year period.

(3) Prior to authorization for site closure, the owner or operator must submit to the Director a demonstration, based on monitoring and other site-specific data, that the carbon dioxide plume and pressure front have stabilized and that no additional monitoring is needed to assure that the geologic sequestration project does not pose an endangerment to USDWs.

(4) If such a demonstration cannot be made (i.e., if the carbon dioxide plume and pressure front have not stabilized) after the 50-year period, the owner or operator must submit to the Director a plan to continue post-injection site care.

(c) *Notice of intent for site closure.* The owner or operator must notify the Director at least 120 days before site closure. At this time, if any changes have been made to the original post-injection site care and site closure plan, the owner or operator must also provide the revised plan. At the discretion of the Director, a shorter notice period may be allowed.

(d) After the Director has authorized site closure, the owner or operator must plug all monitoring wells in a manner which will not allow movement of injection or formation fluids that endangers a USDW.

(e) Once the Director has authorized site closure, the owner or operator must submit a site closure report within 90 days that must thereafter be retained at a location designated by the Director. The report must include:

(1) Documentation of appropriate injection and monitoring well plugging as specified in § 146.92 and paragraph (c) of this section. The owner or operator must provide a copy of a survey plat which has been submitted to the local zoning authority designated by the Director. The plat must indicate the location of the injection well relative to permanently surveyed benchmarks. The owner or operator must also submit a copy of the plat to the Regional Administrator of the appropriate EPA Regional Office;

(2) Documentation of appropriate notification and information to such State, local and tribal authorities as have authority over drilling activities to enable such State and local authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the injection and confining zone(s); and

(3) Records reflecting the nature, composition and volume of the carbon dioxide stream.

(f) Each owner or operator of a Class VI injection well must record a notation on the deed to the facility property or any other document that is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:

(1) The fact that land has been used to sequester carbon dioxide;

(2) The name of the State agency, local authority, and/or tribe with which the survey plat was filed, as well as the address of the Regional Environmental Protection Agency Office to which it was submitted; and

(3) The volume of fluid injected, the injection zone or zones into which it was injected, and the period over which injection occurred.

(g) The owner or operator must retain for three years following site closure, records collected during the post-injection site care period. The owner or operator must deliver the records to the Director at the conclusion of the retention period, and the records must thereafter be retained at a location designated by the Director for that purpose.

§ 146.94 Emergency and remedial response.

(a) As part of the permit application, the owner or operator must provide the Director with an emergency and remedial response plan that describes actions to be taken to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction, operation, closure and post-closure periods.

(b) If the owner or operator obtains evidence that the injected carbon dioxide stream and associated pressure front may cause an endangerment to a USDW, the owner or operator must:

(1) Immediately cease injection;

(2) Take all steps reasonably necessary to identify and characterize any release;

(3) Notify the Director within 24 hours; and

(4) Implement the emergency and remedial response plan approved by the Director.

(c) The Director may allow the operator to resume injection prior to remediation if the owner or operator demonstrates that the injection operation will not endanger USDWs.

(d) The owner or operator must notify the Director and obtain his approval prior to conducting any well workover.

[FR Doc. E8–16626 Filed 7–24–08; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Friday,
July 25, 2008

Part III

Department of Agriculture

Forest Service

36 CFR Part 294

Special Areas; Roadless Area Conservation; Applicability to the National Forests in Colorado; Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AC74

Special Areas; Roadless Area Conservation; Applicability to the National Forests in Colorado

AGENCY: Forest Service, USDA Forest Service.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Forest Service, U.S. Department of Agriculture (USDA), is proposing to establish a State-specific rule to provide management direction for conserving Colorado roadless areas. The USDA invites written comments on both the proposed rule and the draft environmental impact statement (DEIS) and will consider those comments in developing a final rule and final environmental impact statement (FEIS). The final rule will be published in the **Federal Register**.

DATES: Comments must be received in writing 90 days from the date the rule is published in the **Federal Register**.

ADDRESSES: Comments may be sent via e-mail to *COcomments@fsroadless.org*. Comments also may be submitted via the internet at *http://www.regulations.gov*. Written comments concerning this notice should be addressed to Roadless Area Conservation—Colorado, P.O. Box 162909, Sacramento, CA 95816–2909, or via facsimile to 916–456–6724.

All comments, including names and addresses, when provided, are placed in the record and are available for public inspection and copying.

A copy of this proposed rule, draft environmental impact statement (DEIS), the DEIS summary, dates and locations of public meetings, and other information related to this rulemaking will be available at the national roadless Web site *http://www.roadless.fs.fed.us.* Reviewers may request printed copies or compact disks of the DEIS and the summary by writing to Colorado Roadless Team/Planning, USDA Forest Service, Rocky Mountain Regional Office, 740 Simms Street, Golden, CO 80401–4720, or by e-mail to *comments-rocky-mountain-regional-office@fs.fed.us*, or by Fax to 303–275–5134. When ordering, requesters must specify their address, if they wish to receive the summary or full set of documents, and if the material should be provided in print or compact disk. Printed copies will be available for public viewing at Forest Service district and supervisor's offices within the State of Colorado.

FOR FURTHER INFORMATION CONTACT: Colorado Roadless Rule Team Leader Kathy Kurtz at (303) 275–5083. Individuals using 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.

SUPPLEMENTARY INFORMATION:

Background

As a leader in natural resource conservation, the Forest Service provides direction for the management and use of the Nation's forests, rangeland, and aquatic ecosystems under its jurisdiction. Similarly, the State of Colorado is committed to sustained natural resource use and conservation of State and Federal land within its borders. Furthermore, the Forest Service is charged to collaborate cooperatively with states and other interested parties regarding the use and management of the National Forest System (NFS).

State of Colorado Petition

On July 14, 2005, the State of Colorado announced it would submit a petition requesting specific regulatory protections for the inventoried roadless areas within the State. The State's commitment to participate was evidenced by Senate Bill 05–243, the ''Roadless Areas Review Task Force'' legislation signed into law on June 8, 2005. The bill outlined membership and responsibilities of a 13-member bipartisan task force to make recommendations to the Governor regarding inventoried roadless areas in NFS lands in Colorado. The task force held nine public meetings throughout the State, reviewed over 40,000 public comments, and conducted a comprehensive review of Colorado's 4.4 million acres of roadless areas (2001 Roadless Rule).

Colorado's petition (2006 petition) was submitted to the Secretary of Agriculture for consideration on November 13, 2006, by then-Governor Owens with the provision it be considered under section 553(e) of the Administrative Procedure Act and USDA regulations at 7 CFR 1.28. On April 11, 2007, Governor Ritter resubmitted the 2006 petition with a substantive letter of transmittal, which became the 2007 petition. Governor Ritter's transmittal letter requested that state-specific rulemaking be undertaken to provide an ''insurance policy for protection of our roadless areas,'' given ongoing legal uncertainty. The 2007 petition took into account State and local resource management challenges along with the national interest in maintaining roadless characteristics and the need for management flexibility in certain circumstances.

The Roadless Area Conservation National Advisory Committee (RACNAC) reviewed the 2007 petition on June 13 and 14, 2007, in Washington, DC. Harris Sherman, executive director of the Colorado Department of Natural Resources, representing Governor Ritter, described the scope and intent of the 2007 petition. The RACNAC also heard comments from other State and Forest Service officials, task force members, and members of the public. On August 8, 2007, the RACNAC issued a unanimous consensus-based recommendation to the Secretary to direct the Forest Service, with the State of Colorado as a cooperating agency, to proceed with rulemaking based on the 2007 petition.

After reviewing the RACNAC's recommendation, the Secretary accepted the 2007 petition on August 24, 2007, and directed the Forest Service to initiate rulemaking based on the petition. The proposed rule would respond to the 2007 petition by establishing a system of Colorado Roadless Areas (CRAs) with protections for these areas that would supersede the 2001 Roadless Rule.

The USDA, State, and Forest Service are committed to conserving and managing roadless areas and consider these areas an important and exceptional component of the NFS. The USDA, State, and Forest Service believe the most viable path for lasting conservation of these areas is through properly integrating local, State, and national perspectives on roadless area management on NFS lands located within the State of Colorado.

Through a memorandum of understanding dated January 8, 2008, the State of Colorado was granted cooperating agency status with the Forest Service, under 40 CFR 1508.5, for the preparation of the environmental impact statement (EIS) associated with this rulemaking.

Within the 2007 petition, the State requested the Colorado Department of Natural Resources and/or the Colorado Division of Wildlife be offered cooperating agency status to assure participation in the evaluation of future proposed activities in CRAs associated with Federal coal reserves under certain lands in the North Fork coal mining area on the Grand Mesa, Uncompahgre, and Gunnison National Forests, and

proposed activities associated with ski area lands proposed for removal from roadless designation, listed in Table 2. In addition, the Forest Service will offer cooperating agency status to the State where it expresses an interest for any Forest Service project or planning activity on NFS lands located within CRAs, pursuant to the Council on Environmental Quality implementing National Environmental Policy Act (NEPA) regulations at 40 CFR 1500–1508. Where the Forest Service does not have the authority to grant cooperating agency status, the Forest Service will coordinate with the State.

National Forest System Land Inventories in Colorado

The 2007 petition proposed using the 2001 Roadless Rule inventoried roadless areas as a basis for identifying CRAs. These inventories would be updated by technical corrections to the inventory, such as but not limited to, congressionally-designated areas as defined in Table 3, land exchanges, and any boundary line revisions including additions and deletions to the inventory through revised forest plans (Arapaho and Roosevelt, Routt, Rio Grande and White River National Forests) and ongoing forest plan revisions (Grand Mesa, Uncompahgre, and Gunnison; San Juan; Pike and San Isabel; and Manti-La Sal National Forests). Finally, the 2007 petition identified that certain portions of ski areas (described in Table 2) were not to be included in CRAs. Table 1 displays the acreage changes between the 2001 inventoried roadless areas (IRAs) and the proposed CRA boundaries.

TABLE 1.—NET CHANGE IN ROADLESS ACRES DESIGNATIONS BY FOREST—INVENTORIED ROADLESS AREA ACRES TO COLORADO ROADLESS AREA ACRES

	2001 Rule total IRA acres [1]	Congressionally designated as wilderness or special areas [2] not included in IRAs or CRAs	Total IRA acres without congressionally designated acres	IRA acres not included within CRAs	Unroaded acres added to CRAs	Total roadless acres in CRAs	Net change between IRA and CRA acres
Arapaho-Roosevelt	391,000 (1997)	(37,000)	354,000	(5,000)	1,000	350,000	(4,000)
GMUG	1,127,000 (1979)	(67,000)	1,060,000	(329,000)	120,000	853,000 (2005 draft)	(207,000)
Pike-San Isabel	688,000 (1979)	(19,000)	669,000	(77,000)	82,000	674,000 (2006 draft)	5,000
Rio Grande	530,000 (1996)		530,000	(16,000)	4,000	518,000	(12,000)
Routt	442,000 (1998)		442,000	(10,000)	2,000	434,000	(8,000)
San Juan	604,000 (1979)	(60,000)	544,000	(84,000)	99,000	558,000 (2006 draft)	14,000
White River	640,000 (2002)		640,000	(5,000)	1,000	636,000	(4,000)
Manti La Sal in Colorado	11,000 (1979)		11,000	(4,000)	500	8,000 (2006 draft)	(3,000)
Total State of Colorado	4,433,000	(184,000)	4,249,000	(529,000)	309,000	4,031,000	(218,000)

Acres may not add due to rounding (ref. DEIS).

[1] The 2001 Roadless Rule used inventoried roadless areas from forest plans that were in effect at the time the 2001 Rule was developed, or a roadless inventory that had undergone public involvement. The date of each forest's inventory used for the 2001 Rule is shown here. Acreages are from the 2001 Roadless Rule FEIS.

[2] This column includes acres for the James Peak and Spanish Peak Wildernesses and additions to the Indian Peaks Wilderness, and Bowen Gulch and James Peak Protection Areas, Roubideau and Tabeguache Special Areas, Fossil Ridge Recreation Management Area, and the Piedra Special Management Unit all designated by Congress but not excluded from the 2001 RACR inventory.

[3] Acres not included are those identified as substantially altered, mapping errors, updated GIS technology, land exchanges, and ski area acres.

TABLE 2.—SKI AREA ACRES IN 2001 IRAS OR FOREST PLAN INVENTORIES NOT INCLUDED IN CRAS PER 2007 PETITION

National Forest ski areas	Colorado roadless area(s)	Ski area permitted acres	Additional ski area allocation [1] acres	Total ski acres not included in CRAs
Arapaho-Roosevelt National Forest				
Loveland	Bard Creek, Mount Sniktau	1,370	1,620	2,990
Grand Mesa, Uncompahgre, and Gunnison National Forest				
Crested Butte	Gothic	900	0	900
Pike-San Isabel National Forest				
Ski Cooper	Mad Creek DB & DB1	560	0	560

TABLE 2.—SKI AREA ACRES IN 2001 IRAS OR FOREST PLAN INVENTORIES NOT INCLUDED IN CRAS PER 2007 PETITION—Continued

National Forest ski areas	Colorado roadless area(s)	Ski area permitted acres	Additional ski area allocation [1] acres	Total ski acres not included in CRAs
Routt National Forest				
Steamboat Springs	Long Park	180	0	180
San Juan National Forest—(Draft Revised Forest Plan)				
Durango Mountain Resort	San Miguel	0	[2]90	90
White River National Forest				
Arapahoe Basin	Porcupine Peak	1,050	0	1,050
Aspen Mt	McFarlane	50	0	50
Beaver Creek	Meadow Mountain A & B	510	0	510
Breckenridge	Tenmile	150	0	150
Buttermilk	Burnt Mountain	50	0	50
Copper Mountain	Ptarmigan Hill	720	0	720
Snowmass	Burnt Mountain	80	0	80
Vail	Game Creek	900	0	900
Total		6,500	1,700	8,200

Ski area acres rounded to nearest 10 acres and total acres rounded to nearest 100 acres. Totals may not add due to rounding.

Ski areas on National Forest System lands in the State of Colorado that are not listed here do not contain roadless acres within their permit or allocation boundary.

[1] Acres allocated in forest plans to ski area management that adjoin currently operating ski areas but are not within the current permitted area.

[2] Expansion of Durango Mountain Resort is included within the San Juan's forest plan revision, draft preferred alternative. There are 90 acres of roadless area to be excluded from the CRA inventory.

TABLE 3.—CONGRESSIONALLY DESIGNATED ACRES INCLUDED IN 2001 IRAS AND NOT INCLUDED IN CRAS

Congressional designations	National Forest	Acres within roadless areas
Bowen Gulch Protection Area	Arapaho-Roosevelt	8,600
Indian Peaks Wilderness additions	Arapaho-Roosevelt	3,000
James Peak Protection Area	Arapaho-Roosevelt	11,300
James Peak Wilderness	Arapaho-Roosevelt	14,300
Fossil Ridge Recreation Management Area	Grand Mesa, Uncompahgre, and Gunnison	39,800
Roubideau Area	Grand Mesa, Uncompahgre, and Gunnison	18,600
Tabeguache Area	Grand Mesa, Uncompahgre, and Gunnison	8,900
Spanish Peak Wilderness	Pike-San Isabel	18,700
Piedra Special Management Unit	San Juan	60,400
Total		184,000

Using these inventories, the Forest Service has identified 4.031 million acres of roadless areas that would be subject to this proposed rule. This rule, if finalized as proposed, would establish CRA maps defining the boundaries of these areas and would be maintained at the national headquarters office of the Forest Service as provided in section 294.32 of this rule. These maps and acreages may be modified with additions or deletions to boundary lines only as outlined in section 294.37. Acres not included in the CRAs that were within the boundaries of the 2001 Roadless Rule IRAs would not be subject to the 2001 Roadless Rule and would be managed under their respective forest plan direction as provided in section 294.36(i).

Proposed Roadless Area Conservation Rule for Colorado

The USDA, State, and Forest Service believe this proposed rule for Colorado represents a unique opportunity to collaboratively manage and protect roadless areas within the State of Colorado. The petitioning process and the proposed rule enables the Forest Service to consider the comments of people most affected by or concerned about the contents of state-specific rulemaking for roadless areas across the State in balance with national concerns for these areas. The proposed rule represents a balanced solution for retaining the integrity and natural beauty of Colorado's roadless areas while maintaining management flexibility to affect future changes where needed.

The Forest Service, in cooperation with the State, has completed a review of the social, economic, and environmental characteristics and values associated with the IRAs in Colorado. With public input, the Forest Service has considered the question of how these roadless lands should be managed within the scope of the Forest Service's authority. The management direction proposed by these regulations would take precedence over any inconsistent regulatory provision or land management plan but would not supersede valid existing rights. All forests must meet the requirements of the proposed rule, regardless of their forest plan guidance. However, the

proposed rule at sections 294.33 and 294.34 does allow restrictions from forest plans to apply if they are more stringent than the proposed rule. Forest plans are revised at approximately 15-year intervals and are amended as needed. A revision or amendment could result in more restrictive direction for an individual CRA, but any forest plan direction with less restrictive direction, would have no force or effect (sec. 294.36(d)).

Ski Areas

The State of Colorado's petition requested the Forest Service not include within CRAs, certain acres that are within the 2001 IRAs and allocated in forest plans to a ski-based management area prescription. This includes acres that are currently within the ski area permitted boundaries (6,500 acres) as well as acres that have been allocated in forest plans (current or draft, 1,700 acres) to a ski-based management area prescription that are not currently within the permitted areas but directly adjoin current operating ski areas. A list of the acres not included in the CRAs by ski area can be found in Table 2.

The combined 8,200 ski area acres that are not proposed for CRA designation would remain subject to their respective forest plan direction and applicable terms and conditions of special use authorizations. Any proposal for these ski area acres, including expanding a ski area permit boundary into an area allocated to a ski-based management prescription would be subject to all appropriate environmental analysis, including NEPA analysis.

Limited Road Construction and Reconstruction

The proposed rule at section 294.33 prohibits road building in CRAs except under certain circumstances. The circumstances in section 294.33(b) allow for a road, whereas circumstances in section 294.33(c) are specific to temporary roads. Whenever a forest road is proposed, an EIS will be prepared (sec. 294.33(e)). For all other circumstances, NEPA requirements will be used to determine the level of environmental analysis needed.

Many exceptions in the proposed rule mirror the exceptions for road building provided in the 2001 Roadless Rule, but several additional circumstances allowing road building are proposed. The proposed rule at section 294.33(b)(6) includes an additional circumstance that would allow for the construction and maintenance of roads for existing and future utility and water conveyance structures. The Forest Service and the State believe this is a needed exception so Colorado's water and utility infrastructure can be properly operated and maintained. This provision is only intended to apply to existing and future authorized utility and water conveyance structures. The proposed rule at section 294.31 provides the definition for utility and water conveyance structures. The definition does not include road construction or reconstruction for the construction or maintenance needed for reservoirs. In addition, the proposed rule at section 294.33(b)(7) includes an additional circumstance that would allow for the construction and maintenance of roads needed for the management of livestock grazing. The Forest Service and State recognize the importance of maintaining a viable ranching industry in Colorado. Conserving sustainable, working grasslands reduces development pressure on these lands and is a component of the Forest Service's Open Space Conservation Strategy.

Another change from the 2001 Roadless Rule is the emphasis the proposed rule places on using temporary roads to the extent possible for any of the circumstances allowing for road building (sec. 294.33(c) and (e)). The proposed rule also emphasizes restoration of temporary roads at section 294.33(c).

The Forest Service is charged with managing the National Forest transportation system, including requirements for temporary roads to be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by road construction within ten years after the termination of a contract, permit, or lease through either artificial or natural means (ref. 16 U.S.C. 1608). The Forest Service and State have considerable experience dealing with road restoration activities across many types of programs and activities. For example, the State administers a federally-funded abandoned mine reclamation program in which one principal goal is to identify environmental problems arising from abandoned mines and then to design appropriate closure methods and reclamation techniques (including restoring roads) at project sites. The State has restored over 1,500 acres of abandoned mine lands statewide since 1980.

The proposed rule anticipates that lands affected will be returned to a condition consistent with the preexisting roadless characteristics (sec. 294.33(c)). However, the proposed rule recognizes that restoration efforts are to proceed in an environmentally sound way. In rare instances, complete obliteration and restoration (such as fully recontouring the roadway to its natural state) may cause more environmental harm than recontouring to a level that stabilizes against soil loss or other damage. For example, when the Forest Service decommissions temporary roads, restoration and obliteration are intended to make the corridor unusable as a road, stabilize it against soil loss or other damage, and reestablish the affected land's natural resource capabilities through such actions as: removing bridges and culverts and reestablishing normal maximum water flow, eliminating ditches, out-sloping the roadbed, removing ruts and berms, and recontouring road cuts. However, fully recontouring a road cut may set the stage for higher levels of soil loss due to unsuccessful revegetation on a steep slope as compared to partial recontouring incorporating a design that facilitates revegetation.

Roads built for access to existing oil and gas leases as of the date of the Colorado Rule (sec. 294.33(c)(3)) and roads built to accommodate coal mining exploration and coal-related surface activities in the North Fork coal mining area (sec. 294.33(c)(4)) would be classified as temporary or long-term temporary roads. The proposed rule would establish a new category of road, long-term temporary road, which would have application only in CRAs. The intent is to provide a classification for roads associated with oil and gas, or coal leases that better recognizes the longer term, but non-permanent nature that is typical of such roads. Long-term temporary roads would be expected to be in place anywhere from 10 to 30 years. They would be included in the forest transportation system, ensuring they will be monitored and maintained in compliance with the terms of the applicable permit or special use authorization. However, as with other temporary roads, any long-term temporary roads constructed pursuant to an oil and gas lease or pursuant to a coal exploration license or a coal lease shall be decommissioned and the affected landscape restored when the road is no longer needed, or upon termination of the lease or license. The intent of this provision is to preserve the roadless character of CRAs to the maximum extent practicable.

Except for emergency purposes, administrative use, or motorized vehicle use that is specifically authorized, all roads constructed in CRAs will be closed to motorized vehicles, including off-highway vehicles (OHVs) not authorized for the specific activity for

which the road was constructed (sec. 294.33(d)). Any temporary roads, including long-term temporary roads, built in a CRA would not serve as the basis for altering the management status for that CRA. (sec. 294.33(c)).

Colorado State Land Board Mineral Interests

The proposed rule at section 294.33(b)(2) aligns with the Colorado State Land Board's current ability to develop its mineral interests that underlie NFS lands in CRAs. Access to such mineral interests would continue to be governed by operation of the standard applicable laws and regulations rather than by this rule. The Forest Service and the State are committed to exploring opportunities for land exchanges whereby the State could acquire other property interests of equal value, outside of roadless areas. Such exchanges would provide the Forest Service with unified administration of both surface and mineral interests in CRAs.

Public and Safety

The USDA, Forest Service, and State are committed to preserving roadless area characteristics while also protecting human health and safety. In an effort to achieve a proper balance, the proposed rule would allow for the construction of a temporary road if it is needed to safeguard public health when there is a catastrophic event, such as a flood or fire, which would cause the loss of life or property (sec. 294.33(c)(2)).

Locatable Minerals

Development of locatable minerals is subject to the General Mining Law of 1872, as amended. Like the 2001 Roadless Rule the proposed rule does not seek to impose any limits on activities related to the exploration for or development of locatable minerals. The proposed rule at section 294.33(b)(2) allows for roads provided for by statute or treaty, which includes roads provided under the General Mining Law of 1872, as amended. The proposed rule does not affect or seek any withdrawal of the mineral estate in CRAs. Therefore, the proposed rule will not affect rights of reasonable access to prospect and explore lands open to mineral entry and location, or to develop any minerals discovered.

Saleable Minerals

Disposal of saleable minerals (mineral materials) is at the discretion of the Forest Service, subject to the provisions of 36 CFR 228 subpart C. The proposed rule prohibits road construction or reconstruction associated with developing new mineral material sites in roadless areas, unless this material is necessary to and accessible from roads allowed to be constructed under other provisions of the rule.

Leasable Minerals—Oil and Gas

Like the 2001 Roadless Rule the proposed rule does not prohibit oil and gas leasing. However, prohibitions on road construction and reconstruction provided in the proposed rule (sec. 294.33), would affect Federal oil and gas leases, subject to valid and existing rights. The proposed rule (sec. 294.33 (c)(3)) would require future leases within CRAs include stipulations that prohibit road construction. Drilling and production may be allowed on leases in roadless areas issued after the effective date of the rule, but new roads to access sites for drilling and production will not be allowed. Oil and gas resources in roadless areas under leases issued after the effective date of the final rule may be developed by helicopter access or by other means such as directional drilling from outside the roadless areas. These provisions bar roading, but would not restrict the construction of oil and gas pipelines in CRAs where the construction of a pipeline is necessary to transport the product of an oil and gas lease on lands within a CRA that are under lease by the Secretary of the Interior as of the effective date of the final rule.

The proposed rule at section 294.33(c)(3) would allow for temporary or long-term temporary road construction or reconstruction for access on and to Federal oil and gas leases that were issued before the effective date of the final rule and that allow road construction. Such access will be allowed pursuant to valid existing rights but restricted to lessees, operators, and their designated contractors; Forest Service and Bureau of Land Management (BLM) personnel and other federal and state agencies with jurisdictional authority over mineral development activity allowed under the proposed rule; and fire, emergency, or law enforcement personnel.

The proposed rule does not allow the Forest Service to authorize the BLM to grant a waiver (permanent removal), exception (case-by-case exemption), modification (permanent changes), or otherwise remove stipulations prohibiting surface occupancy or road construction or reconstruction on existing leases or on any future lease in any CRAs where these stipulations occur, It is the intent of the proposed rule to maintain all no surface occupancy, controlled surface use and other stipulations that restrict road construction and reconstruction on all existing leases, including those specifically tied to the 2001 Roadless Rule.

Leasable Minerals—Coal

The proposed rule at section 294.33(c)(4) provides for temporary or long-term temporary roads associated with the exploration and mining of coal resources in roadless areas in the North Fork coal mining area on the Grand Mesa, Uncompahgre, and Gunnison National Forests. This area is identified on the North Fork coal mining area map within the DEIS for the proposed Colorado Roadless Rule. This area would be included in the CRAs and will be managed in a way that permits temporary or long-term temporary roads and other coal related surface activities associated with coal exploration and coal mining to occur (sec. 294.33(c)(4)). Such temporary or long-term temporary roads will be closed to the public. The use of these roads will be restricted to coal mine and oil and gas operations, the Forest Service and other Federal and State agencies with jurisdictional authority, including emergency response, fire, and law enforcement personnel.

Temporary and long-term temporary coal mine roads may be constructed for exploration drilling, resource monitoring, safety, or installation and operation of surface facilities needed to operate coal mines, including methane venting wells. In some instances roads are necessary to comply with Mine Safety and Health Administration (MSHA) requirements for mine safety, and to meet Colorado Division of Reclamation, Mining, and Safety requirements for resource monitoring. For example, roads may be constructed to facilitate the venting of coal mine methane gas. Methane is a by-product of coal mining in the North Fork area and must be removed from the mines to protect miner health and safety.

The proposed rule also provides the opportunity for an oil and gas lessee to use roads for the purpose of collecting and transporting coal mine methane rather than venting the methane into the atmosphere. These activities will remain within the authorized right of way for the long-term temporary roads; no additional roads or pipelines outside the right-of-way will be constructed. Any roads constructed pursuant to a coal lease or exploration license and used for collection and transportation of coal mine methane under an oil and gas lease shall be decommissioned and the affected landscape restored when the road is no longer needed for coal mining

purposes or coal mine methane collection, whichever is later.

Leasable Resources—Geothermal Energy

Colorado has high geothermal energy potential on NFS lands both inside and outside roadless areas. However, site-specific information on this resource in CRAs is limited. At this time, the proposed Colorado Roadless Rule does not include a specific exemption for geothermal energy resources. The proposed rule makes no special provision for road construction and reconstruction associated with geothermal energy sources. Once additional information becomes available, the State or other parties could choose to seek a change in the rule's restrictions.

Road Closures

The proposed rule does not provide direction about where and when OHV use would be permissible except roads constructed under this provision would be closed to OHVs pursuant to section 294.33(d). Travel planning-related actions will continue to be addressed through travel management and individual forest plans.

Tree Cutting, Sale, or Removal—Forest Health

In order to reduce the hazard of wildfire near communities and after careful consideration of roadless area characteristics, the proposed rule at sections 294.34(b)(1)(ii) and 294.33 (c)(1) allows for forest health treatments and temporary road construction to meet needs described in Community Wildfire Protection Plans (CWPPs) or, if a CWPP is not in place, within the Wildland Urban Interface (WUI). CWPPs are collaborative agreements in which local communities identify and prioritize areas for hazardous fuel reduction treatments. The Forest Service and the State believe that allowing forest health treatments for projects identified in CWPPs or within WUIs strike the proper balance of protecting roadless area characteristics while allowing forest health and community protection needs to be addressed.

Oil and Gas Pipelines

After the petition was submitted the State requested that the proposed rule (sec. 294.35) restrict the construction of oil and gas pipelines through CRAs where a source or sources of the oil and/or gas are exclusively outside CRAs. The proposed rule would not prohibit the construction of pipelines that were authorized by the Forest Service or another jurisdictional agency prior to the effective date of the final rule. The proposed rule would not restrict the construction of oil and gas pipelines in CRAs where the construction of a pipeline is necessary to transport the product of an oil and gas lease on lands within a CRA that are under lease by the Secretary of the Interior as of the effective date of the final rule.

Access

The Forest Service and State are committed to conserving roadless area characteristics while also providing reasonable access to public and private property and facilities. Several aspects of the proposed rule address the need for the State and/or private parties to access property and/or facilities (sec. 294.33(b)(2) and (6); (sec. 294.33(c)(3) and (4); sec. 294.36(g)).

Regulatory Certifications

Regulatory Planning and Review

This proposed rule was reviewed under USDA procedures, Executive Order 12866 issued September 30, 1993 (E.O. 12866), as amended by E.O. 13258 and E.O. 13422 on Regulatory Planning and Review, and the major rule provisions of the Small Business Regulatory Enforcement and Fairness Act (5 U.S.C. 800). These executive orders address regulatory planning and review and require that agencies conduct a regulatory analysis for economically significant regulatory actions. Economically significant regulatory actions are those that have an annual effect on the economy of $100 million or more or adversely affect the economy or economic sectors. Because this rule is projected to have an annual effect on the economy of approximately $500 million, this proposed rule has been designated as significant and is subject to Office of Management and Budget (OMB) review under E.O. 12866. This proposed rule is not expected to interfere with an action taken or planned by another agency nor raise new legal or policy issues. This action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs.

A regulatory impact analysis has been prepared for this proposed rule. OMB Circulars as well as guidance regarding E.O. 12866 indicate that regulatory impact analysis should include benefit cost analysis and an assessment of distributional effects. We are seeking comments on assumptions, methods, and conclusions in the Regulatory Impact Analysis and Cost-Benefit Analysis. The benefits, costs, and distributional effects of three alternatives referred to as follows: the proposed Colorado Roadless Rule (proposed rule), 2001 Roadless Rule (2001 rule) and land management plans (LMPs) are analyzed over a 15 year time period. As of the printing of this proposed rule, the 2001 rule is in operation. For the purpose of regulatory impact analysis, the 2001 rule represents baseline conditions or goods and services provided by NFS lands in the near future in the absence of the proposed rule.

The proposed rule is programmatic in nature and intended to guide future development of proposed actions within roadless areas. The proposed rule is intended to provide greater management flexibility under certain circumstances to address unique and local land management challenges, while continuing to conserve roadless values and characteristics. Increased management flexibility is primarily needed to reduce hazardous fuels and large-scale insect and disease outbreaks, allow access to coal reserves in the North Fork coal mining areas and ski area development, and to allow access to future utility and water conveyances, while continuing to conserve roadless area values and characteristics.

This proposal does not authorize the implementation of any ground-disturbing activities, but rather it describes circumstances under which certain activities may be allowed or restricted within roadless areas. Before authorizing land use activities in roadless areas, the Forest Service must complete a more detailed and site-specific environmental analysis pursuant to the NEPA and its implementing regulations at 40 CFR 1500–1508.

Because the proposed rule does not prescribe site-specific activities, it is difficult to predict the benefits and costs or other changes of the different alternatives. In addition, the types of benefits derived from roadless characteristics and the uses of roadless areas are far ranging and include a number of non-market and non-use benefit categories that are difficult to measure in monetary terms. As a consequence, benefits are not monetized, nor are net present values or benefit cost ratios estimated. Instead, increases and/or losses in benefits are discussed separately for each resource area in a quantitative or qualitative manner. Benefits and costs are organized and discussed in the context of local land management challenges or concerns ('local challenges') and 'roadless characteristics' in an effort to remain consistent with the overall purpose of the proposed rule, recognizing that benefits associated

with local challenges may trigger or overlap with benefits associated with roadless characteristics in some cases (e.g., forest health). Access and designations for motorized versus non-motorized recreation is a topic raised in comments during scoping, however, the proposed rule does not provide direction on where and when off-highway vehicle (OHV) use would be permissible and makes clear that travel planning-related actions should be addressed through travel management planning and individual land management plans.

Distributional effects or economic impacts, in terms of jobs and labor income, are quantified for the oil and gas and the coal sectors for an economic area consisting of five Colorado counties (Delta, Garfield, Mesa, Montrose, and Rio Blanco) using a regional impact model. Fiscal impacts (i.e., mineral lease payments) are estimated for counties where changes in mineral activity are expected to be physically located (Delta, Garfield, Gunnison, Mesa, Montrose, and Pitkin). The distributional effects associated with protecting values at risk from wildfire are characterized by estimating the number of communities-at-risk expecting to benefit from fuel treatments in roadless areas. Distributional effects or economic impacts are not evaluated for other economic sectors (e.g., timber harvest, recreation) due to evidence presented in respective resource sections suggesting that the extent or magnitude of changes in output or services are not sufficient to cause significant changes in distributional effects.

Details about the environmental effects of the proposed rule can be found in the Roadless Area Conservation; National Forest System Lands in Colorado Draft Environmental Impact Statement (DEIS). Effects on opportunities for small entities under the proposed rule are discussed in the context of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The results of the regulatory impact analysis for the proposed rule are summarized in the following tables. Table 1 provides information related to roadless area acreage, road miles and tree-cutting. Table 2 summarizes the potential benefits and costs of the proposed rule, the 2001 roadless rule, and land management plans alternatives. Table 3 summarizes distributional effects and economic impacts of the proposed rule and alternatives.

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Table 1 – Framework for Analysis: Comparison of Roadless Area Acreage, Road Miles, and Tree-cutting

	2001 Roadless Rule	Proposed Rule	LMPs
Aggregate Roadless Areas	Inventoried Roadless Areas (IRAs) = 4,249,000 acres	Colorado Roadless Areas (CRAs) = 4,031,000 acres	Inventoried Roadless Areas (IRAs) = 4,249,000 acres
Total Existing Authorized Road Miles in Roadless Areas	1,396 miles	216 miles	1,396 miles
Road Construction and Reconstruction Projected in Roadless Areas (1)	6 miles/year	21 miles/year	30 miles/year
Tree-cutting Projected in Roadless Areas	800 acres (12,000 acres over 15 yrs)	7,600 acres (114,000 acres over 15 yrs)	16,300 acres (244,500 acres over 15 yrs)
Harvest volume Projected in Roadless Areas	800 ccf/year	1,700 ccf/year: CRAs only 6,700 ccf/year: CRAs and Substantially Altered areas	24,400 ccf/year

(1) More than 10 miles road decommissioning expected per year for all alternatives.
Ccf = hundred cubic feet.

Table 2 – Summary of Net Benefits of the Proposed Rule and Alternatives.

Category	2001 Roadless Rule	Proposed Rule	LMPs
Local Challenges: Roadless Area Management			
Wildfire hazard (1)	1 percent of the annual fuel treatments on NFS lands in Colorado could occur in roadless areas. Lowest opportunity to improve fuels and fire management efficiency.	12 percent of the annual fuel treatments on NFS lands in Colorado could occur in roadless areas (in CWPP areas or WUIs). Moderate opportunity to improve fuels and fire management efficiency.	27 percent of the annual fuel treatments on NFS lands in Colorado could occur in roadless areas. Greatest opportunity to improve fuels and fire management efficiency.
Insect and disease (1)	2 percent of the high risk acres in roadless areas would likely be treated.	19 percent of the high risk acres in roadless areas would likely be treated.	41 percent of the high risk acres in roadless areas would likely be treated.
Reduction of wildfire hazard for at-risk-communities and values	Opportunities to reduce wildfire hazard for at-risk communities would be lowest under this alternative compared to the others.	Opportunities to reduce wildfire hazard for at-risk communities would be available but somewhat limited under this alternative compared to the others.	Opportunities to reduce wildfire hazard for at-risk communities would be greatest under this alternative compared to the others.

Wildlife and plant habitat, including special status species	Not allowing new roads in conjunction with treatments to reduce wildfire hazard could result in a higher risk of severe wildfires causing adverse impacts to habitat for some species.	Allowing new roads in conjunction with treatments to reduce wildfire hazard could result in reducing the hazard of severe wildfires causing adverse impacts to habitat for some species. Increased ability to cut trees on more acres for forest health and fuels management could improve habitat for early seral species in some areas in the short-term.	Same flexibility to improve habitat conditions as the proposed rule, but to a greater extent.
Utility and water facilities and conveyances	Does not allow new roads to provide for future utility or water conveyances in roadless areas (limited to those under an existing permit issued prior to January 2001).	Allows new roads to provide for future electrical transmission utilities and water conveyances in roadless areas (other then where prohibited by forest plan direction).	Same flexibility as the proposed rule, with additional flexibility for new roads to provide for other types of utilities such as telephone and fiber optic lines, water reservoirs, and others (other than where prohibited by forest plan direction).
Roadless area boundary updates	Does not provide a process for updating roadless area boundaries. Changes could be allowed in the future if authorized by the Secretary of Agriculture through rule making.	Provides a process for updating roadless area boundaries. Modifications based on changed circumstances or public need require at least 60 days public notice and opportunity to comment.	Like the proposed rule, provides a process for updating roadless area boundaries. Boundary changes may be made through a forest plan amendment or revision process, subject to public involvement and analysis under NFMA and NEPA regulations (36 CFR 219 and 40 CFR 1500).
Public safety and Safety	All of the alternatives provide adequate flexibility to respond to emergency situations or major threats to public health and safety in roadless areas (refer to features common to all alternatives). The Forest Service will continue to respond to wildfires, chemical or oil spills, abandoned mine hazards, road-design hazards, hazard trees, and other similar situations. Roads for this purpose must be temporary under the proposed rule, and would be expected to be temporary under the 2001 roadless rule and LMPs alternatives.		
	Limited capacity to respond to emergency situations	Roads improve capacity to respond to emergency situations	Roads provide greatest capacity to respond to emergency situations.

Outstanding rights and existing authorized uses of NFS lands	All of the alternatives allow the exercise of outstanding rights for access, occupancy, and use of NFS lands within roadless areas, including those that exist by law, treaty rights, or other authority (e.g. access to private property, valid mining claims for locatable minerals, land uses protected by American Indian treaty rights). All of the alternatives allow for the continuation, transfer, or renewal of existing land use authorizations in roadless areas that exist at the time the applicable roadless rule becomes effective, including discretionary authorizations such as for livestock grazing and other permitted activities. For clarification, "existing" authorizations under the 2001 Roadless Rule are those issued prior to January 12, 2001, while "existing" authorizations under the proposed Colorado Roadless Rule would be those issued prior to adoption of the final rule. Thus, outstanding rights and existing authorized uses may continue in roadless areas except where limited by applicable laws, regulations, Forest Service directives, or land management plan direction.		
Ski Areas	Road building and tree-cutting may occur on 3,200 IRA acres under permits authorized prior to 1/12/2001	Road building and tree-cutting may occur on 8,200 IRA acres (acres not included in CRAs)	
Leasable Minerals: Energy Resources			
Pipelines and Access energy resources	Provides the least opportunity for access to develop oil, natural gas, or coal resources in roadless areas. No prohibition on oil or gas pipelines through IRAs from sources outside IRAs.	Access to develop oil and natural gas is similar to 2001 roadless rule. Increases roaded access to future coal resources in the North Fork coal mining area. Prohibits construction of oil and gas pipelines through CRAs from sources outside the CRAs.	Provides the most opportunity for access to develop future oil, natural gas, and coal resources compared to the other alternatives. No prohibition on oil or gas pipelines through IRAs from sources outside IRAs.
Oil and gas	Projections are for approximately 252 oil and gas wells in IRAs with access to 418.6 bcfg over a 15-year period; providing the least opportunity for oil and natural gas development and production among the alternatives.	Projections are for approximately 674 oil and gas wells in CRAs with access to 1005.6 bcfg over a 15-year period; providing much more opportunity for oil and natural gas development and production than the 2001 rule and slightly less than LMPs.	Projections are for approximately 731 oil and gas wells in IRAs with access to 1.023.6 bcfg over a 15-year period; providing the most opportunity for oil and gas development and production than other alternatives.

Coal	Projections are for 6.5 miles of new roads for coal-related activity in IRAs. Restricts access to potential coal resources in IRAs more than other alternatives. 3,700 acres of road-accessible reserves (135 million tons)	Projections are for 45 miles of new roads for coal-related activity in CRAs. Reduces restrictions on access to potential coal resources in CRAs compared to the 2001 rule, but is more restrictive than LMPs (limits new roads to the North Fork coal mining area). 29,000 acres of road-accessible reserves (1 billion tons)	Projections are for 66 miles of new roads for coal-related activity in IRAs. Least restrictive on access to potential coal resources in IRAs compared to the other two alternatives. 31,000 acres of road-accessible reserves (1.1 billion tons)
Geothermal	Opportunities for geothermal development in roadless areas would not occur under the 2001 rule and the proposed rule due to new road prohibitions. Opportunities for geothermal development in roadless areas would occur under LMPs as most LMPs allow new roads in roadless areas for this purpose.		
Other Resource Effects			
Livestock Management	None of the projected activities in roadless areas that vary by alternative would be likely to have any substantial beneficial or adverse impacts on livestock management operations in roadless area grazing allotments.		
Locatable and saleable minerals	Opportunities to develop locatable minerals resources held by valid mining claims in roadless areas would continue to occur and would not differ by alternative. Opportunities for saleable minerals production would not likely differ by alternative because little to no saleable mineral operations would likely occur in the roadless areas.		
Roadless Area Characteristics and Values			
Soil and water quality, including public drinking water sources	No major difference among alternatives related to the risk of adverse water quality and soil impacts. The 2001 rule would have the least risk of adverse effects, and the proposed rule would have a slightly higher risk, followed by LMPs with the greatest risk of adverse impacts. However, these differences are insignificant because the actual impacts would be small in magnitude and scattered over a wide geographic area. Most of the potential effects would be of short duration, and effectively mitigated by site-specific watershed conservation practices, best management practices, post-project rehabilitation of disturbed soil, and regulatory permit requirements.		
Air quality	No major difference among alternatives related to the risk of adverse impacts on air quality. One minor difference is related to potential smoke-related impacts from wildfires, which would be more likely to occur in roadless areas under the 2001 rule, and least likely to occur under LMPs. None of the alternatives is likely to result in emissions that would exceed air quality standards; most would be of short duration with site-specific mitigation measures applied as needed.		
Invasive plants	An increase of about 4 acres per year of invasive plants in IRAs.	An increase of about 38 acres per year of invasive plants in CRAs.	An increase of about 82 acres per year of invasive plants in IRAs.

Scenic quality (integrity)	Maintains the most IRA acreage at high to very high scenic integrity levels where it exists.	Retains majority of CRAs at high or very high integrity; the scenic integrity of some areas would be reduced by the roads and road-related activities projected as likely to occur in CRAs.	Maintains the least IRA acreage at high to very high scenic integrity levels, as more IRA acres would be reduced by shifting to a moderate to low scenic integrity from the roads and road-related activities projected as likely to occur in IRAs
Cultural properties and sacred sites	No major difference among alternatives related to the risk of adverse effects on traditional cultural properties, sacred sites or other cultural (heritage) resources. The 2001 rule offers the most protection from development in roadless areas, which translates to fewer potential effects to historic properties; this is offset somewhat by a slightly increased potential for uncharacteristic wildfire. The proposed rule offers fewer acres of roadless protection, so there is an increase in potential development activities that may have an effect on cultural resources; wildfire risk is slightly reduced in this alternative. LMPs has the most potential for direct effects on cultural resources; this alternative may also have the lowest risk of uncharacteristic wildfire.		
Wilderness and other congressionally designated areas	No major difference among the alternatives related to the risk of adverse effects on congressionally designated areas. There would be no potential direct effect on these areas as they are located outside the roadless areas that are the subject of each alternative. There could be indirect effects on wilderness characteristics due to some noise and visibility of human activities in adjacent roadless areas, with the highest potential for indirect impacts under LMPs, and the lowest potential under the 2001 rule. Effects on areas allocated in LMPs as recommended wilderness would not differ by alternative as LMPs generally prohibit roading and tree-cutting and removal activities in those areas. However, the restrictions on activities in IRAs under the 2001 rule provide a greater opportunity to maintain future options for recommending roadless acres as wilderness in the future, compared to the proposed rule or LMPs alternatives.		
Protected Species, Habitat, and Biodiversity			
Biodiversity	The value of roadless areas in conserving biodiversity is likely to increase as habitat loss and habitat degradation increase in scope and magnitude in lands outside of roadless areas. Opportunities for protected large contiguous blocks of habitat, biological strongholds, and habitat connectivity would be greatest for the 2001 rule and lowest under LMPs.		
Terrestrial species and habitat	Provides terrestrial species and habitat the most protection compared to other alternatives, based on the IRAs with important wildlife habitat and projected activities that differ among alternatives.	Provides terrestrial species and habitat moderate protection (less than the 2001 rule and more than LMPs), based on the CRAs with important wildlife habitat and projected activities that differ among alternatives.	Provides terrestrial species and habitat the least amount of protection compared to the other two alternatives, based on IRAs with important wildlife habitat and projected activities that differ among the alternatives.
	For all alternatives, potential adverse effects are expected to be avoided or minimized through compliance with standards and guidelines in land management plans and other applicable laws and policies. For all alternatives, activities may affect individual animals but are not likely to adversely affect populations or critical habitat of T&E species, nor result in the loss of viability or cause a trend toward federal listing for sensitive species.		

Aquatic species and habitat	Provides aquatic species and habitat the most protection compared to other alternatives, based on the IRAs with important aquatic habitat and projected activities that differ among alternatives.	Provides aquatic species and habitat moderate protection (less than the 2001 rule and more than LMPs), based on the CRAs with important aquatic habitat and projected activities that differ among alternatives.	Provides aquatic species and habitat the least amount of protection compared to the other two alternatives, based on IRAs with important aquatic habitat and projected activities that differ among the alternatives.
Native plants, including special status plants	No major difference among alternatives related to the risk of adverse effects on native threatened, endangered or sensitive plant species. There would be very little to no increases in roads, tree-cutting, or energy development activities in the roadless areas that support those plant species. The main difference is the higher risk under the proposed rule and LMPs that invasive plants would increase from the higher levels of ground-disturbance, thereby increasing this threat to native plant communities.		
Recreation			
Primitive and semi-primitive recreation settings and opportunities	Likely to retain the greatest proportion of IRA acreage in a primitive or semi-primitive setting. The substantially altered areas and developed ski areas in IRAs may continue to appear inconsistent with semi-primitive characteristics expected in roadless areas.	Likely to retain a high proportion of CRA acreage in a semi-primitive setting; although some CRA acres would shift toward roaded natural in areas where the most roads and energy operations are projected to occur in CRAs. By not including substantially altered areas and developed ski areas in CRAs and adding unroaded areas to CRAs, the CRAs would appear more consistent with semi-primitive characteristics expected in roadless areas.	Likely to retain lower proportions of IRA acreage in a semi-primitive setting; more acres would shift toward roaded natural in areas where the most roads and energy operations are projected to occur in IRAs. The substantially altered areas and developed ski areas in IRAs may continue to appear inconsistent with semi-primitive characteristics expected in roadless areas.
Other General Resource Effects			
Geological and Paleontological	None of the projected activities in roadless areas that vary by alternative would be likely to adversely affect geological or paleontological resources, which would either be avoided or otherwise protected from potential adverse impacts.		
Outfitters and guides and other special uses	The alternatives are expected to have negligible adverse effects on recreational special uses, including outfitter and guide opportunities, based on reasonably foreseeable activity projections. Limitations on roading and tree-cutting under any alternative would not be likely to affect ability to obtain or use a recreation use authorization.		
Climate Change	None of the alternatives are expected to cause a measurable change in the amount of carbon dioxide or other greenhouse gas emissions. The cumulative effects of climate change on roadless area conditions cannot be quantitatively described in this programmatic evaluation. The risk of cumulative effects would be somewhat lower under the 2001 rule, and incrementally larger under the proposed rule and LMPs due to projected levels of ground-disturbing activity.		

Agency Costs			
Vegetation and Fuel Treatments	Treatments are likely to be less efficient and more costly in IRAs.	Increased flexibility to achieve management objectives in critical insect and disease areas; increase ability to strategically locate treatments and improve efficiency.	Capacity to shift even more treatment acres into IRAs; increased efficiency, effectiveness and timeliness of wildfire suppression response as well as fuel reductions in WUIs
Other Costs	Administrative costs are unlikely to change due to flat or static budgets and corresponding constraints on projects. Emphasis on road decommissioning and temporary roads is expected to ease demands on maintenance backlog.		

(1) Percentages assume that all projected tree-cutting acres target the respective objectives (fuels or insect/disease); high risk insect and disease areas may not overlap with WUI/CWPP areas during actual implementation.

Bcfg = billion cubic feet gas

Ccf = hundred cubic feet timber

Table 3 – Summary of Distributional Effects and Economic Impacts of the Proposed Rule and Alternatives.

	2001 Rule	Proposed Rule	LMPs
Leaseable minerals: coal, oil and gas – Output Value, Jobs and Income (2006$) Contributed (1)	$149.2 million/yr Output 297 Jobs supported $17.5 million per year Labor Income	$565.7 million/yr Output 1,481 Jobs supported $96 million per year Labor Income	$621.7 million/yr Output 1,592 Jobs supported $102.7 million per year Labor Income
Revenue Sharing: Mineral Lease Payments and Tax Revenues (2007$) (2)	State Total: $6,146,000 Energy-Affected Counties: $2,240,000 All other CO Counties: $193,000	State Total: $24,481,000 Energy-Affected Counties: $6,847,000 All other CO Counties: $904,000	State Total: $26,825 Energy-Affected Counties: $7,729,000 All other CO Counties: $976,000
Values at risk: Number of At-Risk-Communities where opportunities for hazardous fuel reduction in the WUI may uncrese, relative to the 2001 rule (3)	NA (4)	118 communities in 20 Counties	196 communities in 23 Counties

(1) Jobs and income contributed annually (2006 dollars) based on projected levels of coal, oil, and gas production and regional economic modeling multipliers. Values are all based on the following annual production volumes: 9.6 billion cubic feet gas/yr (bcfg/yr) and zero tons/yr coal for the 2001 rule; 26.2 bcfg/yr and 4 million tons/yr coal for the proposed rule; 29.8 bcfg/yr and 4 million tons/yr coal for LMPs.

(2) Payments consist of property tax receipts from coal, oil, and gas production; state distribution of severance taxes and federal royalties. Energy-affected counties are Delta, Garfield, Gunnison, Mesa, Montrose, and Pitkin counties. Changes in payments associated with the Secure Rural Schools and Self Determination Act and Payments in Lieu of Taxes (PILT) are not expected to change significantly.

(3) At-risk-communities are assumed to experience an increase in likelihood if the probability of tree-cutting in association with the WUI changes from "unlikely or somewhat likely" to "very likely or plans underway" in at least one CRA within 3 miles according to forest unit survey responses (see Appendix C of the draft EIS).

(4) WUI treatments are projected to be 'very likely' or 'already planned' for 82 at-risk-communities under the 2001 rule, 183 communities under the proposed rule, and 250 communities under land management plans. Some at-risk communities may benefit from fuel reductions under all alternatives but are within 3 miles of multiple CRAs; these communities may therefore experience incremental increases in opportunities when comparing alternatives.

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Proper Consideration of Small Entities

This proposed rule has also been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Forest Service with the assistance of the State of Colorado has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the E.O. 13272 and SBREFA, because the proposed rule does not subject small entities to regulatory requirements. Therefore, an initial regulatory flexibility analysis is not required for this proposed rule.

For small businesses affiliated with most industry sectors involved with activities in roadless areas (e.g., coal, oil and gas), potential opportunities increase due to easing of restrictions on road construction and tree-cutting in certain circumstanced under the proposed rule. As a result, there is little or no potential for significant adverse economic impacts to small businesses under the proposed rule relative to no-action conditions (i.e., 2001 rule).

There are about 1,390 recreation special use permits currently authorized within NFS lands in Colorado of which a large majority are small businesses, and 1,066 (77%) are associated with outfitter and guide permits, some of which are likely to operate within roadless areas. However, there is little difference between alternatives with respect to recreation special use authorizations in roadless areas, because limitations on roading and tree-cutting under any alternative would not be likely to affect ability to obtain or use a recreation use authorizations. Exceptions might be special-use permit holders who rely on primitive or semi-primitive recreational settings to maintain the quality of the outdoor or remote experience. Increases in road construction and tree-cutting may have adverse impacts on permit holders in specific areas under the proposed rule, but impacts are not expected to be significant due to the small percentage (0.2%) of acreage affected (7,600 acres of tree-cutting per year) and roads constructed (21 miles per year) spread across 4 million acres of Colorado Roadless Areas. It is also noted that a significant percentage of roads and tree-cutting activity will occur within or near the wildland urban interface areas where primitive or semi-primitive settings may already be affected.

Projected harvest volumes from roadless areas from the seven affected National Forest units are all greater under the proposed rule and land management plans relative to the no-action alternative (2001 rule). As such there is little or no potential for adverse impacts to small entity opportunities, relative to no-action, in aggregate or in the context of individual forest unit areas. Volumes are projected to be 17,700 hundred cubic feet (ccf) less under the proposed rule, relative to the land management plans, and approximately 70% of the decrease is due to volume changes on the Pike San Isabel National Forest (decrease of 12,720 ccf). All seven National Forest units have been in compliance with small business set aside shares for the period 1/1/2000 to 9/30/2005. The proposed rule, relative to the land management plans alternative, may decrease small entity opportunities for wood products businesses associated with the Pike San Isabel National Forest, recognizing that small business shares are already being met and that aggregate volumes sold from NFS lands may not change significantly under any alternative due to flat budget assumptions. Flat budgets imply that the percentage of harvest from roadless areas may change under the alternatives, but aggregate volumes across all NFS land are expected to remain relatively unchanged, on average, implying little potential for adverse impacts to small entities.

For leasable minerals associated energy resources (coal, oil and gas), significant changes in output are projected across alternatives. More than 95 percent of the firms associated with these sectors can be classified as small as defined by Small Business Administration standards. Any changes in oil and gas, or coal development or production can therefore have an effect on small business opportunities in these sectors. A five-county region has been defined to model the economic impacts associated with energy resources (Delta, Garfield, Mesa, Montrose, and Rio Blanco counties). A total of 355 firms associated with oil and gas, and coal development and extraction are estimated to be located within this region, of which 95% are likely to be small (337 firms). However, energy resource sector jobs, supported annually by projected activity within roadless areas, are estimated to increase from 297 under no-action (2001 rule) to 1,481 jobs under the proposed rule. Labor income increases by a similar degree from $17.5 million to $96.2 million per year. There is a slight increase in job numbers under land management plans (1,592 jobs), relative to the proposed rule, but the magnitude of the difference between the two alternatives does not suggest that adverse impacts will be significant if choosing between the proposed rule and land management plans. These results indicate that there is no potential for adverse impacts to small entities associated with energy resource development and extraction under the proposed rule relative to the 2001 rule, and that potential adverse impact under the proposed rule relative to land management plans are not significant.

For all other economic sectors considered, changes in resource outputs are not projected to be significant to the extent that adverse impacts to small entities could occur in aggregate or within regions.

Among 64 counties in the state of Colorado, 36 counties (56%) are considered to be small governments (population less than 50,000). These 36 counties are considered to be small rural counties having NFS lands within IRAs/CRAs. Six counties are energy (coal, oil and gas) producing counties. These six counties (Delta, Garfield, Gunnison, Mesa, Montrose, and Pitkin) are expected to be the counties most likely to benefit from mineral lease payments and revenue sharing under the proposed rule and land management plans. All of these counties, with the exception of Mesa can be considered small governments (population less than 50,000), and all are forecast to receive significant increases in property tax receipts from coal, and oil and gas production, as well as state distributions of severance taxes and federal royalties under the proposed rule and land management plans relative to the no-action alternative. There are slight increases in payments under land management plans, relative to the proposed rule (aggregate payments increase from $6.8 million to $7.7 million per year). Payments associated with the Secure Rural Schools and Self Determination Act (SRSA) and Payments in Lieu of Taxes (PILT) are not expected to change significantly, or any decreases would be largely offset by increases in federal mineral lease payments.

The number of at-risk-communities that may potentially benefit from fuel treatments in the wildland urban interface (WUI) areas are projected to increase under the proposed rule and land management plans relative to the 2001 rule (no-action alternative). The likelihood of tree-cutting or fuel treatments and corresponding reduction in wildfire hazard is projected to increase for a total of 90 at-risk-communities in 16 counties with small populations (<50,000) under the

proposed rule, relative to no-action. Similarly, the likelihood of reduced wildfire hazard is projected to increase for 150 at-risk-communities in 18 small counties under land management plans, compared to no-action. No counties are projected to experience a decrease in the likelihood of road construction or tree-cutting in the WUI under the proposed rule or land management plans, compared to the no action alternative. A total of 10 counties may experience a decrease in the likelihood of tree-cutting or road construction in the WUI under the proposed rule, relative to land management plans. These results indicate that adverse impacts to small governments, in association with protection of values at risk from wildfire, are not likely, when comparing the action alternatives with no-action.

Therefore, for small governments, including counties with small populations and at-risk-communities from wildfire within those counties, opportunities for revenue sharing, as well as protection of values-at-risk are expected to be maintained or increase for all counties under the proposed rule and land management plans compared to no-action conditions under the 2001 rule.

Mitigation measures for small entity impacts associated with the proposed rule are not relevant in many cases, because the proposed rule eases restrictions on a number of activities in many areas, implying increases in potential opportunities for small entities, as noted above. Mitigation measures associated with existing programs and laws regarding revenue sharing with counties and small business shares or set-asides will continue to apply.

Controlling Paperwork Burdens on the Public

This proposed rule does not call for any additional record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use and, therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Regulatory Risk Assessment

This is a proposed major regulation as defined in 7 U.S.C. Section 2204e and a regulatory risk assessment is being prepared. The regulatory risk assessment will be made available during the comment period. A Notice of Availability of the risk assessment will be published in the **Federal Register** and it will be available at the Forest Service Internet roadless Web site (*http://www.roadless.fs.fed.us).*

Federalism

The Department has considered this proposed rule under the requirements of Executive Order 13132 issued August 4, 1999 (E.O. 13132), Federalism. The Department has made an assessment that the proposed rule conforms with the Federalism principles set out in E.O. 13132; would not impose any compliance costs on the states; and would not have substantial direct effects on the states, on the relationship between the national government and the states, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Department concludes that this proposed rule does not have Federalism implications. This proposed rule is based on a petition submitted by the State of Colorado under the Administrative Procedure Act at 5 U.S.C. 553(e) and pursuant to Department of Agriculture regulations at 7 CFR 1.28. The State's petition was developed through a task force with involvement of local governments. The State has been a cooperating agency for the development of this proposed rule. State and local governments are encouraged to comment on this proposed rule, in the course of this rulemaking process.

Consultation With Indian Tribal Governments

The United States has a unique relationship with Indian Tribes as provided in the Constitution of the United States, treaties, and federal statutes. These relationships extend to the Federal government's management of public lands and the Forest Service strives to assure that its consultation with Native American Tribes is meaningful, in good faith, and entered into on a government-to-government basis.

On September 23, 2004, President George W. Bush issued Executive Memorandum Government-to-Government Relationship with Tribal Governments recommitting the Federal government to work with federally recognized Native American Tribal governments on a government-to-government basis and strongly supporting and respecting Tribal sovereignty and self-determination.

Management of roadless areas has been a topic of interest and importance to Tribal governments. During promulgation of the 2001 Roadless Rule, Forest Service line officers in the field were asked to make contact with Tribes to ensure awareness of the initiative and of the rulemaking process. Outreach to Tribes was conducted at the national forest and grassland level, which is how Forest Service government-to-government dialog with Tribes is typically conducted. Tribal representatives remained engaged concerning these issues during the subsequent litigation and rulemaking efforts.

The State's petition identifies that a vital part of its public process in developing its petition were the recommendations and comments received from Native American Tribes. The Governor's office was keenly aware of the spiritual and cultural significance some of these areas hold for the Tribes.

There are two resident tribes in Colorado, both retaining some of their traditional land base as reservations via a series of treaties, agreements, and laws. The Ute Mountain Ute and Southern Ute Tribes (consisting originally of the Weeminuche, Capote, Tabeguache, and Mouaches Bands)—each a ''domestic sovereign'' nation—have reserved some specific off-reservation hunting rights in Colorado and retain inherent aboriginal rights throughout their traditional territory. Many other tribes located outside Colorado maintain tribal interests, including aboriginal and ceded territories, and retain inherent aboriginal rights within the state.

The Forest Service has been consulting with Colorado-affiliated tribes regarding this proposed rulemaking action and analysis process (see chapter 1). Tribal concerns surfaced during phone or e-mail consultations. Those concerns related to: maintaining existing tribal hunting and access rights within roadless areas, limiting public use of temporary roads, and decommissioning temporary roads after they are no longer needed. Those land uses and management activities would not be affected by the proposed Colorado Roadless Rule; therefore, those concerns are briefly discussed but not analyzed in detail in this EIS. Consultation with interested or affected tribes will continue throughout the analysis and decisionmaking process.

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' the Department has assessed the impact of this proposed rule on Indian Tribal governments and has determined that the proposed rule does not significantly or uniquely affect Indian Tribal government communities.

The proposed rule would establish direction governing the management and protection of Colorado Roadless Areas, however, the proposed rule respects prior existing rights, and it addresses discretionary Forest Service management decisions involving road construction, timber harvest, and some mineral activities. The Department has also determined that this proposed rule does not impose substantial direct compliance costs on Indian Tribal governments. This proposed rule does not mandate Tribal participation in roadless management of the planning of activities in Colorado Roadless Areas. Rather, the Forest Service officials are obligated by other agency policies to consult early with Tribal governments and to work cooperatively with them where planning issues affect Tribal interests.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630 issued March 15, 1988. It has been determined that the proposed rule does not pose the risk of a taking of private property.

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. After adoption of this proposed rule, (1) all State and local laws and regulations that conflict with this proposed rule or that would impede full implementation of this proposed rule will be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) this proposed rule would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this proposed rule on State, local, and Tribal governments and the private sector. This proposed rule does not compel the expenditure of $100 million or more by State, local, or Tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Energy Effects

This proposed rule has been reviewed under Executive Order 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed rule does not constitute a significant energy action as defined in the executive order.

Based on guidance for implanting EO 13211 (Actions concerning regulations that significantly affect energy supply, distribution and use) issued by Office of Management and Budget (Memorandum for Heads of Executive Departments and Agencies, and Independent Regulatory Agencies (M–01–27), July 13, 2001), this proposed rule would not create significant adverse effects in a material way the productivity, competition, or prices in the energy sector for the reasons discussed below.

The difference in potential natural gas production between the proposed rule and the 2001 Rule (i.e., conditions under the no action alternative) is positive, as is the difference between land management plans and the no action alternative. The only potential adverse impact would be a comparison of potential gas production under the proposed rule and the land management plans alternative; the estimated difference in potential gas production in this case is only 3.6 million mcf and is below the criteria of 25 million mcf under EO 13211. The difference in oil production is approximately 350 barrels, well below the criteria of 4,000 barrels.

Potential coal production is estimated to increase by 4 million tons under the proposed rule as well as the third alternative considered (management of inventoried roadless areas under Land management plans) compared to conditions under the no action alternative (continuance of 2001 Roadless Rule). No adverse outcomes are anticipated in association with energy supply, distribution or use related to coal production.

The proposed rule is expected to result in an increase in potential opportunities for gas production, relative to conditions under the no action alternative (i.e., the 2001 Roadless Rule). When comparing the proposed rule to the third alternative considered (i.e., management of inventoried roadless areas in accordance with relevant Land management plans), there is slight potential for a decrease in opportunities for gas production. However, this decrease (3.6 million mcf) is estimated to be only 0.3% of total gas production from Colorado wells in 2006 (1.21 billion mcf) and is not anticipated to affect regional (or national) productivity, competition, or prices.

No novel legal or policy issues regarding adverse effects to supply, distribution or use of energy are anticipated beyond what has already been addressed in the draft EIS, or the Regulatory Impact Analysis (RIA). None of the proposed corridors designated for oil, gas, and/or electricity under Section 368 of the Energy Policy Act of 2005 are within Colorado Roadless Areas.

The proposed rule does not disturb existing access or mineral rights and restrictions on saleable mineral materials are narrow. The proposed rule also provides regulatory mechanism for consideration of requests for modification of restrictions if adjustments are determined to be necessary in the future. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

List of Subjects in 36 CFR Part 294

National Forests, Recreation areas, Navigation (air), State petitions for inventoried roadless area management.

Therefore, for the reasons set forth in the preamble, the Forest Service proposes to amend part 294 of Title 36 of the Code of Federal Regulations by adding new subpart D to read as follows:

PART 294—SPECIAL AREAS

* * * * *

Subpart D—Colorado Roadless Areas Management

Sec.

294.30 Purpose.
294.31 Definitions.
294.32 Colorado Roadless Areas.
294.33 Road construction and reconstruction in Colorado Roadless Areas.
294.34 Prohibition on timber cutting, sale, or removal in Colorado Roadless Areas.
294.35 Oil and gas pipelines.
294.36 Scope and applicability.
294.37 Administrative corrections.
294.38 List of designated Colorado Roadless Areas.

Subpart D—Colorado Roadless Areas Management

Authority: 16 U.S.C. 472, 529, 551, 1608, 1613; 23 U.S.C. 201, 205.

§ 294.30 Purpose.

The purpose of this subpart is to provide, within the context of multiple-use management, lasting protection for roadless areas within the National Forests in Colorado.

§ 294.31 Definitions.

The following terms and definitions apply to this subpart.

At-Risk Community: As defined under section 101 of the Healthy Forest Restoration Act (Pub. L. 108–148).

Colorado Roadless Area (CRA): Areas identified in a set of roadless area maps maintained at the national headquarters office of the Forest Service, including

records regarding any corrections or modifications to such maps pursuant to § 294.37.

Community Wildfire Protection Plan (CWPP): As defined under section 101 of the Healthy Forest Restoration Act (Pub. L. 108–148), the term ''community wildfire protection plan'' means a plan for an at-risk community that:

(1) Is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsible for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

(2) Identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect one or more at-risk communities and essential infrastructure; and

(3) Recommends measures to reduce structural ignitability throughout the at-risk community.

Condition Class 3: As defined under section 101 of the Healthy Forests Restoration Act (Pub. L. 108–148) the term ''condition class 3'' means an area of Federal land, under which:

(1) Fire regimes on land have been significantly altered from historical ranges;

(2) There exists a high risk of losing key ecosystem components from fire;

(3) Fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to:

(i) The size, frequency, intensity, or severity of fires; or

(ii) Landscape patterns; and

(iii) Vegetation attributes have been significantly altered from the historical range of the attributes.

Forest transportation atlas: As defined at 36 CFR 212.1, a display of the system of roads, trails, and airfields of an administrative unit.

Forest road: As defined at 36 CFR 212.1, a road wholly or partly within or adjacent to and serving the National Forest System that the Forest Service determines is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

Long-term temporary road: A road necessary for oil and gas, or coal operations in CRAs and authorized by contract, permit, lease, or other written authorization. A long-term temporary road is not a forest road, but is included in a forest transportation atlas, and is expected to be in place during the lease period. When no longer needed for the established purpose or upon termination or expiration of the contract, permit, lease or written authorization, whichever is sooner, the road shall be decommissioned and the affected landscape restored.

National Forest System road: As defined at 36 CFR 212.1, a forest road other than a road which has been authorized by a legally documented right-of-way held by a State, county, or other local public road authority.

Off-Highway Vehicles (OHV): As defined at 36 CFR 212.1, any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain.

Responsible official: The Forest Service line officer with the authority and responsibility to make decisions regarding protection and management of CRAs pursuant to this subpart.

Road: As defined at 36 CFR 212.1, a motor vehicle route over 50 inches wide, unless identified and managed as a trail.

Road construction or reconstruction: As defined at 36 CFR 212.1, supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a road.

Road maintenance: As defined in FSM 7705, the ongoing upkeep of a road necessary to retain or restore the road to the approved road management objective.

Roadless area characteristics: Resources or features that are often present in and characterize CRAs. The enumeration of these resources and features does not constitute in any way the establishment of any legal standard, requirement, or cause for any administrative appeal or legal action related to any project or activity otherwise authorized by this rule. These characteristics include:

(1) High quality or undisturbed soil, water, and air;

(2) Sources of public drinking water;

(3) Diversity of plant and animal communities;

(4) Habitat for threatened, endangered, proposed, candidate, and sensitive species, and for those species dependent on large, undisturbed areas of land;

(5) Primitive, semi-primitive non-motorized, and semi-primitive motorized classes of dispersed recreation;

(6) Reference landscapes;

(7) Natural-appearing landscapes with high scenic quality;

(8) Traditional cultural properties and sacred sites; and

(9) Other locally identified unique characteristics.

Temporary road: A road necessary for emergency operations or authorized by contract, permit, lease, or other written authorization that is not a forest road and that is not included in a forest transportation atlas (ref 36 CFR 212.1), and is not necessary for long-term management. When a temporary road is no longer needed for the established purpose or upon termination or expiration of the lease, contract, or permit, whichever is sooner, it shall be decommissioned and the affected landscape restored.

Utility and water conveyance structures: Facilities associated with the transmission and distribution of utilities and water across National Forest System lands. For purposes of this rule, utilities are existing and future transmission lines used for electrical power and water conveyance structures are existing and future diversion structures, headgates, pipelines, ditches, canals, and tunnels (but shall not include reservoirs).

Wildland-Urban Interface: As defined under section 101 of the Healthy Forest Restoration Act (Pub. L.108–148), the term ''wildland-urban interface'' means—

(1) An area within or adjacent to an at-risk community that is identified in recommendations to the Secretary in a community wildfire protection plan; or

(2) In the case of any area for which a community wildfire protection plan is not in effect:

(i) An area extending ½-mile from the boundary of an at-risk community;

(ii) An area within 1½-miles of the boundary of an at-risk community, including any land that:

(A) Has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community;

(B) Has a geographic feature that aids in creating an effective fire break, such as a road or ridge top; or

(C) Is in condition class 3, as documented by the Secretary in the project-specific environmental analysis; and

(iii) An area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuel reduction to provide safer evacuation from the at-risk community.

§ 294.32 Colorado Roadless Areas.

(a) *Designations.* All National Forest System lands within the State of

Colorado identified in § 294.38 are hereby designated as Colorado Roadless Areas (CRAs).

(b) *Maps*. The Chief of the Forest Service shall maintain and make available to the public a map of each CRA, including records regarding any corrections or modifications to such maps pursuant to § 294.37.

§ 294.33 Road construction and reconstruction in Colorado Roadless Areas.

(a) *General*. A road may not be constructed or reconstructed in a CRA except as provided in paragraphs (b) and (c) of this section.

(b) *Roads*. Notwithstanding the prohibition in paragraph (a) of this section, a road may be constructed or reconstructed in a CRA if the responsible official determines that one of the following circumstances exists:

(1) A road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Section 311 of the Clean Water Act, or the Oil Pollution Act;

(2) A road is needed pursuant to reserved or outstanding rights, authorizations, or as provided for by statute or treaty;

(3) Road realignment is needed to prevent irreparable resource damage that arises from the design, location, use, or deterioration of a forest road and that cannot be mitigated by road maintenance;

(4) Road reconstruction is needed to implement a road safety improvement project on a forest road determined to be hazardous on the basis of accident experience or accident potential on that road;

(5) The Secretary of Agriculture determines that a Federal Aid Highway project, authorized pursuant to Title 23 of the United States Code, is in the public interest or is consistent with the purposes for which the land was reserved or acquired and no other reasonable and prudent alternative exists;

(6) Consistent with applicable land management plan, a road is needed to allow for construction, reconstruction, or maintenance of existing or future authorized utility and water conveyance structures as defined by this rule in section § 294.31.

(7) Consistent with applicable land management plan and allotment management plans, a road is needed for the management of livestock grazing.

(c) *Temporary Road (including Long-Term Temporary Road)*.

(1) Notwithstanding the prohibition in paragraph (a) of this section, a temporary road may be constructed or reconstructed in a CRA as set forth in subparagraphs 1 through 4.

(2) For all temporary roads authorized under this rule, the responsible official may only consider construction of a temporary road after reviewing and rejecting other access options, resource and community protection needs, and consistency with applicable forest plans. If it is determined that a temporary road is needed, construction must be conducted in a manner that minimizes effects on surface resources, prevents unnecessary or unreasonable surface disturbances, and complies with all applicable land management plan directions, regulations, and laws. When a temporary road is no longer needed (for the established purpose) or upon termination or expiration of a contract, authorization, or permit, whichever is sooner, all temporary roads shall be decommissioned and the affected landscape restored. Restoration shall be designed considering safety, costs, and impacts on land and resources (16 U.S.C. 1608) to achieve complete stabilization and restoration to a condition generally consistent with the pre-existing roadless characteristics. Except as allowed under this rule in § 294.33(b), a temporary road shall not change designation to a forest road, nor will the construction of a temporary road, including long-term temporary road alter the management status of any designated CRA. A temporary road constructed for oil and gas, or coal related activities may include as part of its established purpose, the potential need to be used as a long-term temporary road.

(3) A temporary road is needed for treatment actions and in areas identified in a community wildfire protection plan or, if a community wildfire protection plan is not present, within areas of the wildland-urban interface; or

(4) A temporary road is needed for public health and safety in cases of threat of flood, fire, or other potential catastrophic event that, without intervention, would cause the loss of life or property; or

(5) A temporary or long-term temporary road is needed in conjunction with an oil and gas lease, including the construction of infrastructure necessary to transport the product, on lands that are under lease by the Secretary of the Interior as of the effective date of this rule. The Forest Service shall not agree to waive, except, modify or otherwise remove any oil and gas lease stipulation that prohibits or restricts road building or otherwise prohibits surface occupancy within CRAs; or

(6) A temporary or long-term temporary road is needed for coal exploration and coal-related surface activities for certain lands within CRAs in the North Fork coal mining area of the Grand Mesa, Uncompahgre, and Gunnison National Forests as defined by the North Fork coal mining area map within the Colorado Roadless Area Conservation Rule environmental impact statement. Such roads may also be used for the purpose of collecting and transporting coal mine methane. All infrastructure needed for the capture of methane will be located within the road right-of-way of coal-related temporary and/or long-term temporary roads or within areas of surface disturbance for methane venting wells otherwise needed for coal mining purposes. No additional roads shall be constructed to facilitate capture of coal mine methane. When a road is no longer needed for coal mining purposes or coal mine methane capture, the road shall be decommissioned and the affected landscape restored.

(d) *Road Closures*. All roads constructed pursuant to paragraphs (b) and (c) shall be closed to motorized vehicles (including OHVs) unless specifically used for the purpose for which the road was established; except the use of motor vehicles for administrative use by the Forest Service; emergency access for fire and law enforcement purposes; motor vehicle use that is specifically authorized under a written authorization issued under Federal law or regulations; or motor vehicle use by any fire, emergency, or law enforcement personnel.

(e) *Environmental Documentation*. An EIS will be prepared pursuant to section 102 of the National Environmental Policy Act and 40 CFR 1500 for any proposed action or alternative that includes constructing a forest road within a CRA. A no-road and a temporary road alternative shall be considered in the EIS. For projects proposing temporary roads within a CRA, an environmental analysis will be documented pursuant to the Council on Environmental Quality regulations at 40 CFR 1500–1508 and will include a no-road option.

(f) *Road Maintenance*. Maintenance of forest roads and NFS roads is permissible in CRAs.

§ 294.34 Prohibition on tree cutting, sale, or removal in Colorado Roadless Areas.

(a) Trees may not be cut, sold, or removed in CRAs, except as provided in paragraph (b) of this section.

(b) Notwithstanding the prohibition in paragraph (a) of this section, trees may be cut, sold, or removed in CRAs if the

responsible official determines that one of the following circumstances exists and the activity is consistent with the applicable forest plan.

(1) The cutting, sale, or removal of trees is needed for one of the following purposes:

(i) For management and improvement of wildlife and plant species (including threatened, endangered, proposed, or sensitive species) in coordination with the Colorado Department of Natural Resources, including the Colorado Division of Wildlife. Such activities should be designed to maintain or improve roadless characteristics as defined by this rule.

(ii) To reduce the hazard of wildfire effects or large-scale insect and disease outbreaks, in areas covered by and as provided in a community wildfire protection plan or, if a community wildfire protection plan is not present, within areas of the wildland urban interface. Consistent with the purposes of this paragraph, the responsible official shall implement projects to reduce the wildfire hazard to communities after careful consideration to roadless area characteristics as defined by this rule.

(2) The cutting, sale, or removal of trees is incidental to the implementation of a management activity not otherwise prohibited by this subpart; or

(3) The cutting, sale, or removal of trees is needed and appropriate for personal or administrative use, as provided for in 36 CFR 223.

(c) In authorizing the cutting, selling, or removal of trees within a CRA, the responsible official shall consider the need for the cutting, sale, or removal of trees along with other resource and community protection needs and effects to roadless characteristics.

§ 294.35 Oil and Gas Pipelines.

The construction of permanent or temporary pipelines for the purposes of transporting oil or gas through a CRA, from a source or sources located exclusively outside of a CRA, shall be prohibited after [final rule effective date] of the rule and shall not be excepted, allowed, or otherwise authorized.

§ 294.36 Scope and applicability.

(a) This subpart does not revoke, suspend, or modify any permit, contract, or other legal instrument authorizing the occupancy and use of NFS land issued prior to [final rule effective date].

(b) This subpart does not revoke, suspend, or modify any project or activity decision made prior to [final rule effective date].

(c) This subpart does not compel the amendment or revision of any land management plan.

(d) The prohibitions and restrictions established in this subpart are not subject to reconsideration, revision, or rescission in subsequent project decisions or land management plan amendments or revisions undertaken pursuant to 36 CFR part 219. Nothing in this rule shall be construed as limiting the authority of a responsible official to establish additional restrictions regarding any management activities, including matters covered by this rule, within CRAs through a land management plan amendment or revision undertaken pursuant to 36 CFR Part 219.

(e) When the Forest Service is the lead agency, the Forest Service will offer cooperating agency status to the State of Colorado, pursuant to the Council on Environmental Quality regulations at 40 CFR 1500–1508 for all proposed projects and planning activities to be implemented on lands within CRAs, and those ski area acres identified in Table 50 of the Rulemaking for Colorado Roadless Areas final EIS. Where the Forest Service does not have the authority to offer cooperating agency status, the Forest Service shall coordinate with the State.

(f) Nothing in this rule shall be construed as expressly or implicitly affecting the current or future management of existing trails or existing roads in CRAs. Decisions concerning the future management and/or status of existing roads or trails within CRAs under this rule shall be made during the applicable forest travel management processes.

(g) Nothing in this rule shall be construed as limiting the authority of the Forest Service to issue grazing permits on lands within a CRA. An area's classification as a CRA shall not, by itself, be reason to not authorize grazing.

(h) If any provision this subpart or its application to any person or to certain circumstances is held invalid, the remainder of the regulations in this subpart and their application remain in force.

(i) After [final rule effective date] the rule promulgated on January 12, 2001, (66 F.R. 3244) shall have no effect within the State of Colorado.

§ 294.37 Administrative corrections.

Correction or modification of designations made pursuant to this rule may occur under the following circumstances, after coordination with the State:

(a) *Administrative Corrections.* Administrative corrections to the maps of lands identified in § 294.32(b) include, but are not limited to, adjustments that remedy clerical, typographical, mapping errors, or improvements in mapping technology. The Chief of the Forest Service may issue administrative corrections after 30 days public notice and opportunity to comment.

(b) *Modifications.* The Chief may add to, remove from, or modify the designations listed in § 294.38 based on changed circumstances or public need. The Chief shall provide at least 60 days public notice and opportunity to comment for all modifications.

§ 294.38 List of Designated Colorado Roadless Areas.

Arapaho-Roosevelt National Forest	
1	Bard Creek
2	Byers Peak
3	Cache La Poudre Adjacent Area
4	Cherokee Park
5	Comanche Peak Adjacent Areas
6	Copper Mountain
7	Crosier Mountain
8	Gold Run
9	Green Ridge—East
10	Green Ridge—West
11	Grey Rock
12	Hell Canyon
13	Indian Peaks Adjacent Areas
14	James Peak
15	Kelly Creek
16	Lion Gulch
17	Mount Evans Adjacent Areas
18	Mount Sniktau
19	Neota Adjacent Area
20	Never Summer Adjacent Area
21	North Lone Pine
22	North St. Vrain
23	Rawah Adjacent Area
24	Square Top Mountain
25	Troublesome
26	Vasquez Adjacent Area
27	White Pine Mountain
28	Williams Fork

Grand Mesa, Uncompahgre, Gunnison National Forest	
29	Agate Creek
30	American Flag Mountain
31	Baldy
32	Battlements
33	Beaver
34	Beckwiths
35	Calamity Basin
36	Cannibal Plateau
37	Canyon Ck/Antero
38	Carson
39	Castle
40	Cataract
41	Cimarron Ridge
42	Clear Fork
43	Cochetopa Creek
44	Cochetopa Hills
45	Cottonwoods
46	Crystal Peak

47	Curecanti
48	Currant Creek
49	Deer Creek
50	Dominguez
51	Double Top
52	East Elk
53	Electric Mountain
54	Failes Creek/Soldier Creek
55	Flat Irons
56	Flattops/Elk Park
57	Gothic
58	Granite Basin
59	Hope Lake
60	Horse Ranch Park
61	Horsefly Canyon
62	Huntsman Ridge
63	Italian Mountain
64	Johnson Basin
65	Kannah Creek
66	Kelso Mesa
67	Last Dollar/Sheep Creek
68	Little Cimarron
69	Long Canyon
70	Matchless Mountain
71	Matterhorn
72	Mendicant
73	Mirror Lake
74	Mount Lamborn
75	Munsey Creek/Erickson Springs
76	Naturita Canyon
77	Pilot Knob
78	Poverty Gulch
79	Salt Creek
80	Sanford Basin
81	Sawtooth
82	Soap Creek
83	Steuben
84	Sunnyside
85	Sunset
86	Texas Creek
87	Tomahawk
88	Turner Creek
89	Turret Ridge
90	Unaweep
91	Union Park
92	Whetstone
93	Whitehouse Mountain
94	Wilson
95	Windy Point

Manti-La Sal National Forest

96	Roc Creek

Pike-San Isabel National Forest

97	Aspen Ridge
98	Badger Creek
99	Boreas
100 ..	Buffalo Peaks East
101 ..	Buffalo Peaks South
102 ..	Buffalo Peaks West
103 ..	Burning Bear
104 ..	Chipeta
105 ..	Cuchara North
106 ..	Cuchara South
107 ..	Elk Mountain-Collegiate North
108 ..	Elk Mountain-Collegiate South
109 ..	Elk Mountain-Collegiate West
110 ..	Farnum
111 ..	Green Mountain
112 ..	Greenhorn Mountain: Badito Cone to Dry Creek
113 ..	Greenhorn Mountain: Cisneros Creek to Upper Turkey Creek
114 ..	Greenhorn Mountain: Graneros Creek to Section 10
115 ..	Greenhorn Mountain: Little Saint Charles Creek to Greenhorn Creek
116 ..	Gunbarrel
117 ..	Hardscrabble
118 ..	Highline
119 ..	Holy Cross
120 ..	Jefferson
121 ..	Kreutzer-Princeton
122 ..	Lost Creek East
123 ..	Lost Creek South
124 ..	Lost Creek West
125 ..	Methodist Mountain
126 ..	Mount Antero
127 ..	Mount Elbert
128 ..	Mount Evans
129 ..	Mount Massive
130 ..	Pikes Peak East
131 ..	Pikes Peak West
132 ..	Porphyry Peak
133 ..	Puma Hills
134 ..	Purgatoire
135 ..	Rampart East
136 ..	Rampart West
137 ..	Romley
138 ..	Saint Charles Peak
139 ..	Sangre de Cristo: Alvarado Campground to Music Pass
140 ..	Sangre de Cristo: Blanca Peak to Slide Mountain
141 ..	Sangre de Cristo: Lake Creek to Hermit Creek
142 ..	Sangre de Cristo: Medano Pass to Carbonate Mountain
143 ..	Sangre de Cristo: Silverheels Gulch to Hunts Creek
144 ..	Sangre de Cristo: West Creek to Big Cottonwood
145 ..	Scraggy Peaks
146 ..	Sheep Rock
147 ..	Silverheels
148 ..	Spanish Peaks
149 ..	Square Top Mountain
150 ..	Starvation Creek
151 ..	Tanner Peak
152 ..	Thirtynine Mile Mountain
153 ..	Thunder Butte
154 ..	Weston Peak

Rio Grande National Forest

155 ..	Alamosa River
156 ..	Antora Meadows/Bear Creek
157 ..	Beartown
158 ..	Beaver Mountain
159 ..	Bennet Mountain/Blowout/Willow Creek/Lion Point/Greenie Mountain
160 ..	Big Buck/Kitty/Ruby
161 ..	Box/Road Canyon
162 ..	Bristol Head
163 ..	Butterfly
164 ..	Chama Basin
165 ..	Conejos River/Lake Fork
166 ..	Copper Mountain/Sulphur
167 ..	Cotton Creek
168 ..	Crestone
169 ..	Cumbres
170 ..	Deep Creek/Boot Mountain
171 ..	Dorsey Creek
172 ..	Elkhorn Peak
173 ..	Four Mile Creek
174 ..	Fox Creek
175 ..	Fox Mountain
176 ..	Gibbs Creek
177 ..	Gold Creek/Cascade Creek
178 ..	Hot Springs
179 ..	Indian Ridge
180 ..	Kitty Creek
181 ..	La Garita
182 ..	Lake Fork
183 ..	Lower East Bellows
184 ..	Middle Alder
185 ..	Miller Creek
186 ..	Pole Creek
187 ..	Pole Mountain/Finger Mesa
188 ..	Red Mountain
189 ..	Ruby Lake
190 ..	Sawlog
191 ..	Sheep Mountain
192 ..	Silver Lakes/Stunner
193 ..	Snowshoe Mountain
194 ..	Spectacle Lake
195 ..	Spruce Hole/Sheep Creek
196 ..	Stunner Pass/Dolores Canyon
197 ..	Sulphur Tunnel
198 ..	Summit Peak/Elwood Pass
199 ..	Taylor Canyon
200 ..	Tewksberry
201 ..	Tobacco Lakes
202 ..	Trout Mountain/Elk Mountain
203 ..	Ute Pass
204 ..	Wason Park
205 ..	Wightman Fork/Upper Burro
206 ..	Wightman Fork To Lookout
207 ..	Willow Mountain

Routt National Forest

208 ..	Barber Basin
209 ..	Black Mountain
210 ..	Bunker Basin
211 ..	Bushy Creek
212 ..	Chatfield
213 ..	Chedsey Creek
214 ..	Dome
215 ..	Dome Peak
216 ..	Elkhorn
217 ..	Gold Creek
218 ..	Grizzly Helena
219 ..	Kettle Lakes
220 ..	Little Green Creek
221 ..	Long Park
222 ..	Mad Creek
223 ..	Morrison Creek
224 ..	Never Summer North
225 ..	Never Summer South
226 ..	Nipple Peak North
227 ..	Nipple Peak South
228 ..	Pagoda Peak
229 ..	Shield Mountain
230 ..	South Fork
231 ..	Sugarloaf North
232 ..	Sugarloaf South
233 ..	Troublesome North
234 ..	Troublesome South
235 ..	Walton Peak
236 ..	Whalen Creek

San Juan National Forest

237 ..	Baldy
238 ..	Blackhawk Mountain
239 ..	East Animas
240 ..	Fish Creek
241 ..	Florida River
242 ..	Graham Park
243 ..	HD Mountains
244 ..	Hermosa
245 ..	Lizard Head Adjacent
246 ..	Piedra Area Adjacent
247 ..	Runlett Park
248 ..	Ryman

249 ..	San Miguel
250 ..	South San Juan Adjacent
251 ..	Storm Peak
252 ..	Treasure Mountain
253 ..	Turkey Creek
254 ..	Weminuche Adjacent
255 ..	West Needles

White River National Forest

256 ..	Adam Mountain
257 ..	Ashcroft
258 ..	Assignation Ridge
259 ..	Baldy Mountain
260 ..	Basalt Mountain A
261 ..	Basalt Mountain B
262 ..	Berry Creek
263 ..	Big Ridge to South Fork A
264 ..	Big Ridge to South Fork B
265 ..	Black Lake East
266 ..	Black Lake West
267 ..	Blair Mountain
268 ..	Boulder
269 ..	Budges
270 ..	Buffer Mountain
271 ..	Burnt Mountain
272 ..	Chicago Ridge
273 ..	Corral Creek
274 ..	Crystal River
275 ..	Deep Creek
276 ..	Dome Peak
277 ..	East Divide/Four Mile Park
278 ..	East Vail
279 ..	East Willow
280 ..	Elk Creek B
281 ..	Elliot Ridge
282 ..	Fawn Creek/Little Lost Park
283 ..	Freeman Creek
284 ..	Gallo Hill
285 ..	Game Creek
286 ..	Grizzly Creek
287 ..	Gypsum Creek
288 ..	Hardscrabble
289 ..	Hay Park
290 ..	Holy Cross City
291 ..	Homestake
292 ..	Hoosier Ridge
293 ..	Housetop Mountain
294 ..	Hunter
295 ..	Little Grand Mesa
296 ..	Lower Piney
297 ..	Mamm Peak
298 ..	Maroon East
299 ..	Maryland Creek
300 ..	McClure Pass
301 ..	McFarlane
302 ..	Meadow Mountain A
303 ..	Meadow Mountain B
304 ..	Morapos A
305 ..	Morapos B
306 ..	Mormon Creek
307 ..	No Name
308 ..	North Elk
309 ..	North Independent A
310 ..	North Independent B
311 ..	North Woody
312 ..	Pagoda Peak
313 ..	Piney Lake
314 ..	Porcupine Peak
315 ..	Ptarmigan A
316 ..	Ptarmigan B
317 ..	Ptarmigan C
318 ..	Ptarmigan Hill A
319 ..	Ptarmigan Hill B
320 ..	Red Dirt A
321 ..	Red Dirt B
322 ..	Red Mountain
323 ..	Red Table
324 ..	Reno Mountain
325 ..	Ripple Creek Pass/Trappers Lake
326 ..	Ryan Gulch
327 ..	Salt Creek
328 ..	Sloan Peak
329 ..	Spraddle Creek A
330 ..	Spraddle Creek B
331 ..	Sweetwater A
332 ..	Sweetwater B
333 ..	Tenderfoot Mountain
334 ..	Tenmile
335 ..	Thompson Creek
336 ..	Tigiwon
337 ..	Treasure Mountain
338 ..	West Brush Creek
339 ..	West Lake Creek
340 ..	Wildcat Mountain
341 ..	Wildcat Mountain B
342 ..	Wildcat Mountain C
343 ..	Williams Fork
344 ..	Willow
345 ..	Woods Lake

Dated: July 21, 2008.

Abigail R. Kimbell,

Chief, U.S. Forest Service.

[FR Doc. E8–17109 Filed 7–24–08; 8:45 am]

BILLING CODE 3410–11–P

Federal Register

Friday,
July 25, 2008

Part IV

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 781, 782, 783 et al.
Additional Protocol Regulations; Proposed Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 781, 782, 783, 784, 785 and 786

[Docket No. 08021265–8693–01]

RIN 0694–AD26

Additional Protocol Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule and request for comments.

SUMMARY: This proposed rule would implement the provisions of the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America (the ''Additional Protocol''). The Additional Protocol is an agreement between the United States and the IAEA to allow monitoring and reporting of certain civil nuclear fuel cycle-related activities.

The Department of Commerce's Bureau of Industry and Security (BIS) is proposing these Additional Protocol Regulations (APR) to implement the provisions of the Additional Protocol affecting U.S. industry and other U.S. persons engaged in certain civil nuclear fuel cycle-related activities, which are not regulated by the U.S. Nuclear Regulatory Commission (NRC) or its domestic Agreement States and are not located on certain U.S. government locations. The proposed APR describe the requirement to report such activities to BIS, the scope and conduct of IAEA complementary access to locations at which such civil nuclear fuel cycle-related activities take place, and the role of BIS in implementing the Additional Protocol in the United States. The impact of the APR on U.S. industry and other U.S. persons will involve the submission of initial reports, annual update reports, and other reporting requirements, as well as on-site activities in conjunction with complementary access. Other U.S. government agencies issuing regulations implementing other provisions of the Additional Protocol include the Nuclear Regulatory Commission, the Department of Energy, and the Department of Defense.

DATES: Comments must be received by August 25, 2008.

ADDRESSES: You may submit comments, identified by RIN 0694–AD26, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: publiccomments@bis.doc.gov.* Include ''RIN 0694–AD26'' in the subject line of the message.
- *Fax:* (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.
- *Mail or Hand Delivery/Courier:* Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AD26.

FOR FURTHER INFORMATION CONTACT: For questions of a general or regulatory nature, contact the Regulatory Policy Division, telephone: (202) 482–2440. For program information on reports and complementary access, contact Jill Shepherd, Treaty Compliance Division, Office of Nonproliferation and Treaty Compliance, *telephone:* (202) 482–1001. For legal questions, contact Rochelle Woodard, Office of the Chief Counsel for Industry and Security, *telephone:* (202) 482–5301.

SUPPLEMENTARY INFORMATION:

Background

I. Origins and Overview of the Additional Protocol

The requirement for a comprehensive international safeguards system to prevent the spread of nuclear weapons was first established by the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The NPT was signed by the United States on July 1, 1968, and entered into force on March 5, 1970. The treaty banned nuclear weapon states (NWS) from transferring nuclear weapons to non-nuclear weapon states (NNWS) or assisting NNWS in acquiring such weapons. It also banned NNWS from manufacturing or acquiring nuclear weapons and stipulated that each NNWS Party to the NPT would undertake to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency (IAEA), which serves as the official international verification authority for the implementation of safeguards agreements concluded pursuant to the NPT. Although NWS, including the United States, are not obligated under the NPT to accept IAEA safeguards, all have voluntarily offered to accept safeguards on certain activities to encourage NNWS to meet their obligations. The IAEA completed formulation of detailed provisions for a model NPT Safeguards Agreement in 1971. The safeguards system, as embodied in the comprehensive safeguards agreements concluded between the IAEA and individual NNWS States Parties to the NPT, consists of nuclear material accountancy and nuclear material verification measures by which the IAEA independently verifies declarations made by individual States Parties about their nuclear material and activities to ensure that nuclear material inventories and flows have been accurately declared and are not being used to further any proscribed purpose.

During deliberations on the NPT, several major industrialized nations expressed concern that the absence of requirements for IAEA safeguards in NWS would place NNWS at a commercial and industrial disadvantage in developing nuclear energy for peaceful purposes. Specifically, the NNWS were concerned that application of safeguards would interfere with the efficient operations of their commercial activities and would possibly compromise industrial and trade secrets as a result of access by IAEA inspectors to their facilities and records. In order to allay these concerns, the United States voluntarily offered in 1967 to permit the IAEA to apply safeguards to civil nuclear facilities in the United States. The U.S. ''Voluntary Offer'' is set forth in the ''Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America'' (also known as the ''U.S.-IAEA Safeguards Agreement''). Since then, the other four NWS recognized under the NPT (China, France, the Russian Federation, and the United Kingdom) also agreed to make all or part of their civil nuclear activities eligible for IAEA safeguards.

The U.S.-IAEA Safeguards Agreement was signed on November 18, 1977, and entered into force on December 9, 1980. At that time, the United States submitted to the IAEA a list of more than 200 eligible facilities for which safeguards could be applied if selected by the IAEA. This list included facilities licensed by the U.S. Nuclear Regulatory Commission (NRC), as well as eligible Department of Energy facilities. The United States has added additional facilities to the eligible facilities list since that time. Under the U.S.-IAEA Safeguards Agreement, approximately eighteen facilities have been selected for safeguards inspection and/or monitoring since 1981.

Although the U.S.-IAEA Safeguards Agreement is based on the model safeguards agreement developed by the

IAEA, the terms of the U.S.-IAEA Safeguards Agreement and the obligations of NNWS parties to the NPT differ in several respects. First, the U.S.-IAEA Safeguards Agreement excludes nuclear facilities associated with activities of direct national security significance. Also, the United States decides which civil nuclear facilities are eligible for the full program of safeguards procedures (including routine inspections) and the IAEA decides which eligible facilities will be selected for the application of safeguards, although the IAEA need not select any. Furthermore, the United States has made separate commitments to provide to the IAEA, for safeguards purposes, information on exports of nuclear material and nuclear-related equipment and materials.

In the aftermath of the 1991 Persian Gulf War, the IAEA determined that Iraq had been engaged in a clandestine nuclear weapons development program at locations not directly subject to routine IAEA safeguards inspections. The international community determined that the safeguards system needed to be strengthened, and negotiated a Model Additional Protocol to amend existing bilateral safeguards agreements (i.e., the ''Model Protocol Additional to the Agreement(s) Between State(s) and the International Atomic Energy Agency for the Application of Safeguards,'' INFCIRC/540 (Corrected) September 1997). The Model Additional Protocol requires enhanced information collection and access to sites and other locations involved in nuclear fuel cycle-related activities and covers almost all of a state's nuclear fuel cycle, thereby providing IAEA inspectors with greater ability to detect clandestine nuclear activities in NNWS facilities, sites, and locations that are involved in nuclear fuel cycle activities. In an effort to encourage adoption of the Additional Protocol among NNWS, the United States signed the Additional Protocol on June 12, 1998. In the Additional Protocol, the United States accepts all of the measures of the Model Additional Protocol, except where their application would result in access by the IAEA to activities of direct national security significance to the United States or to locations or information associated with such activities. By subjecting itself to the same safeguards on all of its civil nuclear activities that NNWS are subject to (with the exception of those activities of direct national security significance), the United States intends to encourage widespread adherence to the Model Additional Protocol and demonstrate that adherence does not place other countries at a commercial disadvantage.

The Additional Protocol will enter into force when the United States notifies the IAEA that the statutory and constitutional requirements for entry into force have been met. These requirements include: (1) Ratification, to which the Senate provided advice and consent with certain conditions and understandings on March 31, 2004; (2) enactment of implementing legislation, which was signed by the President on December 18, 2006 (The U.S. Additional Protocol Implementation Act of 2006 (Pub. L. 109–401, 120 Stat. 2726 (2006)); (3) issuance of an Executive Order, which was issued on February 5, 2008; (4) issuance of agency regulations by the Departments of Commerce, Defense, and Energy, and by the Nuclear Regulatory Commission (DOC, DOD, DOE, and NRC); and (5) certification by the President that certain Senate conditions have been met. The United States' instrument of ratification may be deposited with the IAEA only after the President has certified that two Senate conditions, which address the application of the national security exclusion in Articles 1.b and 1.c of the Additional Protocol (i.e., managed access, security and counter-intelligence training, and preparation at locations of direct national security significance) and the completion of site vulnerability assessments concerning activities, locations, and information of direct national security significance, will be met within 180 days after deposit of the United States' instrument of ratification.

The Additional Protocol consists of the following articles and annexes:

Article 1: Relationship between the Additional Protocol and the U.S.-IAEA Safeguards Agreement
Articles 2 and 3: Provision of information
Articles 4 through 10: Complementary access
Article 11: Designation of IAEA inspectors
Article 12: Visas
Article 13: Subsidiary arrangements
Article 14: Communications systems
Article 15: Protection of confidential information
Article 16: Annexes
Article 17: Entry into force
Article 18: Definitions
Annex I: List of activities referred to in the Additional Protocol
Annex II: List of specified equipment and non-nuclear material for reporting of exports and imports

The Additional Protocol requires the United States to declare to the IAEA a number of nuclear fuel cycle-related items, materials, and activities that may be used for peaceful nuclear purposes, but that also could be necessary elements for a nuclear weapons program. In order to obtain the information necessary to complete the U.S. declaration to the IAEA, the U.S. Government must collect reports from U.S. industry and other U.S. persons. U.S. declarations submitted under the Additional Protocol would provide the IAEA with information about additional aspects of the U.S. civil nuclear fuel cycle, including: mining and concentration of nuclear ores; nuclear-related equipment manufacturing, assembly, or construction; imports, exports, and other activities involving certain source material (i.e., source material that has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched); imports and exports of specified nuclear equipment and non-nuclear material; nuclear fuel cycle-related research and development activities not involving nuclear material; and other activities involving nuclear material not currently subject to the U.S.–IAEA Safeguards Agreement.

Within 180 days after deposit of the United States' instrument of ratification of the Additional Protocol, the United States must submit to the IAEA a declaration containing information compiled from the *Initial Reports* submitted to BIS in accordance with the proposed requirements of Section 783.1(a) of the APR. Thereafter, by May 15th of each succeeding year, the United States must submit to the IAEA a declaration containing an annual update to the information contained in previous U.S. declarations to the IAEA. The U.S. annual declaration to the IAEA will contain information compiled, for the most part, from the *Annual Update Reports* submitted to BIS in accordance with the proposed requirements of Section 783.1(b) of the APR.

The Additional Protocol provides that there shall be no mechanistic or systematic verification of information contained in the U.S. declaration (e.g., there is no provision for routine inspections). However, the United States would be required to provide the IAEA with access (referred to as ''complementary access'') to civil nuclear fuel cycle-related locations and activities, under certain circumstances, as defined in the Additional Protocol. Such access would be designed to ensure the absence of undeclared nuclear material and activities at declared sites where nuclear facilities or materials are located or to address a question about the completeness or correctness of the U.S. declaration or an inconsistency related to the information contained therein. In the latter instance, access generally would be requested only if a question or inconsistency in the U.S. declaration could not be

resolved through consultation between the United States and the IAEA. The APR contain requirements administered by the Department of Commerce's Bureau of Industry and Security to implement the Additional Protocol. Additional U.S. obligations under the Additional Protocol are administered by other U.S. government agencies as designated by the President of the United States.

A. Part 781—General Information and Overview of the APR

The Additional Protocol Regulations (15 CFR chapter VII, subchapter D), or APR, would implement certain obligations of the United States under the Additional Protocol. Part 781 contains definitions of terms used in the APR, describes the purpose and scope of the APR, and provides an overview of the activities regulated under the APR.

B. Part 782—General Information Regarding Reporting Requirements and Procedures

The Additional Protocol augments the existing U.S.-IAEA Safeguards Agreement by requiring the United States to provide the IAEA with information on civil nuclear and nuclear-related items, materials, and activities not presently covered by the U.S.-IAEA Safeguards Agreement. The items, materials, and activities that must be declared include the following: mining and milling activities involving the production or processing of materials that could serve as feed material for the civil nuclear fuel cycle (i.e., uranium and thorium); nuclear-related equipment manufacturing; exports and imports of nuclear-related equipment and nuclear-related non-nuclear material; and civil nuclear fuel cycle-related research and development (R&D) activities not involving nuclear material. To enable the United States to collect the information necessary to prepare the U.S. declaration to the IAEA, BIS is publishing the APR to establish reporting requirements for U.S. industry and other U.S. persons concerning civil nuclear and nuclear-related items, materials, and activities that must be declared under the Additional Protocol.

Part 782 of the APR contains a brief overview of the reporting and compliance review requirements in the APR, identifies who is responsible for submitting the reports required under the APR, and provides information on how to determine which activities would be subject to the APR reporting requirements, including instructions on where and how to submit activity determination requests to BIS. Part 782 also explains how to obtain the forms needed to submit reports required by the APR and where to submit the reports.

C. Part 783—Reporting Requirements for Nuclear Fuel Cycle-Related Activities Not Involving Nuclear Materials

Part 783 contains a comprehensive description of the reporting requirements under the APR, including which activities must be reported, who must submit reports, the types of reports that must be submitted (e.g., *Initial Report, Annual Update Report, Export Report, Import Confirmation Report, Supplemental Information Report*—the latter would be submitted in response to BIS notification of an IAEA request for amplification or clarification of information), the types of changes that would require the submission of an *Amended Report* to BIS, when a *No Changes Report* may be submitted in lieu of an *Annual Update Report*, the APR forms required and the procedures that must be followed to prepare and submit these reports, and the deadlines for submitting these reports to BIS.

Section 783.1(a) of the APR would establish initial reporting requirements under the APR. You must submit an *Initial Report* to BIS, no later than 30 calendar days following the date of publication of the rule that establishes the APR, if you are engaged in any of the civil nuclear fuel cycle-related activities described in Section 783.1(a) of the APR on the date of publication. In this instance, your Initial Report must describe only those activities in which you are engaged as of the date of publication, except that the description of activities involving uranium hard-rock mines must include any such mines that were closed down during the calendar year in which the rule establishing the APR was published (up to and including the date of publication) as well as mines that were in either operating or suspended status on the date of publication. The period of time covered by your *Initial Report* must include the calendar year in which the APR are promulgated (up to and including the date of publication).

For any calendar year that follows the year in which the rule establishing the APR is published, you must submit an *Initial Report* to BIS if you commenced civil nuclear fuel cycle-related activities described in Section 783.1(a) of the APR at your location, during the previous calendar year, and have not previously reported such activities to BIS. You may include such activities in your *Annual Update Report,* in lieu of submitting a separate *Initial Report,* if you also have an *Annual Update Report* requirement for the same location that covers the same reporting period (*Annual Update Report* requirements are addressed in the discussion of Section 783.1(b), below).

Section 783.1(a)(1) of the APR contains two separate reporting requirements that apply to civil nuclear fuel cycle-related research and development activities, as defined in Section 781.1 of the APR, that do not involve nuclear material. Section 783.1(a)(1)(i) of the APR describes the initial reporting requirement for any such civil activities that were funded, specifically authorized or controlled by, or carried out on behalf of, the United States. Section 783.1(a)(1)(ii) of the APR describes the initial reporting requirement for any such activities that were specifically related to civil enrichment, reprocessing of nuclear fuel, or the processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 and that were not funded, specifically authorized or controlled by, or carried out on behalf of the United States. Reports on these activities must include a general activity description and location information. The provisions of Section 783.1(a)(1)(i) and (a)(1)(ii) are intended to address the information requirements described in Articles 2.a(i) and 2.b(i), respectively, of the Additional Protocol.

Section 783.1(a)(2) of the APR describes the initial reporting requirement for civil nuclear-related manufacturing, assembly, and construction activities (e.g., the manufacture of centrifuge rotor tubes, diffusion barriers, zirconium tubes, nuclear grade graphite, and reactor control rods). The specific activities subject to this APR reporting requirement are listed in detail in Supplement No. 2 to Part 783 of the APR, which corresponds to Annex I of the Additional Protocol. For these locations, the APR require a description of the scale of operations for each location engaged in any of the activities described in Supplement No. 2 to Part 783. This information need not be detailed, but should include the organization's name, location, a brief description of operations, and the estimated current annual production. The provisions of Section 783.1(a)(2) are intended to address the information requirements described in Article 2.a(iv) of the Additional Protocol.

Section 783.1(a)(3) of the APR describes the initial reporting requirement for U.S. uranium hard-rock mining activities, consistent with information requirements described in Article 2.a(v) of the Additional Protocol.

Uranium hard-rock mines are required to report to BIS their location, operational status, estimated annual production capacity, and current annual production. For *Initial Reports* submitted during the calendar year in which the APR are promulgated, this reporting requirement applies to any mines that were closed down during that calendar year (up to and including the date of publication of the APR), as well as mines in either operating or suspended status on the date that the rule establishing the APR is published. Mines that were closed down prior to the calendar year in which the APR are promulgated do not have a reporting obligation.

Section 783.1(b) of the APR would establish annual reporting requirements under the APR. If you submit an *Initial Report* to BIS, in accordance with Section 783.1(a) of the APR, and your *Initial Report* does not indicate that all civil nuclear fuel cycle-related activities described therein have ceased at your location, Section 783.1(b) of the APR would require that you submit an *Annual Update Report* to BIS for each calendar year that follows the year covered by your *Initial Report*. This *Annual Update Report* requirement will continue to apply for as long as you engage in activities subject to the APR reporting requirements. If your location subsequently ceases to engage in activities subject to the APR reporting requirements, you would still be required to submit an *Annual Update Report* covering the calendar year in which you ceased to engage in such activities. Section 783.1(b)(2) of the APR provides that a *No Changes Report* may be submitted, in lieu of an *Annual Update Report,* when there are no changes with respect to your location and civil nuclear fuel cycle-related activities during the previous calendar year. If your *Initial Report* or most recent *Annual Update Report* indicates that all civil nuclear fuel cycle-related activities described therein have ceased at your location, and no other reportable activities have occurred during the previous calendar year, then you would not have a reporting requirement under Section 783.1(a) or (b) of the APR.

Initial Reports describing reportable civil nuclear fuel cycle-related activities identified in Section 783.1(a) of the APR would need to be submitted to BIS no later than 30 calendar days following the date of publication of the rule establishing the APR, if you are engaged in any such civil nuclear fuel cycle-related activities on the date of publication. Any such activities that commence after the date of publication of the rule establishing the APR must be reported to BIS no later than January 31 of the year following the calendar year in which the activities took place. If you are subject to an *Annual Update Report* requirement for the same location and covering the same reporting period, you may include these additional activities in your *Annual Update Report,* in lieu of submitting a separate *Initial Report. Annual Update Reports* must be submitted to BIS by January 31st of the year following any calendar year in which reportable fuel cycle-related activities took place. *No Changes Reports* must be submitted to BIS by January 31st of the year following any calendar year in which reportable nuclear fuel cycle-related activities took place.

Section 783.1(c) and (d), respectively, of the APR describe the reporting requirements that would apply to exports and imports of equipment or non-nuclear material identified in Supplement No. 3 to Part 783 of the APR. The equipment and non-nuclear material in Supplement No. 3 are derived from the Zangger Committee Trigger List (IAEA INFCIRC/254/Rev.8/Part 1, Annex B)—the Trigger List defines goods specially designed for nuclear use that, along with nuclear-related dual-use materials, equipment, software and related technology, are subject to export controls administered by member states of the Nuclear Suppliers Group (NSG). If you export any of the items listed in Supplement No. 3 to Part 783, you must submit an *Export Report* to BIS no later than 15 days following the end of the calendar quarter in which the items were exported—therefore, *Export Reports* must be submitted to BIS no later than January 15th, April 15th, July 15th, and/or October 15th each year. You will be notified by BIS if an *Import Confirmation Report* is required under the APR. BIS will provide such notification only upon receipt of a request from the IAEA for information to verify imports. For each import of equipment or non-nuclear material listed in Supplement No. 3 to Part 783, you must submit an *Import Confirmation Report* to BIS no later than 30 calendar days following the date that you receive notification of this requirement. The provisions of Section 783.1(c) and (d) are intended to address the information requirements described in Article 2.a(ix)(b) of the Additional Protocol.

Section 783.1(e) of the APR describes the requirements that would apply to a *Supplemental Information Report.* If the IAEA specifically requests amplification or clarification concerning any information provided in the U.S. declaration that is based on your report(s), BIS will send you written notification requiring that you report to BIS additional information concerning the activities that you previously reported and any other activities conducted at your location or building that would be relevant for the purpose of addressing the IAEA's request for amplification or clarification of information.

Section 783.2 of the APR describes the circumstances under which an *Amended Report* would need to be submitted to BIS. Section 783.2(a) of the APR would require that an *Amended Report* be submitted to BIS no later than 30 calendar days following the date that you discover an error or omission in your most recent report that involves information concerning an activity subject to the reporting requirements in Section 783.1(a) or (b) of the APR. Section 783.2(b) of the APR would require that an *Amended Report* be submitted to BIS no later than 30 calendar days after any changes to company and location information, such as the company's designated contact person (for reporting and complementary access purposes), the name or mailing address of the company, the owner/operator of the location, or the owner of the company. Section 783.2(d) of the APR would require that an *Amended Report* be submitted to BIS no later than 30 calendar days following the date that you received written notification from BIS to provide information requested by the IAEA following complementary access to the location.

D. Part 784—Complementary Access

Part 784 of the APR describes the purpose of complementary access by the IAEA and identifies the types of locations that may be subject to complementary access under the APR. Any location that would be required to submit an *Initial Report, Annual Update Report,* or *No Changes Report* to BIS, pursuant to Part 783 of the APR, is a reportable location and may be subject to complementary access by the IAEA. The fact that a location would be required to submit a report to BIS does not automatically trigger complementary access by the IAEA, although it may provide the basis for complementary access. Information that has been reported to BIS and included in the U.S. declaration will be analyzed by the IAEA before the IAEA makes a decision on whether or not to request complementary access to a particular location. In addition to providing the IAEA with complementary access to reportable locations, Part 784 of the APR

provides that other locations specified by the IAEA may be subject to complementary access.

The specific purpose of complementary access will be location dependent. In the case of uranium hard-rock mine locations, the purpose of complementary access is limited to enabling the IAEA to verify, on a selective basis, the absence of undeclared nuclear material and nuclear related activities. For all other locations subject to the APR (e.g., locations involved in reportable civil nuclear fuel cycle-related research and development or manufacturing activities, other locations specified by the IAEA), the purpose of complementary access is limited to allowing the IAEA to resolve questions relating to the correctness and completeness of the information provided in the U.S. declaration or to resolve inconsistencies relating to that information. Complementary access normally will not be scheduled for the latter type of location until after the IAEA has provided the United States with an opportunity to clarify or resolve the question or inconsistency in the U.S. declaration.

Part 784 of the APR defines the role of BIS in notifying locations that will be subject to complementary access and acting as host to the IAEA Team during complementary access. A BIS Host team (augmented by other agency representatives, as appropriate) will accompany the IAEA inspectors during their activities at the location. In addition, a BIS Advance Team, upon receiving advance notice from the IAEA of complementary access, may deploy to the location to assist in preparing personnel and implementing appropriate measures to protect confidential business and other critical information.

Part 784 also provides specific information on the scope and conduct of complementary access, such as the kinds of activities that may be carried out by the IAEA Team (e.g., the circumstances under which the IAEA Team will be granted physical access to records and visual access to facilities). In addition, Part 784 describes the circumstances under which the Host Team will implement managed access measures during IAEA complementary access. Managed access will protect activities of direct national security significance to the United States, as well as locations or information associated with such activities. It is also designed to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, and to protect proprietary or commercially sensitive information.

E. Part 785—Enforcement

Part 785 contains definitions of enforcement-related terms and describes the scope of the enforcement activities that would be authorized under the APR, including the types of violations subject to the APR, administrative and criminal proceedings, hearings, representation, paperwork, summary decisions, discovery, subpoenas, matters protected against disclosure, procedural stipulations, extensions, post-hearing submissions, decisions, settlements, payment of assessments, and how to report a violation.

F. Part 786—Records and Recordkeeping

Part 786 describes the APR recordkeeping requirements, including the types of records that would need to be retained, required retention periods, acceptable media for record storage, records inspection procedures, accessibility of records, and disposal of records.

G. Part 787—Interpretations

Part 787 is reserved for future interpretations of parts 781 through 786 of the APR and also for Subsidiary Arrangements to the Additional Protocol.

Rulemaking Requirements

1. This proposed rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule proposes a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection contained in this proposed rule is part of a joint information collection by the Bureau of Industry and Security (BIS) of the Department of Commerce (DOC), in accordance with the proposed Additional Protocol Regulations (APR) (15 CFR parts 781–799), and the Nuclear Regulatory Commission (NRC), in accordance with amendments to its regulations in 10 CFR part 75 and 10 CFR part 110. BIS has submitted this proposed collection to the Office of Management and Budget for approval. A total of approximately 129 respondents are expected to be subject to the information collection requirements set forth in these BIS and NRC rules. These information collection requirements are expected to involve an estimated 3,357 total burden hours per annum at a total estimated cost of $139,142 per annum. The estimated total burden hours per annum include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to *David_Rostker@omb.eop.gov* or by fax to (202) 395–7285, and to Willard Fisher, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, as indicated in the **ADDRESSES** section of this rule.

The DOC's Office of Strategic Industries and Economic Security (SIES) conducted a study in order to obtain an estimate of the number of U.S. companies, organizations, and other U.S. persons that would be subject to reporting requirements under the BIS and NRC rules. This study, along with reviews conducted by the NRC on activities conducted by its licensees, indicated that potentially 119 locations and 10 sites at International Atomic Energy Agency (IAEA) Selected Facilities from the U.S. Eligible Facilities List licensed by the NRC (an estimated total of 129 respondents) would have reporting requirements pursuant to DOC and NRC regulations under the Additional Protocol.

The information collection requirements in the BIS and/or NRC rules consist of the following activities: (1) Additional Protocol (AP)-related reporting activities (e.g., activities involving the completion and submission of AP-related reports using forms contained in handbooks described below), (2) complementary access activities (e.g., activities involving IAEA inspection team access to locations and sites subject to AP-related reporting requirements), and (3) compliance review activities (e.g., activities involving BIS requests for information

from persons and locations subject to the APR to determine compliance with APR reporting and recordkeeping requirements).

The estimated information collection burden associated with the proposed AP-related reporting activities is expected to total 2,161 burden hours per year, at a total cost to respondents of $96,467 per annum, as follows: 2,161 burden hours × $37.20/hour (employee salaries) × 1.2 (20% overhead) = $96,467 estimated annual cost.

The estimated information collection burden associated with the proposed complementary access activities is expected to total 1,153 burden hours per year, at a total cost to respondents of $32,070 per annum, as follows: First, 576.33 (burden hours per complementary access) × 2 (locations per calendar year) = 1,153 total burden hours and, second, $16,035 (estimated cost per complementary access) × 2 (locations per calendar year) = $32,070 estimated annual cost.

The estimated information collection burden associated with the proposed compliance review activities is expected to total 43 burden hours per year, at a total cost to respondents of $1,897 per annum, as follows: 42.5 burden hours × $37.20/hour (employee salaries) × 1.2 (20% overhead) = $1,897.20 annual estimated cost.

In addition, this proposed rule contains a recordkeeping requirement of 3 years, which would involve a total estimated recordkeeping cost of $8,707.50 per annum, as follows: 1.5 square feet (average office space occupied by storage cabinet containing AP-related records) × $45/square foot (average cost of office space utilized for storage) × 129 reports (estimated number of locations required to submit AP-related reports) = $8,707.50 annual estimated cost.

Based on the estimates provided above, the annual burden hours of this information collection are expected to total 3,357 burden hours, as follows: 2,161 (estimated annual burden hours for AP-related reporting activities) + 1,153 (estimated annual burden hours for complementary access activities) + 43 (estimated annual burden hours for compliance review activities) = 3,357 total estimated annual burden hours for all AP-related information collection activities. (Note: The AP-related recordkeeping burden estimate is based upon cost of storage space rather than burden hours.)

Based on the estimates provided above, the annual cost of this information collection is expected to total $139,142, as follows: $96,467 (estimated annual cost for AP-related reporting activities) + $32,070 (estimated annual cost for complementary access activities) + $1,897.20 (estimated annual cost for compliance review activities) + $8,707.50 (estimated annual cost of AP-related recordkeeping requirements) = $139,142 total estimated annual cost for all AP-related information collection activities.

The AP requires the United States to declare to the IAEA a number of commercial nuclear and nuclear-related items, materials, and activities that may be used for peaceful nuclear purposes, but that also would be necessary elements for a nuclear weapons program. Executive Order (E.O.) 13458 of February 5, 2008, designates the DOC as the lead agency responsible for collecting data required under the AP from the commercial nuclear industry and other U.S. persons, except for data involving activities or locations subject to the licensing jurisdiction of the NRC. The E.O. designates the NRC as the lead agency responsible for collecting data required under the AP from those persons, locations, and sites subject to its licensing jurisdiction. In addition, National Security Policy Directive 57 (February 4, 2008) designated DOC as the lead agency responsible for managing the collection and aggregation of all data reported to the U.S. Government for the purpose of preparing the U.S. AP declaration for submission to the IAEA.

BIS has developed two separate handbooks (one for locations and the other for sites of IAEA-selected facilities) that will provide guidance on how to complete and submit the forms required under the APR. These handbooks identify the specific forms that must be included in each type of report package that must be submitted to BIS or the NRC. The specific forms in each handbook are identified below.

LIST OF FORMS CONTAINED IN REPORT HANDBOOK FOR LOCATIONS

Form	Description of information collected on form
AP–1	Certification.
AP–2	Contact Information.
AP–3	Research and Development with U.S. Government (USG) Involvement.
AP–4	Research and Development without U.S. Government Involvement.
AP–5	Nuclear-related manufacturing, assembly and construction activities.
AP–6	Information on uranium hard rock mines.

LIST OF FORMS CONTAINED IN REPORT HANDBOOK FOR LOCATIONS—Continued

Form	Description of information collected on form
AP–7	Information on concentration plants.
AP–8	Holdings of impure source materials.
AP–9	Imports and exports of impure source materials.
AP–10	Holdings of safeguards-exempted materials.
AP–11	Location of safeguards-terminated materials.
AP–12	Processing of safeguards-terminated waste materials.
AP–13	Exports of specified equipment and non-nuclear material.
AP–14	Imports of specified equipment and non-nuclear material.
AP–15	Supplemental information report.
AP–16	Continuation.
AP–17	No Changes Report.

LIST OF FORMS CONTAINED IN REPORT HANDBOOK FOR SITES

Form	Description of information collected on form
AP–A	Certification.
AP–B	Contact Information.
AP–C	Building information.
AP–D	Research and Development with U.S. Government Involvement.
AP–E	Research and Development without U.S. Government Involvement.
AP–F	Nuclear-related manufacturing, assembly and construction activities.
AP–G	Information on concentration plants.
AP–H	Holdings of impure source materials.
AP–I	Imports and exports of impure source materials.
AP–J	Holdings of safeguards-exempted materials.
AP–K	Location of safeguards-terminated materials.
AP–L	Processing of safeguards-terminated waste materials.
AP–M	Exports of specified equipment and non-nuclear material.
AP–N	Imports of specified equipment and non-nuclear material.
AP–O	Supplemental information report.
AP–P	Continuation.
AP–Q	No Changes Report.

3. This rule does not contain policies with Federalism implications as that

term is defined in Executive Order 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulations, Department of Commerce, certified to the Chief Counsel for Advocacy, Small Business Administration, that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities for the reasons explained below. Consequently, BIS has not prepared a regulatory flexibility analysis.

Small entities include small businesses, small organizations and small governmental jurisdictions. For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business according to RFA default definitions for small business (based on SBA size standards), (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. BIS has determined that this final rule would affect only the first and third categories of small entities (i.e., small businesses and small organizations).

The DOC's Office of Strategic Industries and Economic Security (SIES) conducted a study to obtain an estimate of the number of U.S. businesses, organizations, and other U.S. persons that would be subject to the information collection and recordkeeping requirements that BIS and the NRC would have to establish in order to meet U.S. obligations under the AP. This study, along with reviews conducted by the NRC on activities conducted by its licensees, indicated that potentially 119 locations and 10 sites at IAEA-Selected Facilities from the U.S. Eligible Facilities List licensed by the NRC (an estimated total of 129 respondents) would have reporting requirements pursuant to DOC and NRC regulations under the AP. The study indicated that the majority of the businesses or organizations most likely to be impacted by the entry-into-force of the AP would fall into the following categories: (1) Colleges and universities, (2) nuclear fuel manufacturers and utility companies, (3) mining and milling companies, and (4) corporate entities and contractors involved in research and development, manufacturing, assembly and construction activities. Although BIS estimates that the majority of these businesses and organizations are substantially sized entities, having more than 500 employees, BIS does not have sufficient information on these businesses and organizations to definitively characterize them as large entities.

The Small Business Administration (SBA) has established standards for what constitutes a small business, with respect to each of the Standard Industrial Classification (SIC) code categories. For example, a business in the uranium mining industry (NAICS Code: 212291, SIC Code: 1094) is considered by SBA to be a small business if it is independently owned and operated and not dominant in its field of operation and it employs 500 or fewer persons on a full-time basis, part-time, temporary, or other basis. The Mine Safety and Health Administration (MSHA) estimates that approximately 99.8% of the metal/non-metal mining industry would qualify as small businesses. However, many of the uranium mining and milling entities in the United States appear to be subsidiaries of large companies and BIS estimates that most of the small entities likely to be impacted by the entry-into-force of the AP will fall within the other categories of businesses and organizations identified in the SIES survey. In addition, BIS is not able to determine which SIC code categories apply to the other categories of businesses or organizations that are likely to be impacted by the entry-into-force of the AP. Therefore, for the purpose of assessing the impact of this proposed rule, BIS assumes that all of the 129 businesses and organizations likely to be affected are small entities.

Although this proposed rule, if promulgated, would affect a substantial number of small entities (i.e., 129 businesses and organizations), the reporting, on-site verification (i.e., complementary access), compliance review, and recordkeeping requirements that would be imposed by this rule would not have a significant economic impact on these entities.

First, this rule proposes to establish reporting requirements in Part 783 of the APR that would require U.S. industry and U.S. persons to submit data needed to prepare U.S. declarations to the IAEA in accordance with U.S. obligations under the AP. The U.S. declarations submitted under the AP would provide the IAEA with information about additional aspects of the U.S. civil nuclear fuel cycle, including the following: mining and concentration of nuclear ores; nuclear-related equipment manufacturing, assembly, or construction; imports, exports, and other activities involving certain source material (i.e., source material that has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched); imports and exports of specified nuclear equipment and non-nuclear material; nuclear fuel cycle-related research and development activities not involving nuclear material; and other activities involving nuclear material not currently subject to the U.S.-IAEA Safeguards Agreement. The total estimated annual burden hours for these proposed reporting requirements would be 2,161 hours and the total estimated annual cost would be $96,467, or $747.81 per respondent.

Second, this rule proposes to establish on-site verification (i.e., complementary access) requirements in Part 784 of the APR. Any location that would be required to submit an *Initial Report, Annual Update Report,* or *No Changes Report* to BIS, pursuant to Part 783 of the APR, would be treated as a reportable location under the APR and, as such, might be subject to complementary access by the IAEA. The fact that a location would be required to submit a report to BIS would not automatically trigger complementary access by the IAEA, although it might provide the basis for complementary access. Information reported to BIS and included in the U.S. declaration would be analyzed by the IAEA before the IAEA would decide whether or not to request complementary access to a particular location. In addition to providing the IAEA with complementary access to reportable locations, Part 784 of the APR would provide that other locations specified by the IAEA might be subject to complementary access. The specific purpose of complementary access would be location dependent. Complementary access to uranium hard-rock mine locations would be limited to enabling the IAEA to verify, on a selective basis, the absence of

undeclared nuclear material and nuclear related activities. For all other locations subject to the APR, the purpose of complementary access would be limited to allowing the IAEA to resolve questions relating to the correctness and completeness of the information provided in the U.S. declaration or to resolve inconsistencies relating to that information. The total estimated annual burden hours for these proposed complementary access requirements would be 1,153 hours and the total estimated annual cost would be $32,070, or $248 per respondent.

Third, this rule proposes to establish compliance review requirements in Section 782.3 of the APR that would authorize BIS to request information, periodically, from persons and locations subject to the APR to determine compliance with the APR reporting and recordkeeping requirements. Information requested may relate to nuclear fuel cycle research and development activities not involving nuclear material, nuclear-related manufacturing, assembly or construction activities, or uranium hard-rock mining activities as described in Part 783 of the APR. Any person or location subject to the APR and receiving such a request for information would be required to submit a response to BIS within 30 calendar days of receipt of the request. The total estimated annual burden hours for these proposed compliance review requirements would be 43 hours and the total estimated annual cost would be $1,897.20, or $14.70 per respondent.

Fourth, this rule proposes to establish recordkeeping provisions in Part 786 of the APR in accordance with which each person or location required to submit a report or correspondence under Parts 782 through 784 of the APR would have to retain all supporting materials and documentation used to prepare the report or correspondence. All such supporting materials and documentation would have to be retained by the person or location for three years from the due date of the applicable report or for three years from the date of submission of the applicable report, whichever would be later. Upon request by BIS, the person or location also would be required to permit access to and copying of any records related to compliance with the requirements of the APR. The total estimated annual cost for these proposed APR recordkeeping requirements would be $8,707.50. (**Note:** Since the AP-related recordkeeping burden estimate is based upon the cost of storage space rather than the number of burden hours, this estimate does not include the total annual burden hours associated with the APR recordkeeping requirements.)

The total estimated annual burden hours required to implement the reporting, complementary access, compliance review, and recordkeeping requirements described above would be 3,357 burden hours and the total estimated annual cost would be $139,142. Although the primary impact of these new requirements would affect a substantial number of small entities (*i.e.*, 129 businesses and organizations), the total economic impact on the affected entities (i.e., $139,142, per annum, for all of the affected entities) would not be significant. The average impact per entity would be $1,079 (i.e., $139,142 ÷ 129) per annum, which represents a small percentage of the net annual revenue of a typical small business. Since the requirements that this rule proposes to establish would not impose a significant economic impact on a substantial number of small entities, BIS did not prepare a regulatory flexibility analysis for this rule.

Finally, the changes proposed by this rule should be viewed in light of the fact that BIS's discretion in formulating the reporting, complementary access, compliance review, and recordkeeping requirements of the APR is limited by the necessity of meeting U.S. obligations under the AP. The AP specifies the information that the United States must declare to the IAEA. In drafting the requirements and the forms for U.S. locations and U.S. persons to use, BIS has attempted to minimize the recordkeeping and reporting burden to ensure that only information that the United States must declare to the IAEA would have to be submitted to BIS.

List of Subjects

15 CFR Part 781

Nuclear fuel cycle-related activities, Imports, Treaties.

15 CFR Part 782

Nuclear fuel cycle-related activities, Reporting and recordkeeping requirements.

15 CFR Part 783

Nuclear fuel cycle-related activities, Exports, Imports, Reporting and recordkeeping requirements.

15 CFR Part 784

Nuclear fuel cycle-related activities, Imports, Reporting and recordkeeping requirements.

15 CFR Part 785

Enforcement.

15 CFR Part 786

Reporting and recordkeeping requirements.

Accordingly, in 15 CFR Chapter VII, new Subchapter D, titled ''Additional Protocol Regulations'' and consisting of Parts 781 through 799, is proposed to be added to read as follows:

Subchapter D—Additional Protocol Regulations

PART 781—GENERAL INFORMATION AND OVERVIEW OF THE ADDITIONAL PROTOCOL REGULATIONS (APR)

Sec.
781.1 Definitions of terms used in the Additional Protocol Regulations (APR).
781.2 Purposes of the Additional Protocol and APR.
781.3 Scope of the APR.
781.4 U.S. Government requests for information needed to satisfy the requirements of the APR or the Act.
781.5 Authority.

Authority: Public Law 109–401, 120 Stat. 2726 (December 18, 2006); Executive Order 13458 (February 4, 2008).

§ 781.1 Definitions of terms used in the Additional Protocol Regulations (APR).

The following are definitions of terms used in parts 781 through 799 of this subchapter (collectively known as the APR), unless otherwise noted:

Access Point of Contact (A–POC). The individual at a location who will be notified by BIS immediately upon receipt of an IAEA request for complementary access to a location. BIS must be able to contact either the A–POC or alternate A–POC on a 24-hour basis. All interactions with the location for permitting and planning an IAEA complementary access will be conducted through the A–POC or the alternate A–POC, if the A–POC is unavailable.

Act (The). The United States Additional Protocol Implementation Act of 2006 (Pub. L. 109–401).

Additional Protocol. The Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna on June 12, 1998 (T. Doc. 107–097), known as the Additional Protocol.

Additional Protocol Regulations (APR). Those regulations contained in 15 CFR parts 781 to 799 that were promulgated by the Department of Commerce to implement and enforce the Additional Protocol.

Agreement State. Any State of the United States with which the U.S. Nuclear Regulatory Commission (NRC)

has entered into an effective agreement under Subsection 274b of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*).

Beneficiation. The concentration of nuclear ores through physical or any other non-chemical methods.

Bureau of Industry and Security (BIS). The Bureau of Industry and Security of the United States Department of Commerce, including Export Administration and Export Enforcement.

Complementary Access. The exercise of the IAEA's access rights as set forth in Articles 4 to 6 of the Additional Protocol (see part 784 of the APR for requirements concerning the scope and conduct of complementary access).

Complementary Access Notification. A written announcement issued by BIS to a person who is subject to the APR (e.g., the owner, operator, occupant, or agent in charge of a location that is subject to the APR as specified in § 781.3(a) of the APR) that informs this person about an impending complementary access in accordance with the requirements of Part 784 of the APR.

Host Team. The U.S. Government team that accompanies the International Atomic Energy Agency (IAEA) inspectors during complementary access, as provided for in the Additional Protocol and conducted in accordance with the provisions of the APR.

Host Team Leader. The representative from the Department of Commerce who leads the Host Team during complementary access.

International Atomic Energy Agency (IAEA). The United Nations organization, headquartered in Vienna, Austria, that serves as the official international verification authority for the implementation of safeguards agreements concluded pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

ITAR. The International Traffic in Arms Regulations (22 CFR parts 120–130), which are administered by the Directorate of Defense Trade Controls, U.S. Department of State.

Location. Any geographical point or area declared or identified by the United States or specified by the IAEA (see ''location specified by the IAEA,'' as defined in this section).

Location-specific environmental sampling. The collection of environmental samples (e.g., air, water, vegetation, soil, smears) at, and in the immediate vicinity of, a location specified by the IAEA for the purpose of assisting the IAEA to draw conclusions about the absence of undeclared nuclear material or nuclear activities at the specified location.

Location-specific subsidiary arrangement. An agreement that sets forth procedures, which have been mutually agreed upon by the United States and the IAEA, for conducting complementary access at a specific reportable location. (Also see definition of ''subsidiary arrangement'' in this section.)

Location specified by the IAEA. A location that is selected by the IAEA to:

(1) Verify the absence of undeclared nuclear material or nuclear activities; or

(2) Obtain information that the IAEA needs to amplify or clarify information contained in the U.S. declaration.

Managed access. Procedures implemented by the Host Team during complementary access to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, to protect proprietary or commercially sensitive information, or to protect activities of direct national security significance to the United States, including information associated with such activities, in accordance with the Additional Protocol.

National Security Exclusion (NSE). The right of the United States, as specified under Article 1.b of the Additional Protocol, to exclude the application of the Additional Protocol when the United States Government determines that its application would result in access by the IAEA to activities of direct national security significance to the United States or to locations or information associated with such activities.

NRC. The U.S. Nuclear Regulatory Commission.

Nuclear fuel cycle-related research and development. Those activities that are specifically related to any process or system development aspect of any of the following:

(1) Conversion of nuclear material;

(2) Enrichment of nuclear material;

(3) Nuclear fuel fabrication;

(4) Reactors;

(5) Critical facilities;

(6) Reprocessing of nuclear fuel; or

(7) Processing (not including repackaging or conditioning not involving the separation of elements, for storage or disposal) of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233.

Nuclear Material. Any source material or special fissionable material, as follows.

(1) *Source material* means uranium containing the mixture of isotopes occurring in nature; uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical, or concentrate. The term source material shall not be interpreted as applying to ore or ore residue.

(2) *Special fissionable material* means plutonium 239; uranium 233; uranium enriched in the isotopes 235 or 233; any material containing one or more of the foregoing, but the term special fissionable material does not include source material.

Person. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

Report Point of Contact (R–POC). A person whom BIS may contact for the purposes of clarification of information provided in report(s) and for general information. The R–POC need not be the person who prepares the forms or certifies the report(s) for submission to BIS, but should be familiar with the content of the reports.

Reportable Location. A location that must submit an *Initial Report, Annual Update Report,* or *No Changes Report* to BIS, in accordance with the provisions of the APR, is considered to be a ''reportable location'' with reportable activities (see § 783.1(a) and (b) of the APR for nuclear fuel cycle-related activities subject to these reporting requirements).

Reporting Code. A unique identification used for identifying a location where one or more nuclear fuel cycle-related activities subject to the reporting requirements of the APR are located.

Subsidiary Arrangement (or General Subsidiary Arrangement). An agreement that sets forth procedures, which have been mutually agreed upon by the United States and the IAEA, for implementing the Additional Protocol, irrespective of the location. (Also see the definition of ''location-specific subsidiary arrangement'' in this section.)

United States. Means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States, and includes all places under the jurisdiction or control of the United States, including any of the places within the provisions of paragraph (41) of section 40102 of Title 49 of the United States Code, any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (1) and (37), respectively, of

section 40102 of Title 49 of the United States Code, and any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (section 1903(b) of Title 46 App. of the United States Code).

Uranium Hard-Rock Mine. Means any of the following:

(1) An area of land from which uranium is extracted in non-liquid form;

(2) Private ways and roads appurtenant to such an area; and

(3) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such uranium ore from its natural deposits in non-liquid form, or if in liquid form, with workers underground, or used in, or to be used in, the concentration of such uranium ore, or the work of the uranium ore.

Uranium Hard-Rock Mine (Closed-down). A uranium hard-rock mine where ore production has ceased and the mine or its infrastructure is not capable of further operation.

Uranium Hard-Rock Mine (Operating). A uranium hard-rock mine where ore is produced on a routine basis.

Uranium Hard-Rock Mine (Suspended). A uranium hard-rock mine where ore production has ceased, but the mine and its infrastructure are capable of further operation.

U.S. declaration. The information submitted by the United States to the IAEA in fulfillment of U.S. obligations under the Additional Protocol.

United States Government locations. Those locations owned and operated by a U.S. Government agency (including those operated by contractors to the agency), and those locations leased to and operated by a U.S. Government agency (including those operated by contractors to the agency). United States Government locations do not include locations owned by a U.S. Government agency and leased to a private organization or other entity such that the private organization or entity may independently decide the purposes for which the locations will be used.

Wide-area environmental sampling. The collection of environmental samples (e.g., air, water, vegetation, soil, smears) at a set of locations specified by the IAEA for the purpose of assisting the IAEA to draw conclusions about the absence of undeclared nuclear material or nuclear activities over a wide area.

You. The term ''you'' or ''your'' means any person. With regard to the reporting requirements of the APR, ''you'' refers to persons that have an obligation to report certain activities under the provisions of the APR. (Also see the definition of *''person''* in this section.)

§ 781.2 Purposes of the Additional Protocol and APR.

(a) *General.* The Additional Protocol is a supplement to the existing U.S.-IAEA Safeguards Agreement, which entered into force in 1980. It provides the IAEA with access to additional information about civil nuclear and nuclear-related items, materials, and activities and with physical access to reportable locations where nuclear facilities, materials, or ores are located (to ensure the absence of undeclared nuclear material and activities) and to other reportable locations and locations specified by the IAEA (to resolve questions or inconsistencies related to the U.S. Declaration). The Additional Protocol is based upon and is virtually identical to the IAEA Model Additional Protocol (see IAEA Information Circular, INFCIRC/540, at *www.iaea.org/Publications/Documents/Infcircs/index.html*), except that it excludes IAEA access to activities with direct national security significance to the United States, or to locations or information associated with such activities, and provides for managed access in connection with those same activities and to locations or information associated with those activities.

(b) *Purposes of the Additional Protocol.* The Additional Protocol is designed to enhance the effectiveness of the U.S.-IAEA Safeguards Agreement by providing the IAEA with information about aspects of the U.S. civil nuclear fuel cycle, including: mining and concentration of nuclear ores; nuclear-related equipment manufacturing, assembly, or construction; imports, exports, and other activities involving certain source material (i.e., source material that has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched); imports and exports of specified nuclear equipment and non-nuclear material; nuclear fuel cycle-related research and development activities not involving nuclear material; and other activities involving nuclear material not currently subject to the U.S.-IAEA Safeguards Agreement (e.g., nuclear material that has been exempted from safeguards pursuant to paragraph 37 of INFCIRC/153 (Corrected) June 1972).

(c) *Purposes of the Additional Protocol Regulations.* To fulfill certain obligations of the United States under the Additional Protocol, BIS has established the APR, which require the reporting of information to BIS (as described in Parts 783 and 784 of the APR) from all persons and locations in the United States (as described in § 781.3(a) of the APR) with reportable activities. This information, together with information reported to other U.S. Government agencies and less any information to which the U. S. Government applies the national security exclusion, is aggregated into a U.S. declaration, which is submitted annually to the IAEA. The APR also provide for complementary access at such locations in accordance with the provisions in Part 784 of the APR.

§ 781.3 Scope of the APR.

The Additional Protocol Regulations or APR implement certain obligations of the United States under the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency Concerning the Application of Safeguards in the United States of America, known as the Additional Protocol.

(a) *Persons and locations subject to the APR.* The APR, promulgated by the Department of Commerce, shall apply to all persons and locations in the United States, except:

(1) Locations that are subject to the regulatory authority of the Nuclear Regulatory Commission (NRC), pursuant to the NRC's regulatory jurisdiction under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*); and

(2) The following *United States Government locations* (see definition in § 781.1 of the APR):

(i) Department of Energy locations;

(ii) Department of Defense locations;

(iii) Central Intelligence Agency locations; and

(iv) Department of State locations.

(b) *Activities subject to the APR.* The activities that are subject to the recordkeeping and reporting requirements described in the APR are found in Parts 783 and 784 of this subchapter (APR).

§ 781.4 U.S. Government requests for information needed to satisfy the requirements of the APR or the Act.

From time to time, one or more U.S. Government agencies (i.e., the Department of Defense, the Department of Energy, the NRC, or BIS) may contact a location to request information that the U.S. Government has determined to be necessary to satisfy certain

requirements of the APR or the Act (e.g., clarification requests or vulnerability assessments). If the manner of providing such information is not specified in the APR, the agency in question will provide the location with appropriate instructions.

§ 781.5 Authority.

The APR implement certain provisions of the Additional Protocol under the authority of the Additional Protocol Implementation Act of 2006 (Pub. L. 109–401, 120 Stat. 2726 (December 18, 2006)). In Executive Order 13458 of February 4, 2008, the President delegated authority to the Department of Commerce to promulgate regulations to implement the Act, and consistent with the Act, to carry out appropriate functions not otherwise assigned in the Act, but necessary to implement certain declaration and complementary access requirements of the Additional Protocol and the Act.

PART 782—GENERAL INFORMATION REGARDING REPORTING REQUIREMENTS AND PROCEDURES

Sec.

782.1 Overview of reporting requirements under the APR.
782.2 Persons responsible for submitting reports required under the APR.
782.3 Compliance review.
782.4 Assistance in determining your obligations.
782.5 Where to obtain APR report forms.
782.6 Where to submit reports.

Authority: Public Law 109–401, 120 Stat. 2726 (December 18, 2006); Executive Order 13458 (February 4, 2008).

§ 782.1 Overview of reporting requirements under the APR.

Part 783 of the APR describes the reporting requirements for certain activities specified in the APR. For each activity specified in Part 783, BIS may require that an *Initial Report,* an *Annual Update Report,* a *No Changes Report,* an *Export Report,* an *Import Confirmation Report,* a *Supplemental Information Report,* or an *Amended Report* be submitted to BIS. In addition, persons subject to the APR may be required to provide BIS with information needed to assist the IAEA in clarifying or verifying information specified in the U.S. declaration or in clarifying or amplifying information concerning the nature of the activities conducted at a location (see §§ 783.1(d) and 784.1(b)(2) of the APR for requirements concerning a *Supplementary Information Report*). If, after reviewing Part 783 of the APR, you determine that you are subject to one or more APR reporting requirements, you may obtain the appropriate forms by contacting BIS (see § 782.5 of the APR). In addition, forms may be downloaded from the Internet at *www.ap.gov.*

§ 782.2 Persons responsible for submitting reports required under the APR.

The owner, operator, or senior management official of a location subject to the reporting requirements in Part 783 of the APR is responsible for the submission of all required reports and documents in accordance with all applicable provisions of the APR.

§ 782.3 Compliance review.

Periodically, BIS will request information from persons and locations subject to the APR to determine compliance with the reporting and recordkeeping requirements set forth herein. Information requested may relate to nuclear fuel cycle research and development activities not involving nuclear material, nuclear-related manufacturing, assembly or construction activities, or uranium hard-rock mining activities as described in Part 783 of the APR. Any person or location subject to the APR and receiving such a request for information must submit a response to BIS within 30 calendar days of receipt of the request. If the requested information cannot be provided to BIS, the response must fully explain the reason why such information cannot be provided. If additional time is needed to collect the requested information, the person or location should request an extension of the submission deadline, before the expiration of the 30-day time period set by BIS, and include an explanation for why an extension is needed. BIS will grant only one extension of the submission deadline. The maximum period of time for which BIS will grant an extension will be 30 days. Failure to respond to this request could lead to an investigation of the person's or location's reporting and recordkeeping procedures under the APR.

§ 782.4 Assistance in determining your obligations.

(a) *Determining if your activity is subject to reporting requirements.*

(1) If you need assistance in determining whether or not your activity is subject to the APR's reporting requirements, submit your written request for an activity determination to BIS. Such requests may be sent via facsimile to (202) 482–1731, e-mailed to *apdr@ap.gov*, or hand delivered or submitted by courier to the Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Attn: AP Activity Determination, 14th Street and Pennsylvania Avenue, NW., Room 4515, Washington, DC 20230. Your activity determination request should include the information indicated in paragraph (a)(2) of this section to ensure an accurate determination. Also include any additional information that would be relevant to the activity described in your request. If you are unable to provide all of the information required in paragraph (a)(2) of this section, you should include an explanation identifying the reasons or deficiencies that preclude you from supplying the information. If BIS cannot make a determination based upon the information submitted, BIS will return the request to you and identify the additional information that is necessary to complete an activity determination. BIS will provide a written response to your activity determination request within 10 business days of receipt of the request.

(2) You must include the following information when submitting an activity determination request to BIS:

(i) Date of your request;

(ii) Name of your organization and complete street address;

(iii) Point of contact for your organization;

(iv) Phone and facsimile number for your point of contact;

(v) E-mail address for your point of contact, if you want BIS to provide an acknowledgment of receipt via e-mail; and

(vi) Description of your activity in sufficient detail as to allow BIS to make an accurate determination.

(b) *Other inquiries.* If you need assistance in interpreting the provisions of the APR or need assistance with APR report forms or complementary access issues, contact BIS's Treaty Compliance Division by phone at (202) 482–1001. If you require a written response from BIS, submit a detailed request to BIS that explains your question, issue, or request. Send the request to the address or facsimile included in paragraph (a) of this section, or e-mail the request to *apqa@ap.gov.* To ensure that your request is properly routed, include the notation, ''*Attention:* APR Advisory Request,'' on your submission to BIS.

§ 782.5 Where to obtain APR report forms.

Report forms required by the APR may be downloaded from the Internet at *www.ap.gov.* You also may obtain these forms by contacting: Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, *Attn:* Forms Request, 14th Street and Pennsylvania Avenue, NW., Room 4515, Washington, DC 20230, *Telephone:* (202) 482–1001.

§ 782.6 Where to submit reports.

Reports required by the APR must be sent via facsimile to (202) 482–1731, e-mailed to *aprp@ap.gov*, or hand delivered or submitted by courier to BIS, in hard copy, to the following address: Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, *Attn:* AP Reports, 14th Street and Pennsylvania Avenue, NW., Room 4515, Washington, DC 20230, *Telephone:* (202) 482–1001. Specific types of reports and due dates are outlined in Supplement No. 1 to Part 783 of the APR.

PART 783—CIVIL NUCLEAR FUEL CYCLE-RELATED ACTIVITIES NOT INVOLVING NUCLEAR MATERIALS

Sec.
783.1 Reporting requirements.
783.2 Amended reports.
783.3 Reports containing information determined by BIS not to be required by the APR.
783.4 Deadlines for submission of reports and amendments.

Supplement No. 1 to Part 783—Deadlines for Submission of Reports and Amendments

Supplement No. 2 to Part 783—Manufacturing Activities

Supplement No. 3 to Part 783—List of Specified Equipment and Non-Nuclear Material for the Reporting of Exports and Imports

Authority: Public Law 109–401, 120 Stat. 2726 (December 18, 2006); Executive Order 13458 (February 4, 2008).

§ 783.1 Reporting requirements.

(a) *Initial report.* You must submit an *Initial Report* to BIS, no later than [30 calendar days following the date of publication of the final rule that establishes the APR] (see Supplement No. 1 to this Part), if you are engaged in any of the civil nuclear fuel cycle-related activities described in this paragraph (a) on [the date of publication of the final rule that establishes the APR]. The *Initial Report* must include any activities involving uranium hard-rock mines that were closed down during the calendar year in which the APR were promulgated (up to and including the date of publication). For any year that follows the year in which the APR were promulgated, you must submit an *Initial Report* to BIS if you commenced any of the civil nuclear fuel cycle-related activities described in this paragraph (a) during the previous calendar year and have not reported such activities to BIS. Reportable nuclear fuel-cycle activities that commence after the date of publication of the rule establishing the APR must be reported to BIS no later than January 31 of the year following the calendar year in which the activities took place (see Supplement No. 1 to this Part). You may report these activities as part of your *Annual Update Report*, in lieu of submitting a separate *Initial Report*, if you also have an *Annual Update Report* requirement that applies to the same location and covers the same reporting period (see paragraph (b) of this section). In order to satisfy the *Initial Report* requirements under this paragraph (a), you must complete and submit to BIS Form AP–1, Form AP–2, and other appropriate forms, as provided in this paragraph (a).

(1) *Research and development activities not involving nuclear material.* You must report to BIS any of the civil nuclear fuel cycle-related research and development activities identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section. Activities subject to these APR reporting requirements include research and development activities related to safe equipment operations for a nuclear fuel cycle-related activity, but do not include activities related to theoretical or basic scientific research or to research and development on industrial radioisotope applications, medical, hydrological and agricultural applications, health and environmental effects and improved maintenance.

(i) You must complete Form AP–3 and submit it to BIS, as provided in § 782.6 of the APR, if you conducted any civil nuclear fuel cycle-related research and development activities defined in § 781.1 of the APR that:

(A) Did not involve nuclear material; and

(B) Were funded, specifically authorized or controlled by, or conducted on behalf of, the United States.

(ii) You must complete Form AP–4 and submit it to BIS, as provided in § 782.6 of the APR, if you conducted any civil nuclear fuel cycle-related research and development activities defined in § 781.1 of the APR that:

(A) Did not involve nuclear material;

(B) Were specifically related to enrichment, reprocessing of nuclear fuel, or the processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 (where ''processing'' involves the separation of elements); and

(C) Were not funded, specifically authorized or controlled by, or conducted on behalf of, the United States.

(2) *Civil nuclear-related manufacturing, assembly or construction activities.* You must complete Form AP–5 and submit it to BIS, as provided in § 782.6 of the APR, if you engaged in any of the activities specified in Supplement No. 2 to this part.

(3) *Uranium hard-rock mining and ore beneficiation activities.* You must complete Form AP–6 and submit it to BIS, as provided in § 782.6 of the APR, if your location is either a uranium hard-rock mine or an ore beneficiation plant that was in operating or suspended status (see § 781.1 of the APR for the definitions of ''uranium hard-rock mine'' and uranium hard-rock mines in ''operating,'' ''suspended,'' or ''closed-down'' status).

(i) The *Initial Report* requirement for the calendar year in which the APR are promulgated applies to:

(A) Uranium hard-rock mines or ore beneficiation plants that are in operating or suspended status on the date that the rule establishing the APR is published; and

(B) Uranium hard-rock mines that have changed from operating or suspended status to closed-down status during the calendar year in which the rule establishing the APR is published (up to and including the date of publication of the rule). Mines that were closed down prior to the calendar year in which the APR are promulgated and that remain in closed-down status do not have a reporting requirement.

(ii) For any calendar year that follows the year in which the APR are promulgated, you are required to submit an *Initial Report* to BIS only if you commenced operations at a uranium hard-rock mine or an ore beneficiation plant during the previous calendar year (e.g., the commencement of operations would include, but not be limited to, the resumption of operations at a mine that was previously in ''closed-down'' status). Otherwise, see the *Annual Update Report* and *No Changes Report* requirements in paragraphs (b)(1) or (b)(2) of this section. For example, you must submit an *Annual Update Report* to indicate the closed-down status of any uranium hard-rock mine that was indicated in your most recent report to be in either operating or suspended status, but at which you ceased operations during the previous calendar year.

(b) *Annual reporting requirements.* You must submit either an *Annual Update Report* or a *No Changes Report* to BIS, as provided in § 782.6 of the APR, if, during the previous calendar year, you continued to engage in civil nuclear fuel cycle-related activities at a location for which you submitted an *Initial Report* to BIS in accordance with the APR reporting requirements described in paragraph (a) of this section.

(1) *Annual Update Report.* You must submit an *Annual Update Report* to BIS if you have updates or changes to report concerning your location's activities during the previous calendar year. When preparing your *Annual Update Report*, you must complete the same report forms that you used for submitting your *Initial Report* on these activities. However, additional report forms will be required if your location engaged in any civil nuclear fuel cycle-related activities described in paragraph (a) of this section that you did not previously report to BIS. The appropriate report forms for each type of activity that must be reported under the APR are identified in paragraphs (a)(1) through (a)(3) of this section. You must submit your *Annual Update Report* to BIS no later than January 31 of the year following any calendar year in which the activities took place or there were changes to previously ''reported'' activities (see Supplement No. 1 to this Part).

(2) *No Changes Report.* You may submit a *No Changes Report*, in lieu of an *Annual Update Report*, if you have no updates or changes concerning your location's activities (except the certifying official and dates signed and submitted) since your most recent report of activities to BIS. In order to satisfy the reporting requirements under this paragraph (b)(2), you must complete Form AP–16 and submit it to BIS, as provided in § 782.6 of the APR, no later than January 31 of the year following any calendar year in which there were no changes to previously ''reported'' activities or location information (see Supplement No. 1 to this Part).

(3) *Additional guidance on annual reporting requirements.* (i) If your *Initial Report* or your most recent *Annual Update Report* for a location indicates that all civil nuclear fuel cycle-related activities described therein have ceased at that location, and no other reportable activities have occurred during the previous calendar year, then you do not have a reporting requirement for the location under paragraph (b) of this section.

(ii) If your location ceases to engage in activities subject to the APR reporting requirements described in paragraph (a) of this section, and you have not previously reported this to BIS, you must submit an *Annual Update Report* covering the calendar year in which you ceased to engage in such activities.

(iii) Closed-down mines should be reported only once.

(c) *Export Report.* You must complete Forms AP–1, AP–2, and AP–13 for each export of specified equipment or non-nuclear material identified in Supplement No. 3 to this Part and submit these Forms to BIS, as provided in § 782.6 of the APR. These Forms must be submitted to BIS no later than 15 days after the end of each calendar quarter (see Supplement No. 1 to this Part). For example, the *Export Report* for the calendar quarter beginning on January 1st and ending on March 31st must be submitted to BIS by April 15th and the *Export Reports* for the remainder of the calendar year would have to be submitted to BIS by July 15th, October 15th, and January 15th, respectively.

(d) *Import Confirmation Report.* You must complete Forms AP–1, AP–2 and AP–14 for each import of equipment or non-nuclear material identified in Supplement No. 3 to this Part and submit these forms to BIS, as provided in § 782.6 of the APR, if BIS sends you written notification requiring that you provide information concerning imports of such equipment and non-nuclear material. These Forms must be submitted within 30 calendar days of the date that you receive written notification of this requirement from BIS (see Supplement No. 1 to this Part). BIS will provide such notification when it receives a request from the IAEA for information concerning imports of this type of equipment or non-nuclear material. The IAEA may request this information to verify that you received specified equipment or non-nuclear material that was shipped to you by a person, organization, or government from a foreign country.

(e) *Supplemental Information Report.* You must complete Forms AP–1, AP–2 and AP–15 and submit them to BIS, as provided in § 782.6 of the APR, if BIS sends you written notification requiring that you provide information about the activities conducted at your location, insofar as relevant for the purpose of safeguards. These Forms must be submitted within 15 calendar days of the date that you receive written notification of this requirement from BIS (see Supplement No. 1 to this Part). BIS will provide such notification only if the IAEA specifically requests amplification or clarification concerning any information provided in the U.S. Declaration based on your report(s).

(f) *Reportable location.* A location that must submit an *Initial Report*, *Annual Update Report*, or *No Changes Report* to BIS, pursuant to the requirements of this section, is considered to be a reportable location with declared activities.

§ 783.2 Amended reports.

In order for BIS to maintain accurate information on previously submitted reports, including information necessary for BIS to facilitate complementary access notifications or to communicate reporting requirements under the APR, *Amended Reports* are required under the circumstances described in paragraphs (a), (b), and (d) of this section. This section applies only to changes affecting *Initial Reports* and *Annual Update Reports* that were submitted to BIS in accordance with the requirements of § 783.1(a) and (b) of the APR. The specific report forms that you must use to prepare and submit an *Amended Report* will depend upon the type of information that you are required to provide, pursuant to this section.

(a) *Changes to activity information.* You must submit an *Amended Report* to BIS within 30 calendar days of the time that you discover an error or omission in your most recent *Initial Report* or *Annual Update Report* that involves information concerning an activity subject to the reporting requirements described in § 783.1(a) or (b) of the APR. Use Form AP–1, and any applicable report forms indicated for the activities identified in § 783.1(a) of the APR, to prepare your *Amended Report.* Submit your *Amended Report* to BIS, as provided in § 782.6 of the APR.

(b) *Changes to organization and location information that must be maintained by BIS.*

(1) *Internal organization changes.* You must submit an *Amended Report* to BIS within 30 calendar days of any change in the following information (use Form AP–1 to prepare your *Amended Report* and submit it to BIS, as provided in § 782.6 of the APR):

(i) Name of report point of contact (R–POC), including telephone number, facsimile number, and e-mail address;

(ii) Name(s) of complementary access point(s) of contact (A–POC), including telephone number(s), facsimile number(s) and e-mail address(es);

(iii) Organization name;

(iv) Organization mailing address;

(v) Location owner, including telephone number, and facsimile number; or

(vi) Location operator, including telephone number, and facsimile number.

(2) *Change in ownership of organization.* You must submit an *Amended Report* to BIS if you sold a reportable location or if your reportable location went out of business since submitting your most recent *Initial Report*, *Annual Update Report*, or *No Changes Report* to BIS. You must also submit an *Amended Report* to BIS if you purchased a reportable location that submitted an *Initial Report*, *Annual Update Report*, or *No Changes Report* to

BIS for the most recent reporting period, as specified in § 783.1(a) and (b) of the APR. Submit your *Amended Report* to BIS, as provided in § 782.6 of the APR, either before the effective date of the change in ownership or within 30 calendar days after the effective date of the change.

(i) The following information must be included in an *Amended Report* submitted to BIS by an organization that is selling or that has sold a reportable location (use Forms AP–1 and AP–16 to prepare your *Amended Report*—address specific details regarding the sale of a reportable location in Form AP–16):

(A) Name of seller (i.e., name of the organization selling a reportable location);

(B) Reporting Code (this code will be assigned to your location and reported to you by BIS or the NRC after receipt of your *Initial Report*);

(C) Name of purchaser (i.e., name of the new organization/owner purchasing a reportable location) and name and address of contact person for the purchaser, if known;

(D) Date of ownership transfer or change;

(E) Additional details on the sale of the reportable location relevant to ownership or operational control over any portion of the reportable location (*e.g.*, whether the entire location or only a portion of the reportable location has been sold to a new owner); and

(F) Details regarding whether the new owner of a reportable location will submit the next report for the entire calendar year in which the ownership change occurred, or whether the previous owner and new owner will submit separate reports for the periods of the calendar year during which each owned the reportable location.

(ii) The following information must be included in an *Amended Report* submitted to BIS by an organization that is purchasing or that has purchased a reportable location (use Forms AP–1 and AP–2 to prepare your *Amended Report*):

(A) Name of purchaser (i.e., name of the new organization/owner purchasing a reportable location) and name and address of contact person for the purchaser;

(B) Details on the purchase of the reportable location relevant to ownership or operational control over any portion of the reportable location (e.g., whether the purchaser intends to purchase and to maintain operational control over the entire location or only a portion of the reportable location); and

(C) Details on whether the purchaser intends to continue existing civil nuclear fuel cycle-related activities at the reportable location or to cease such activities during the current reporting period.

(iii) If the new owner of a reportable location is responsible for submitting a report that covers the entire calendar year in which the ownership change occurred, the new owner must obtain and maintain possession of the location's records covering the entire year, including those records for the period of the year during which the previous owner still owned the property.

Note 1 to § 783.2(b): *Amended Reports* that are submitted to identify changes involving internal organization information or changes in ownership are used only for internal U.S. Government purposes and are not forwarded to the IAEA. BIS uses the information it obtains from *Amended Reports* to update contact information for internal oversight purposes and for IAEA complementary access notifications.

Note 2 to § 783.2(b): For ownership changes, the reportable location will maintain its original Reporting Code, unless the location is sold to multiple owners, at which time BIS will assign a new Reporting Code.

(c) *Non-substantive changes.* If you discover one or more non-substantive typographical errors in your *Initial Report* or *Annual Update Report*, after submitting the report to BIS, you are not required to submit an *Amended Report* to BIS. Instead, you may correct these errors when you submit your next *Annual Update Report* to BIS.

(d) *Amendments related to complementary access.* If you are required to submit an *Amended Report* to BIS following the completion of complementary access (see part 784 of the APR), BIS will notify you, in writing, of the information that must be amended pursuant to § 784.6 of the APR. Complete and submit Form AP–1 (organization information) and/or the specific report forms required by Section 783.1(a) or (b) of the APR, according to the type(s) of activities for which information is being requested. You must submit your *Amended Report* to BIS, as provided in § 782.6 of the APR, no later than 30 calendar days following your receipt of BIS's post complementary access letter.

(e) *Option for submitting amended reports in letter form.* If you are required to submit an *Amended Report* to BIS, pursuant to paragraph (a), (b), or (d) of this section, BIS may permit you to submit your report in the form of a letter that contains all of the corrected information required under this section. Your letter must be submitted to BIS, at the address indicated in § 782.6 of the APR, no later than the applicable due date(s) indicated in this section (also see Supplement No. 1 to this part).

§ 783.3 Reports containing information determined by BIS not to be required by the APR.

If you submit a report and BIS determines that none of the information contained therein is required by the APR, BIS will not process the report and will notify you, either electronically or in writing, explaining the basis for its decision. BIS will not maintain any record of the report. However, BIS will maintain a copy of the notification.

§ 783.4 Deadlines for submission of reports and amendments.

Reports and amendments required under this part must be postmarked by the appropriate date identified in Supplement No. 1 to this part 783. Required reports and amendments include those identified in paragraphs (a) through (g) of this section.

(a) *Initial Report:* Submitted by a location that commenced one or more of the civil nuclear fuel cycle-related activities described in § 783.1(a) of the APR during the previous calendar year, but that has not yet reported such activities to BIS. However, *Initial Reports* that are submitted to BIS during the calendar year in which the APR are promulgated must describe only those activities in which you are engaged as of the date of publication of the rule establishing the APR, except that the description of activities involving uranium hard-rock mines must include any such mines that were closed down during the calendar year in which the rule establishing the APR was published (up to and including the date of publication), as well as mines that were in either operating or suspended status on the date of publication (see § 783.1(a)(3)(i) of the APR).

(b) *Annual Update Report:* Submitted by a reportable location—this report describes changes to previously reported (i.e., declared) activities and any other reportable civil nuclear fuel cycle-related activities that took place at the location during the previous calendar year.

(c) *No Changes Report:* Submitted by a reportable location, in lieu of an *Annual Update Report*, when there are no updates or changes to any information, excluding the certifying official and dates signed and submitted, since the previous report submitted by that location.

(d) *Export Report:* Submitted following the end of any calendar quarter in which a person exports an item listed in Supplement No. 3 to this part.

(e) *Import Confirmation Report:* Submitted in response to a written notification from BIS, following a specific request by the IAEA.

(f) *Supplemental Information Report:* Submitted in response to a written notification from BIS, following a specific request by the IAEA.

(g) *Amended Report:* Submitted by a reportable location to report certain changes affecting the location's most recent *Initial Report* or *Annual Update Report.*

Supplement No. 1 to Part 783

DEADLINES FOR SUBMISSION OF REPORTS AND AMENDMENTS

Reports	Applicable forms	Due dates
Initial Report	Forms AP–1 and AP–2 and: —AP–3 or AP–4 for R&D activities; —AP–5 for civil nuclear-related manufacturing, assembly or construction; and —AP–6 for mining and ore beneficiation.	[30 calendar days after promulgation of the final rule establishing the APR] for: (1) Any activities in which you were engaged on the date of publication of that rule and (2) uranium hard-rock mines that have changed from operating or suspended status to closed-down status during the calendar year in which the rule establishing the APR is published (up to and including the date of publication of the rule). For activities commencing after promulgation of the rule establishing the APR, *Initial Reports* must be submitted no later than January 31 of the year following any calendar year in which the activities began, *unless* you are required to submit an *Annual Update Report* because of on-going previously "reported" activities at the same location—in that case, you may include the new activities in your *Annual Update Report*, instead of submitting a separate *Initial Report*.
Annual Update Report	Forms AP–1 and AP–2 and: —AP–3 or AP–4 for R&D activities; —AP–5 for civil nuclear-related manufacturing, assembly or construction; and —AP–6 for mining and ore beneficiation.	January 31 of the year following any calendar year in which the activities took place or there were changes to previously "reported" activities.
No Changes Report	Form AP–17	January 31 of the year following any calendar year in which there were no changes to previously "reported" activities or location information.
Export Report	Forms AP–1, AP–2, and AP–13	Within 15 calendar days following the end of any calendar quarter in which a person exports an item listed in Supplement No. 3 to this Part.
Import Confirmation Report	Forms AP–1, AP–2, and AP–14	Within 30 calendar days of receiving notification from BIS.
Supplemental Information Report	Forms AP–1, AP–2, and AP–15	Within 15 calendar days of receiving notification from BIS.
Amended Report: —Report information. —Organization and location information. —Complementary access letter.	Form AP–1 and appropriate forms, as specified in § 783.1 of the APR, for the type of report being amended.	Amended report due: —30 calendar days after you discover an error or omission in activity information contained in your most recent report. —30 calendar days after a change in company information or ownership of a location. —30 calendar days after receipt of a post-complementary access letter from BIS.

Supplement No. 2 to Part 783—Manufacturing Activities

The following constitute manufacturing activities that would require the submission of a report to BIS, pursuant to § 783.1(a)(2) of the APR.

(1) The manufacture of centrifuge rotor tubes or the assembly of *gas centrifuges. Centrifuge rotor tubes* means thin-walled cylinders as described in Section 5.1.1(b) of Supplement No. 3 to this Part. *Gas centrifuges* means centrifuges as described in the *INTRODUCTORY NOTE* to Section 5.1 of Supplement No. 3 to this Part.

(2) The manufacture of *diffusion barriers. Diffusion barriers* means thin, porous filters as described in Section 5.3.1(a) of Supplement No. 3 to this Part.

(3) The manufacture or assembly of *laser-based systems. Laser-based systems* means systems incorporating those items as described in Section 5.7 of Supplement No. 3 to this Part.

(4) The manufacture or assembly of *electromagnetic isotope separators. Electromagnetic isotope separators* means those items referred to in Section 5.9.1 of Supplement No. 3 to this Part containing ion sources as described in Section 5.9.1(a) of Supplement No. 3 to this Part.

(5) The manufacture or assembly of *columns or extraction equipment. Columns or extraction equipment* means those items as described in Sections 5.6.1, 5.6.2, 5.6.3, 5.6.5, 5.6.6, 5.6.7, and 5.6.8 of Supplement No. 3 to this Part.

(6) The manufacture of *aerodynamic separation nozzles* or *vortex tubes.*

Aerodynamic separation nozzles or *vortex tubes* means separation nozzles and vortex tubes as described, respectively, in Sections 5.5.1 and 5.5.2 of Supplement No. 3 to this Part.

(7) The manufacture or assembly of *uranium plasma generation systems*. *Uranium plasma generation systems* means systems for the generation of uranium plasma as described in Section 5.8.3 of Supplement No. 3 to this Part.

(8) The manufacture of *zirconium tubes*. *Zirconium tubes* means tubes as described in Section 1.6 of Supplement No. 3 to this Part.

(9) The manufacture or upgrading of *heavy water* or *deuterium*. *Heavy water* or *deuterium* means deuterium, heavy water (deuterium oxide) and any other deuterium compound in which the ratio of deuterium to hydrogen atoms exceeds 1:5,000.

(10) The manufacture of *nuclear grade graphite*. *Nuclear grade graphite* means graphite having a purity level better than 5 parts per million boron equivalent and with a density greater than 1.50 g/cm^3;

(11) The manufacture of flasks for *irradiated fuel*. A *flask for irradiated fuel* means a vessel for the transportation and/or storage of irradiated fuel that provides chemical, thermal and radiological protection, and dissipates decay heat during handling, transportation and storage.

(12) The manufacture of *reactor control rods*. *Reactor control rods* means rods as described in Section 1.4 of Supplement No. 3 to this Part.

(13) The manufacture of *critically safe tanks* and *vessels*. *Critically safe tanks and vessels* means those items as described in Sections 3.2 and 3.4 of Supplement No. 3 to this Part.

(14) The manufacture of *irradiated fuel element chopping machines*. *Irradiated fuel element chopping machines* means equipment as described in Section 3.1 of Supplement No. 3 to this Part.

(15) The construction of *hot cells*. *Hot cells* means a cell or interconnected cells totaling at least 6 cubic meters in volume with shielding equal to or greater than the equivalent of 0.5 meters of concrete, with a density of 3.2 g/cm^3 or greater, outfitted with equipment for remote operations.

Supplement No. 3 to Part 783 List of Specified Equipment and Non-Nuclear Material for the Reporting of Exports and Imports

1. Reactors and Equipment Therefor

1.1. Complete Nuclear Reactors

Nuclear reactors capable of operation so as to maintain a controlled self-sustaining fission chain reaction, excluding zero energy reactors, the latter being defined as reactors with a designed maximum rate of production of plutonium not exceeding 100 grams per year.

Explanatory Note: A ''nuclear reactor'' basically includes the items within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain or come in direct contact with or control the primary coolant of the reactor core. It is not intended to exclude reactors which could reasonably be capable of modification to produce significantly more than 100 grams of plutonium per year. Reactors designed for sustained operation at significant power levels, regardless of their capacity for plutonium production, are not considered as ''zero energy reactors.''

1.2. Reactor Pressure Vessels

Metal vessels, as complete units or as major shop-fabricated parts therefor, which are specially designed or prepared to contain the core of a nuclear reactor, as defined in Section 1.1, and are capable of withstanding the operating pressure of the primary coolant.

Explanatory Note: This is the list that the IAEA Board of Governors agreed at its meeting on 24 February 1993 would be used for the purpose of the voluntary reporting scheme, as subsequently amended by the Board. A top plate for a reactor pressure vessel is covered by this Section 1.2 as a major shop-fabricated part of a pressure vessel. Reactor internals (e.g., support columns and plates for the core and other vessel internals, control rod guide tubes, thermal shields, baffles, core grid plates, diffuser plates, etc.) are normally supplied by the reactor supplier. In some cases, certain internal support components are included in the fabrication of the pressure vessel. These items are sufficiently critical to the safety and reliability of the operation of the reactor (and, therefore, to the guarantees and liability of the reactor supplier), so that their supply, outside the basic supply arrangement for the reactor itself, would not be common practice. Therefore, although the separate supply of these unique, specially designed and prepared, critical, large and expensive items would not necessarily be considered as falling outside the area of concern, such a mode of supply is considered unlikely.

1.3. Reactor Fuel Charging and Discharging Machines

Manipulative equipment specially designed or prepared for inserting or removing fuel in a nuclear reactor, as defined in Section 1.1 of this Supplement, capable of on-load operation or employing technically sophisticated positioning or alignment features to allow complex off-load fueling operations such as those in which direct viewing of or access to the fuel is not normally available.

1.4. Reactor Control Rods

Rods specially designed or prepared for the control of the reaction rate in a nuclear reactor as defined in Section 1.1 of this Supplement.

Explanatory Note: This item includes, in addition to the neutron absorbing part, the support or suspension structures therefor if supplied separately.

1.5. Reactor Pressure Tubes

Tubes which are specially designed or prepared to contain fuel elements and the primary coolant in a reactor, as defined in Section 1.1 of this Supplement, at an operating pressure in excess of 5.1 MPa (740 psi).

1.6. Zirconium Tubes

Zirconium metal and alloys in the form of tubes or assemblies of tubes, and in quantities exceeding 500 kg in any period of 12 months, specially designed or prepared for use in a reactor, as defined in Section 1.1 of this Supplement, and in which the relation of hafnium to zirconium is less than 1:500 parts by weight.

1.7. Primary Coolant Pumps

Pumps specially designed or prepared for circulating the primary coolant for nuclear reactors, as defined in Section 1.1 of this Supplement.

Explanatory Note: Specially designed or prepared pumps may include elaborate sealed or multi-sealed systems to prevent leakage of primary coolant, canned-driven pumps, and pumps with inertial mass systems. This definition encompasses pumps certified to NC–1 or equivalent standards.

2. Non-Nuclear Materials for Reactors

2.1. Deuterium and Heavy Water

Deuterium, heavy water (deuterium oxide) and any other deuterium compound in which the ratio of deuterium to hydrogen atoms exceeds 1:5,000 for use in a nuclear reactor, as defined in Section 1.1 of this Supplement, in quantities exceeding 200 kg of deuterium atoms for any one recipient country in any period of 12 months.

2.2. Nuclear Grade Graphite

Graphite having a purity level better than 5 parts per million boron equivalent and with a density greater than 1.50 g/cm^3 for use in a nuclear reactor, as defined in Section 1.1 of this Supplement, in quantities exceeding 3×10^4 kg (30 metric tons) for any one recipient country in any period of 12 months.

Note: For the purpose of reporting, the Government will determine whether or not the exports of graphite meeting the specifications of this Section 2.2 are for nuclear reactor use.

3. Plants for the Reprocessing of Irradiated Fuel Elements, and Equipment Specially Designed or Prepared Therefor

Introductory Note: Reprocessing irradiated nuclear fuel separates plutonium and uranium from intensely radioactive fission products and other transuranic elements. Different technical processes can accomplish this separation. However, over the years Purex has become the most commonly used and accepted process. Purex involves the dissolution of irradiated nuclear fuel in nitric acid, followed by separation of the uranium, plutonium, and fission products by solvent extraction using a mixture of tributyl phosphate in an organic diluent. Purex facilities have process functions similar to each other, including: irradiated fuel element chopping, fuel dissolution, solvent extraction, and process liquor storage. There may also be equipment for thermal denitration of uranium nitrate, conversion of plutonium nitrate to oxide or metal, and treatment of fission product waste liquor to a form suitable for long term storage or disposal. However, the specific type and configuration of the equipment performing these functions may differ between Purex

facilities for several reasons, including the type and quantity of irradiated nuclear fuel to be reprocessed and the intended disposition of the recovered materials, and the safety and maintenance philosophy incorporated into the design of the facility. A ''plant for the reprocessing of irradiated fuel elements'' includes the equipment and components which normally come in direct contact with and directly control the irradiated fuel and the major nuclear material and fission product processing streams. These processes, including the complete systems for plutonium conversion and plutonium metal production, may be identified by the measures taken to avoid criticality (*e.g.*, by geometry), radiation exposure (*e.g.*, by shielding), and toxicity hazards (*e.g.*, by containment). Items of equipment that are considered to fall within the meaning of the phrase ''and equipment specially designed or prepared'' for the reprocessing of irradiated fuel elements include:

3.1. Irradiated Fuel Element Chopping Machines

Introductory Note: This equipment breaches the cladding of the fuel to expose the irradiated nuclear material to dissolution. Specially designed metal cutting shears are the most commonly employed, although advanced equipment, such as lasers, may be used. Remotely operated equipment specially designed or prepared for use in a reprocessing plant, as identified in the introductory paragraph of this section, and intended to cut, chop or shear irradiated nuclear fuel assemblies, bundles or rods.

3.2. Dissolvers

Introductory Note: Dissolvers normally receive the chopped-up spent fuel. In these critically safe vessels, the irradiated nuclear material is dissolved in nitric acid and the remaining hulls removed from the process stream. Critically safe tanks (e.g., small diameter, annular or slab tanks) specially designed or prepared for use in a reprocessing plant, as identified in the introductory paragraph of this section, intended for dissolution of irradiated nuclear fuel and which are capable of withstanding hot, highly corrosive liquid, and which can be remotely loaded and maintained.

3.3. Solvent Extractors and Solvent Extraction Equipment

Introductory Note: Solvent extractors both receive the solution of irradiated fuel from the dissolvers and the organic solution which separates the uranium, plutonium, and fission products. Solvent extraction equipment is normally designed to meet strict operating parameters, such as long operating lifetimes with no maintenance requirements or adaptability to easy replacement, simplicity of operation and control, and flexibility for variations in process conditions. Specially designed or prepared solvent extractors such as packed or pulse columns, mixer settlers or centrifugal contactors for use in a plant for the reprocessing of irradiated fuel. Solvent extractors must be resistant to the corrosive effect of nitric acid. Solvent extractors are normally fabricated to extremely high standards (including special welding and inspection and quality assurance and quality control techniques) out of low carbon stainless steels, titanium, zirconium, or other high quality materials.

3.4. Chemical Holding or Storage Vessels

Introductory Note: Three main process liquor streams result from the solvent extraction step. Holding or storage vessels are used in the further processing of all three streams, as follows:

(a) The pure uranium nitrate solution is concentrated by evaporation and passed to a denitration process where it is converted to uranium oxide. This oxide is re-used in the nuclear fuel cycle.

(b) The intensely radioactive fission products solution is normally concentrated by evaporation and stored as a liquor concentrate. This concentrate may be subsequently evaporated and converted to a form suitable for storage or disposal.

(c) The pure plutonium nitrate solution is concentrated and stored pending its transfer to further process steps. In particular, holding or storage vessels for plutonium solutions are designed to avoid criticality problems resulting from changes in concentration and form of this stream. Specially designed or prepared holding or storage vessels for use in a plant for the reprocessing of irradiated fuel. The holding or storage vessels must be resistant to the corrosive effect of nitric acid. The holding or storage vessels are normally fabricated of materials such as low carbon stainless steels, titanium or zirconium, or other high quality materials. Holding or storage vessels may be designed for remote operation and maintenance and may have the following features for control of nuclear criticality: (1) Walls or internal structures with a boron equivalent of at least two percent; (2) a maximum diameter of 175 mm (7 in) for cylindrical vessels; or (3) a maximum width of 75 mm (3 in) for either a slab or annular vessel.

3.5. Plutonium Nitrate to Oxide Conversion System

Introductory Note: In most reprocessing facilities, this final process involves the conversion of the plutonium nitrate solution to plutonium dioxide. The main functions involved in this process are: Process feed storage and adjustment, precipitation and solid/liquor separation, calcination, product handling, ventilation, waste management, and process control. Complete systems specially designed or prepared for the conversion of plutonium nitrate to plutonium oxide, in particular adapted so as to avoid criticality and radiation effects and to minimize toxicity hazards.

3.6. Plutonium Oxide to Metal Production System

Introductory Note: This process, which could be related to a reprocessing facility, involves the fluorination of plutonium dioxide, normally with highly corrosive hydrogen fluoride, to produce plutonium fluoride which is subsequently reduced using high purity calcium metal to produce metallic plutonium and a calcium fluoride slag. The main functions involved in this process are: Fluorination (e.g., involving equipment fabricated or lined with a precious metal), metal reduction (e.g., employing ceramic crucibles), slag recovery, product handling, ventilation, waste management and process control. Complete systems specially designed or prepared for the production of plutonium metal, in particular adapted so as to avoid criticality and radiation effects and to minimize toxicity hazards.

4. Plants for the Fabrication of Fuel Elements

A ''plant for the fabrication of fuel elements'' includes the equipment:

(a) Which normally comes in direct contact with, or directly processes, or controls, the production flow of nuclear material, or

(b) Which seals the nuclear material within the cladding.

5. Plants for the Separation of Isotopes of Uranium and Equipment, Other Than Analytical Instruments, Specially Designed or Prepared Therefor

Items of equipment that are considered to fall within the meaning of the phrase ''equipment, other than analytical instruments, specially designed or prepared'' for the separation of isotopes of uranium include:

5.1. Gas Centrifuges and Assemblies and Components Specially Designed or Prepared for Use in Gas Centrifuges

Introductory Note: The gas centrifuge normally consists of a thin-walled cylinder(s) of between 75 mm (3 in) and 400 mm (16 in) diameter contained in a vacuum environment and spun at high peripheral speed of the order of 300 m/s or more with its central axis vertical. In order to achieve high speed the materials of construction for the rotating components have to be of a high strength to density ratio and the rotor assembly, and hence its individual components, have to be manufactured to very close tolerances in order to minimize the unbalance. In contrast to other centrifuges, the gas centrifuge for uranium enrichment is characterized by having within the rotor chamber a rotating disc-shaped baffle(s) and a stationary tube arrangement for feeding and extracting the UF_6 gas and featuring at least 3 separate channels, of which 2 are connected to scoops extending from the rotor axis towards the periphery of the rotor chamber. Also contained within the vacuum environment are a number of critical items which do not rotate and which although they are specially designed are not difficult to fabricate nor are they fabricated out of unique materials. A centrifuge facility however requires a large number of these components, so that quantities can provide an important indication of end use.

5.1.1. Rotating Components

(a) Complete rotor assemblies: Thin-walled cylinders, or a number of interconnected thin-walled cylinders, manufactured from one or more of the high strength to density ratio materials described in the *Explanatory Note* to Section 5.1.1 of this Supplement. If interconnected, the cylinders are joined together by flexible bellows or rings as described in Section 5.1.1(c) of this

Supplement. The rotor is fitted with an internal baffle(s) and end caps, as described in Section 5.1.1(d) and (e) of this Supplement, if in final form. However the complete assembly may be delivered only partly assembled.

(b) Rotor tubes: Specially designed or prepared thin-walled cylinders with thickness of 12 mm (0.5 in) or less, a diameter of between 75 mm (3 in) and 400 mm (16 in), and manufactured from one or more of the high strength to density ratio materials described in the *Explanatory Note* to Section 5.1.1 of this Supplement.

(c) Rings or Bellows: Components specially designed or prepared to give localized support to the rotor tube or to join together a number of rotor tubes. The bellows is a short cylinder of wall thickness 3 mm (0.12 in) or less, a diameter of between 75 mm (3 in) and 400 mm (16 in), having a convolute, and manufactured from one of the high strength to density ratio materials described in the *Explanatory Note* to Section 5.1.1 of this Supplement.

(d) Baffles: Disc-shaped components of between 75 mm (3 in) and 400 mm (16 in) diameter specially designed or prepared to be mounted inside the centrifuge rotor tube, in order to isolate the take-off chamber from the main separation chamber and, in some cases, to assist the UF_6 gas circulation within the main separation chamber of the rotor tube, and manufactured from one of the high strength to density ratio materials described in the *Explanatory Note* to Section 5.1.1 of this Supplement.

(e) Top caps/Bottom caps: Disc-shaped components of between 75 mm (3 in) and 400 mm (16 in) diameter specially designed or prepared to fit to the ends of the rotor tube, and so contain the UF_6 within the rotor tube, and in some cases to support, retain or contain as an integrated part an element of the upper bearing (top cap) or to carry the rotating elements of the motor and lower bearing (bottom cap), and manufactured from one of the high strength to density ratio materials described in the *Explanatory Note* to Section 5.1.1 of this Supplement.

Explanatory Note: The materials used for centrifuge rotating components are:

(a) Maraging steel capable of an ultimate tensile strength of 2.05×10^9 N/m^2 (300,000 psi) or more;

(b) Aluminum alloys capable of an ultimate tensile strength of 0.46×10^9 N/m^2 (67,000 psi) or more;

(c) Filamentary materials suitable for use in composite structures and having a specific modulus of 12.3×10^6 m or greater and a specific ultimate tensile strength of 0.3×10^6 m or greater (''Specific Modulus'' is the Young's Modulus in N/m^2 divided by the specific weight in N/m^3; ''Specific Ultimate Tensile Strength'' is the ultimate tensile strength in N/m^2 divided by the specific weight in N/m^3).

5.1.2. Static Components

(a) *Magnetic suspension bearings:* Specially designed or prepared bearing assemblies consisting of an annular magnet suspended within a housing containing a damping medium. The housing will be manufactured from a UF_6-resistant material (*see Explanatory Note* to Section 5.2 of this Supplement.). The magnet couples with a pole piece or a second magnet fitted to the top cap described in Section 5.1.1(e) of this Supplement. The magnet may be ring-shaped with a relation between outer and inner diameter smaller or equal to 1.6:1. The magnet may be in a form having an initial permeability of 0.15 H/m (120,000 in CGS units) or more, or a remanence of 98.5% or more, or an energy product of greater than 80 kJ/m^3 (10^7 gauss-oersteds). In addition to the usual material properties, it is a prerequisite that the deviation of the magnetic axes from the geometrical axes is limited to very small tolerances (lower than 0.1 mm or 0.004 in) or that homogeneity of the material of the magnet is specially called for.

(b) *Bearings/Dampers:* Specially designed or prepared bearings comprising a pivot/cup assembly mounted on a damper. The pivot is normally a hardened steel shaft with a hemisphere at one end with a means of attachment to the bottom cap, described in Section 5.1.1(e) of this Supplement, at the other. The shaft may however have a hydrodynamic bearing attached. The cup is pellet-shaped with a hemispherical indentation in one surface. These components are often supplied separately to the damper.

(c) *Molecular pumps:* Specially designed or prepared cylinders having internally machined or extruded helical grooves and internally machined bores. Typical dimensions are as follows: 75 mm (3 in) to 400 mm (16 in) internal diameter, 10 mm (0.4 in) or more wall thickness, with the length equal to or greater than the diameter. The grooves are typically rectangular in cross-section and 2 mm (0.08 in) or more in depth.

(d) *Motor stators:* Specially designed or prepared ring-shaped stators for high speed multiphase AC hysteresis (or reluctance) motors for synchronous operation within a vacuum in the frequency range of 600–2,000 Hz and a power range of 50–1,000 VA. The stators consist of multi-phase windings on a laminated low loss iron core comprised of thin layers typically 2.0 mm (0.08 in) thick or less.

(e) *Centrifuge housing/recipients:* Components specially designed or prepared to contain the rotor tube assembly of a gas centrifuge. The housing consists of a rigid cylinder of wall thickness up to 30 mm (1.2 in) with precision machined ends to locate the bearings and with one or more flanges for mounting. The machined ends are parallel to each other and perpendicular to the cylinder's longitudinal axis to within 0.05 degrees or less. The housing may also be a honeycomb type structure to accommodate several rotor tubes. The housings are made of or protected by materials resistant to corrosion by UF_6.

(f) *Scoops:* Specially designed or prepared tubes of up to 12 mm (0.5 in) internal diameter for the extraction of UF_6 gas from within the rotor tube by a Pitot tube action (that is, with an aperture facing into the circumferential gas flow within the rotor tube, for example by bending the end of a radially disposed tube) and capable of being fixed to the central gas extraction system. The tubes are made of or protected by materials resistant to corrosion by UF_6.

5.2. Specially Designed or Prepared Auxiliary Systems, Equipment and Components for Gas Centrifuge Enrichment Plants

Introductory Note: The auxiliary systems, equipment and components for a gas centrifuge enrichment plant are the systems of plant needed to feed UF_6 to the centrifuges, to link the individual centrifuges to each other to form cascades (or stages) to allow for progressively higher enrichments and to extract the ''product'' and ''tails'' UF_6 from the centrifuges, together with the equipment required to drive the centrifuges or to control the plant. Normally UF_6 is evaporated from the solid using heated autoclaves and is distributed in gaseous form to the centrifuges by way of cascade header pipework. The ''product'' and ''tails'' UF_6 gaseous streams flowing from the centrifuges are also passed by way of cascade header pipework to cold traps (operating at about 203 K (−70 °C)) where they are condensed prior to onward transfer into suitable containers for transportation or storage. Because an enrichment plant consists of many thousands of centrifuges arranged in cascades there are many kilometers of cascade header pipework, incorporating thousands of welds with a substantial amount of repetition of layout. The equipment, components and piping systems are fabricated to very high vacuum and cleanliness standards.

5.2.1. Feed Systems/Product and Tails Withdrawal Systems

Specially designed or prepared process systems including: Feed autoclaves (or stations), used for passing UF_6 to the centrifuge cascades at up to 100 kPa (15 psi) and at a rate of 1 kg/h or more; desublimers (or cold traps) used to remove UF_6 from the cascades at up to 3 kPa (0.5 psi) pressure. The desublimers are capable of being chilled to 203 K (−70 °C) and heated to 343 K (70 °C); ''Product'' and ''Tails'' stations used for trapping UF_6 into containers. This plant, equipment and pipework is wholly made of or lined with UF_6-resistant materials (*see Explanatory Note* to Section 5.2 of this Supplement) and is fabricated to very high vacuum and cleanliness standards.

5.2.2. Machine Header Piping Systems

Specially designed or prepared piping systems and header systems for handling UF_6 within the centrifuge cascades. The piping network is normally of the ''triple'' header system with each centrifuge connected to each of the headers. There is thus a substantial amount of repetition in its form. It is wholly made of UF_6-resistant materials (*see Explanatory Note* to Section 5.2 of this Supplement) and is fabricated to very high vacuum and cleanliness standards.

5.2.3. UF_6 Mass Spectrometers/Ion Sources

Specially designed or prepared magnetic or quadrupole mass spectrometers capable of taking ''on-line'' samples of feed, product or tails, from UF_6 gas streams and having all of the following characteristics:

(a) Unit resolution for atomic mass unit greater than 320;

(b) Ion sources constructed of or lined with nichrome or monel or nickel plated;

(c) Electron bombardment ionization sources;

(d) Having a collector system suitable for isotopic analysis.

5.2.4. Frequency Changers

Frequency changers (also known as converters or invertors) specially designed or prepared to supply motor stators (as defined under Section 5.1.2(d) of this Supplement), or parts, components and sub-assemblies of such frequency changers having all of the following characteristics:

(a) A multiphase output of 600 to 2,000 Hz;

(b) High stability (with frequency control better than 0.1%);

(c) Low harmonic distortion (less than 2%); and

(d) An efficiency of greater than 80%.

Explanatory Note: The items listed in this Section 5.2 either come into direct contact with the UF_6 process gas or directly control the centrifuges and the passage of the gas from centrifuge to centrifuge and cascade to cascade. Materials resistant to corrosion by UF_6 include stainless steel, aluminum, aluminum alloys, nickel or alloys containing 60% or more nickel.

5.3. Specially Designed or Prepared Assemblies and Components for Use in Gaseous Diffusion Enrichment

Introductory Note: In the gaseous diffusion method of uranium isotope separation, the main technological assembly is a special porous gaseous diffusion barrier, heat exchanger for cooling the gas (which is heated by the process of compression), seal valves and control valves, and pipelines. Inasmuch as gaseous diffusion technology uses uranium hexafluoride (UF_6), all equipment, pipeline and instrumentation surfaces (that come in contact with the gas) must be made of materials that remain stable in contact with UF_6. A gaseous diffusion facility requires a number of these assemblies, so that quantities can provide an important indication of end use.

5.3.1. Gaseous Diffusion Barriers

(a) Specially designed or prepared thin, porous filters, with a pore size of 100–1,000 Å (angstroms), a thickness of 5 mm (0.2 in) or less, and for tubular forms, a diameter of 25 mm (1 in) or less, made of metallic, polymer or ceramic materials resistant to corrosion by UF_6, and

(b) Specially prepared compounds or powders for the manufacture of such filters. Such compounds and powders include nickel or alloys containing 60 percent or more nickel, aluminum oxide, or UF_6-resistant fully fluorinated hydrocarbon polymers having a purity of 99.9 percent or more, a particle size less than 10 microns, and a high degree of particle size uniformity, which are specially prepared for the manufacture of gaseous diffusion barriers.

5.3.2. Diffuser Housings

Specially designed or prepared hermetically sealed cylindrical vessels greater than 300 mm (12 in) in diameter and greater than 900 mm (35 in) in length, or rectangular vessels of comparable dimensions, which have an inlet connection and two outlet connections all of which are greater than 50 mm (2 in) in diameter, for containing the gaseous diffusion barrier, made of or lined with UF_6-resistant materials and designed for horizontal or vertical installation.

5.3.3. Compressors and Gas Blowers

Specially designed or prepared axial, centrifugal, or positive displacement compressors, or gas blowers with a suction volume capacity of 1 m^3/min or more of UF_6, and with a discharge pressure of up to several hundred kPa (100 psi), designed for long-term operation in the UF_6 environment with or without an electrical motor of appropriate power, as well as separate assemblies of such compressors and gas blowers. These compressors and gas blowers have a pressure ratio between 2:1 and 6:1 and are made of, or lined with, materials resistant to UF_6.

5.3.4. Rotary Shaft Seals

Specially designed or prepared vacuum seals, with seal feed and seal exhaust connections, for sealing the shaft connecting the compressor or the gas blower rotor with the driver motor so as to ensure a reliable seal against in-leaking of air into the inner chamber of the compressor or gas blower which is filled with UF_6. Such seals are normally designed for a buffer gas in-leakage rate of less than 1,000 cm^3/min (60 in^3/min).

5.3.5. Heat Exchangers for Cooling UF_6

Specially designed or prepared heat exchangers made of or lined with UF_6-resistant materials (except stainless steel) or with copper or any combination of those metals, and intended for a leakage pressure change rate of less than 10 Pa (0.0015 psi) per hour under a pressure difference of 100 kPa (15 psi).

5.4. Specially Designed or Prepared Auxiliary Systems, Equipment and Components for Use in Gaseous Diffusion Enrichment

Introductory Note: The auxiliary systems, equipment and components for gaseous diffusion enrichment plants are the systems of plant needed to feed UF_6 to the gaseous diffusion assembly, to link the individual assemblies to each other to form cascades (or stages) to allow for progressively higher enrichments and to extract the ''product'' and ''tails'' UF_6 from the diffusion cascades. Because of the high inertial properties of diffusion cascades, any interruption in their operation, and especially their shut-down, leads to serious consequences. Therefore, a strict and constant maintenance of vacuum in all technological systems, automatic protection from accidents, and precise automated regulation of the gas flow is of importance in a gaseous diffusion plant. All this leads to a need to equip the plant with a large number of special measuring, regulating and controlling systems. Normally UF_6 is evaporated from cylinders placed within autoclaves and is distributed in gaseous form to the entry point by way of cascade header pipework. The ''product'' and ''tails'' UF_6 gaseous streams flowing from exit points are passed by way of cascade header pipework to either cold traps or to compression stations where the UF_6 gas is liquefied prior to onward transfer into suitable containers for transportation or storage. Because a gaseous diffusion enrichment plant consists of a large number of gaseous diffusion assemblies arranged in cascades, there are many kilometers of cascade header pipework, incorporating thousands of welds with substantial amounts of repetition of layout. The equipment, components and piping systems are fabricated to very high vacuum and cleanliness standards.

5.4.1. Feed Systems/Product and Tails Withdrawal Systems

Specially designed or prepared process systems, capable of operating at pressures of 300 kPa (45 psi) or less, including:

(a) Feed autoclaves (or systems), used for passing UF_6 to the gaseous diffusion cascades;

(b) Desublimers (or cold traps) used to remove UF_6 from diffusion cascades;

(c) Liquefaction stations where UF_6 gas from the cascade is compressed and cooled to form liquid UF_6;

(d) ''Product'' or ''tails'' stations used for transferring UF_6 into containers.

5.4.2. Header Piping Systems

Specially designed or prepared piping systems and header systems for handling UF_6 within the gaseous diffusion cascades. This piping network is normally of the ''double'' header system with each cell connected to each of the headers.

5.4.3. Vacuum Systems

(a) Specially designed or prepared large vacuum manifolds, vacuum headers and vacuum pumps having a suction capacity of 5 m^3/min (175 ft^3/min) or more.

(b) Vacuum pumps specially designed for service in UF_6-bearing atmospheres made of, or lined with, aluminum, nickel, or alloys bearing more than 60% nickel. These pumps may be either rotary or positive, may have displacement and fluorocarbon seals, and may have special working fluids present.

5.4.4. Special Shut-Off and Control Valves

Specially designed or prepared manual or automated shut-off and control bellows valves made of UF_6-resistant materials with a diameter of 40 to 1,500 mm (1.5 to 59 in) for installation in main and auxiliary systems of gaseous diffusion enrichment plants.

5.4.5. UF_6 Mass Spectrometers/Ion Sources

Specially designed or prepared magnetic or quadrupole mass spectrometers capable of taking ''on-line'' samples of feed, product or tails, from UF_6 gas streams and having all of the following characteristics:

(a) Unit resolution for atomic mass unit greater than 320;

(b) Ion sources constructed of or lined with nichrome or monel or nickel plated;

(c) Electron bombardment ionization sources;

(d) Collector system suitable for isotopic analysis.

Explanatory Note: The items listed in this Section 5.4 either come into direct contact with the UF_6 process gas or directly control the flow within the cascade. All surfaces which come into contact with the process gas

are wholly made of, or lined with, UF_6-resistant materials. For the purposes of the Sections in this Supplement relating to gaseous diffusion items, the materials resistant to corrosion by UF_6 include stainless steel, aluminum, aluminum alloys, aluminum oxide, nickel or alloys containing 60% or more nickel and UF_6-resistant fully fluorinated hydrocarbon polymers.

5.5. Specially Designed or Prepared Systems, Equipment and Components for Use in Aerodynamic Enrichment Plants

Introductory Note: In aerodynamic enrichment processes, a mixture of gaseous UF_6 and light gas (hydrogen or helium) is compressed and then passed through separating elements wherein isotopic separation is accomplished by the generation of high centrifugal forces over a curved-wall geometry. Two processes of this type have been successfully developed: the separation nozzle process and the vortex tube process. For both processes the main components of a separation stage include cylindrical vessels housing the special separation elements (nozzles or vortex tubes), gas compressors and heat exchangers to remove the heat of compression. An aerodynamic plant requires a number of these stages, so that quantities can provide an important indication of end use. Since aerodynamic processes use UF_6, all equipment, pipeline and instrumentation surfaces (that come in contact with the gas) must be made of materials that remain stable in contact with UF_6.

Explanatory Note: The items listed in Section 5.5 of this Supplement either come into direct contact with the UF_6 process gas or directly control the flow within the cascade. All surfaces which come into contact with the process gas are wholly made of or protected by UF_6-resistant materials. For the purposes of the provisions of Section 5.5 of this Supplement that relate to aerodynamic enrichment items, the materials resistant to corrosion by UF_6 include copper, stainless steel, aluminum, aluminum alloys, nickel or alloys containing 60% or more nickel and UF_6-resistant fully fluorinated hydrocarbon polymers.

5.5.1. Separation Nozzles

Specially designed or prepared separation nozzles and assemblies thereof. The separation nozzles consist of slit-shaped, curved channels having a radius of curvature less than 1 mm (typically 0.1 to 0.05 mm), resistant to corrosion by UF_6 and having a knife-edge within the nozzle that separates the gas flowing through the nozzle into two fractions.

5.5.2. Vortex Tubes

Specially designed or prepared vortex tubes and assemblies thereof. The vortex tubes are cylindrical or tapered, made of or protected by materials resistant to corrosion by UF_6, having a diameter of between 0.5 cm and 4 cm, a length to diameter ratio of 20:1 or less and with one or more tangential inlets. The tubes may be equipped with nozzle-type appendages at either or both ends.

Explanatory Note: The feed gas enters the vortex tube tangentially at one end or through swirl vanes or at numerous tangential positions along the periphery of the tube.

5.5.3. Compressors and Gas Blowers

Specially designed or prepared axial, centrifugal or positive displacement compressors or gas blowers made of or protected by materials resistant to corrosion by UF_6 and with a suction volume capacity of 2 m^3/min or more of UF_6/carrier gas (hydrogen or helium) mixture.

Explanatory Note: These compressors and gas blowers typically have a pressure ratio between 1.2:1 and 6:1.

5.5.4. Rotary Shaft Seals

Specially designed or prepared rotary shaft seals, with seal feed and seal exhaust connections, for sealing the shaft connecting the compressor rotor or the gas blower rotor with the driver motor so as to ensure a reliable seal against out-leakage of process gas or in-leakage of air or seal gas into the inner chamber of the compressor or gas blower which is filled with a UF_6/carrier gas mixture.

5.5.5. Heat Exchangers for Gas Cooling

Specially designed or prepared heat exchangers made of or protected by materials resistant to corrosion by UF_6.

5.5.6. Separation Element Housings

Specially designed or prepared separation element housings, made of or protected by materials resistant to corrosion by UF_6, for containing vortex tubes or separation nozzles.

Explanatory Note: These housings may be cylindrical vessels greater than 300 mm in diameter and greater than 900 mm in length, or may be rectangular vessels of comparable dimensions, and may be designed for horizontal or vertical installation.

5.5.7. Feed Systems/Product and Tails Withdrawal Systems

Specially designed or prepared process systems or equipment for enrichment plants made of or protected by materials resistant to corrosion by UF_6, including:

(a) Feed autoclaves, ovens, or systems used for passing UF_6 to the enrichment process;

(b) Desublimers (or cold traps) used to remove UF_6 from the enrichment process for subsequent transfer upon heating;

(c) Solidification or liquefaction stations used to remove UF_6 from the enrichment process by compressing and converting UF_6 to a liquid or solid form;

(d) ''Product'' or ''tails'' stations used for transferring UF_6 into containers.

5.5.8. Header Piping Systems

Specially designed or prepared header piping systems, made of or protected by materials resistant to corrosion by UF_6, for handling UF_6 within the aerodynamic cascades. This piping network is normally of the ''double'' header design with each stage or group of stages connected to each of the headers.

5.5.9. Vacuum Systems and Pumps

(a) Specially designed or prepared vacuum systems having a suction capacity of 5 m^3/min or more, consisting of vacuum manifolds, vacuum headers and vacuum pumps, and designed for service in UF_6-bearing atmospheres;

(b) Vacuum pumps specially designed or prepared for service in UF_6-bearing atmospheres and made of or protected by materials resistant to corrosion by UF_6. These pumps may use fluorocarbon seals and special working fluids.

5.5.10. Special Shut-off and Control Valves

Specially designed or prepared manual or automated shut-off and control bellows valves made of or protected by materials resistant to corrosion by UF_6 with a diameter of 40 to 1500 mm for installation in main and auxiliary systems of aerodynamic enrichment plants.

5.5.11. UF_6 Mass Spectrometers/Ion Sources

Specially designed or prepared magnetic or quadrupole mass spectrometers capable of taking ''on-line'' samples of feed, ''product'' or ''tails,'' from UF_6 gas streams and having all of the following characteristics:

(a) Unit resolution for mass greater than 320;

(b) Ion sources constructed of or lined with nichrome or monel or nickel plated;

(c) Electron bombardment ionization sources;

(d) Collector system suitable for isotopic analysis.

5.5.12. UF_6/Carrier Gas Separation Systems

Specially designed or prepared process systems for separating UF_6 from carrier gas (hydrogen or helium).

Explanatory Note: These systems are designed to reduce the UF_6 content in the carrier gas to 1 ppm or less and may incorporate equipment such as:

(a) Cryogenic heat exchangers and cryoseparators capable of temperatures of −120 °C or less, or

(b) Cryogenic refrigeration units capable of temperatures of −120 °C or less, or

(c) Separation nozzle or vortex tube units for the separation of UF_6 from carrier gas, or

(d) UF_6 cold traps capable of temperatures of −20 °C or less.

5.6. Specially Designed or Prepared Systems, Equipment and Components for Use in Chemical Exchange or Ion Exchange Enrichment Plants

Introductory Note: The slight difference in mass between the isotopes of uranium causes small changes in chemical reaction equilibria that can be used as a basis for separation of the isotopes. Two processes have been successfully developed: Liquid-liquid chemical exchange and solid-liquid ion exchange. In the liquid-liquid chemical exchange process, immiscible liquid phases (aqueous and organic) are countercurrently contacted to give the cascading effect of thousands of separation stages. The aqueous phase consists of uranium chloride in hydrochloric acid solution; the organic phase consists of an extractant containing uranium chloride in an organic solvent. The contactors employed in the separation cascade can be liquid-liquid exchange columns (such as pulsed columns with sieve plates) or liquid centrifugal contactors. Chemical conversions (oxidation and

reduction) are required at both ends of the separation cascade in order to provide for the reflux requirements at each end. A major design concern is to avoid contamination of the process streams with certain metal ions. Plastic, plastic-lined (including use of fluorocarbon polymers) and/or glass-lined columns and piping are therefore used. In the solid-liquid ion-exchange process, enrichment is accomplished by uranium adsorption/desorption on a special, very fast-acting, ion-exchange resin or adsorbent. A solution of uranium in hydrochloric acid and other chemical agents is passed through cylindrical enrichment columns containing packed beds of the adsorbent. For a continuous process, a reflux system is necessary to release the uranium from the adsorbent back into the liquid flow so that ''product'' and ''tails'' can be collected. This is accomplished with the use of suitable reduction/oxidation chemical agents that are fully regenerated in separate external circuits and that may be partially regenerated within the isotopic separation columns themselves. The presence of hot concentrated hydrochloric acid solutions in the process requires that the equipment be made of or protected by special corrosion-resistant materials.

5.6.1. Liquid-Liquid Exchange Columns (Chemical Exchange)

Countercurrent liquid-liquid exchange columns having mechanical power input (i.e., pulsed columns with sieve plates, reciprocating plate columns, and columns with internal turbine mixers), specially designed or prepared for uranium enrichment using the chemical exchange process. For corrosion resistance to concentrated hydrochloric acid solutions, these columns and their internals are made of or protected by suitable plastic materials (such as fluorocarbon polymers) or glass. The stage residence time of the columns is designed to be short (30 seconds or less).

5.6.2. Liquid-Liquid Centrifugal Contactors (Chemical Exchange)

Liquid-liquid centrifugal contactors specially designed or prepared for uranium enrichment using the chemical exchange process. Such contactors use rotation to achieve dispersion of the organic and aqueous streams and then centrifugal force to separate the phases. For corrosion resistance to concentrated hydrochloric acid solutions, the contactors are made of or are lined with suitable plastic materials (such as fluorocarbon polymers) or are lined with glass. The stage residence time of the centrifugal contactors is designed to be short (30 seconds or less).

5.6.3. Uranium Reduction Systems and Equipment (Chemical Exchange)

(a) Specially designed or prepared electrochemical reduction cells to reduce uranium from one valence state to another for uranium enrichment using the chemical exchange process. The cell materials in contact with process solutions must be corrosion resistant to concentrated hydrochloric acid solutions.

Explanatory Note: The cell cathodic compartment must be designed to prevent re-oxidation of uranium to its higher valence state. To keep the uranium in the cathodic compartment, the cell may have an impervious diaphragm membrane constructed of special cation exchange material. The cathode consists of a suitable solid conductor such as graphite.

(b) Specially designed or prepared systems at the product end of the cascade for taking the U^{4+} out of the organic stream, adjusting the acid concentration and feeding to the electrochemical reduction cells.

Explanatory Note: These systems consist of solvent extraction equipment for stripping the U^{4+} from the organic stream into an aqueous solution, evaporation and/or other equipment to accomplish solution pH adjustment and control, and pumps or other transfer devices for feeding to the electrochemical reduction cells. A major design concern is to avoid contamination of the aqueous stream with certain metal ions. Consequently, for those parts in contact with the process stream, the system is constructed of equipment made of or protected by suitable materials (such as glass, fluorocarbon polymers, polyphenyl sulfate, polyether sulfone, and resin-impregnated graphite).

5.6.4. Feed Preparation Systems (Chemical Exchange)

Specially designed or prepared systems for producing high-purity uranium chloride feed solutions for chemical exchange uranium isotope separation plants.

Explanatory Note: These systems consist of dissolution, solvent extraction and/or ion exchange equipment for purification and electrolytic cells for reducing the uranium U^{6+} or U^{4+} to U^{3+}. These systems produce uranium chloride solutions having only a few parts per million of metallic impurities such as chromium, iron, vanadium, molybdenum and other bivalent or higher multi-valent cations. Materials of construction for portions of the system processing high-purity U^{3+} include glass, fluorocarbon polymers, polyphenyl sulfate or polyether sulfone plastic-lined and resin-impregnated graphite.

5.6.5. Uranium Oxidation Systems (Chemical Exchange)

Specially designed or prepared systems for oxidation of U^{3+} to U^{4+} for return to the uranium isotope separation cascade in the chemical exchange enrichment process.

Explanatory Note: These systems may incorporate equipment such as:

(a) Equipment for contacting chlorine and oxygen with the aqueous effluent from the isotope separation equipment and extracting the resultant U^{4+} into the stripped organic stream returning from the product end of the cascade;

(b) Equipment that separates water from hydrochloric acid so that the water and the concentrated hydrochloric acid may be reintroduced to the process at the proper locations.

5.6.6. Fast-Reacting Ion Exchange Resins/Adsorbents (Ion Exchange)

Fast-reacting ion-exchange resins or adsorbents specially designed or prepared for uranium enrichment using the ion exchange process, including porous macroreticular resins, and/or pellicular structures in which the active chemical exchange groups are limited to a coating on the surface of an inactive porous support structure, and other composite structures in any suitable form including particles or fibers. These ion exchange resins/adsorbents have diameters of 0.2 mm or less and must be chemically resistant to concentrated hydrochloric acid solutions as well as physically strong enough so as not to degrade in the exchange columns. The resins/adsorbents are specially designed to achieve very fast uranium isotope exchange kinetics (exchange rate half-time of less than 10 seconds) and are capable of operating at a temperature in the range of 100 °C to 200 °C.

5.6.7. Ion Exchange Columns (Ion Exchange)

Cylindrical columns greater than 1000 mm in diameter for containing and supporting packed beds of ion exchange resin/adsorbent, specially designed or prepared for uranium enrichment using the ion exchange process. These columns are made of or protected by materials (such as titanium or fluorocarbon plastics) resistant to corrosion by concentrated hydrochloric acid solutions and are capable of operating at a temperature in the range of 100 °C to 200 °C and pressures above 0.7 MPa (102 psia).

5.6.8. Ion Exchange Reflux Systems (Ion Exchange)

(a) Specially designed or prepared chemical or electrochemical reduction systems for regeneration of the chemical reducing agent(s) used in ion exchange uranium enrichment cascades.

(b) Specially designed or prepared chemical or electrochemical oxidation systems for regeneration of the chemical oxidizing agent(s) used in ion exchange uranium enrichment cascades.

Explanatory Note: The ion exchange enrichment process may use, for example, trivalent titanium (Ti^{3+}) as a reducing cation in which case the reduction system would regenerate Ti^{3+} by reducing Ti^{4+}. The process may use, for example, trivalent iron (Fe^{3+}) as an oxidant in which case the oxidation system would regenerate Fe^{3+} by oxidizing Fe^{2+}.

5.7. Specially Designed or Prepared Systems, Equipment and Components for Use in Laser-Based Enrichment Plants

Introductory Note: Present systems for enrichment processes using lasers fall into two categories: Those in which the process medium is atomic uranium vapor and those in which the process medium is the vapor of a uranium compound. Common nomenclature for such processes include: First category—atomic vapor laser isotope separation (AVLIS or SILVA); second category—molecular laser isotope separation (MLIS or MOLIS) and chemical reaction by isotope selective laser activation (CRISLA). The systems, equipment and components for laser enrichment plants embrace:

(a) Devices to feed uranium-metal vapor (for selective photo-ionization) or devices to feed the vapor of a uranium compound (for photo-dissociation or chemical activation);

(b) Devices to collect enriched and depleted uranium metal as ''product'' and

''tails'' in the first category, and devices to collect dissociated or reacted compounds as ''product'' and unaffected material as ''tails'' in the second category;

(c) Process laser systems to selectively excite the uranium-235 species; and

(d) Feed preparation and product conversion equipment. The complexity of the spectroscopy of uranium atoms and compounds may require incorporation of any of a number of available laser technologies.

Explanatory Note: Many of the items listed in Section 5.7 of this Supplement come into direct contact with uranium metal vapor or liquid or with process gas consisting of UF_6 or a mixture of UF_6 and other gases. All surfaces that come into contact with the uranium or UF_6 are wholly made of or protected by corrosion-resistant materials. For the purposes of the provisions in Section 5.7 of this Supplement that relate to laser-based enrichment items, the materials resistant to corrosion by the vapor or liquid of uranium metal or uranium alloys include yttria-coated graphite and tantalum; and the materials resistant to corrosion by UF_6 include copper, stainless steel, aluminum, aluminum alloys, nickel or alloys containing 60% or more nickel and UF_6-resistant fully fluorinated hydrocarbon polymers.

5.7.1. Uranium Vaporization Systems (AVLIS)

Specially designed or prepared uranium vaporization systems which contain high-power strip or scanning electron beam guns with a delivered power on the target of more than 2.5 kW/cm.

5.7.2. Liquid Uranium Metal Handling Systems (AVLIS)

Specially designed or prepared liquid metal handling systems for molten uranium or uranium alloys, consisting of crucibles and cooling equipment for the crucibles.

Explanatory Note: The crucibles and other parts of this system that come into contact with molten uranium or uranium alloys are made of or protected by materials of suitable corrosion and heat resistance. Suitable materials include tantalum, yttria-coated graphite, graphite coated with other rare earth oxides or mixtures thereof.

5.7.3. Uranium Metal ''Product'' and ''Tails'' Collector Assemblies (AVLIS)

Specially designed or prepared ''product'' and ''tails'' collector assemblies for uranium metal in liquid or solid form.

Explanatory Note: Components for these assemblies are made of or protected by materials resistant to the heat and corrosion of uranium metal vapor or liquid (such as yttria-coated graphite or tantalum) and may include pipes, valves, fittings, ''gutters,'' feed-throughs, heat exchangers and collector plates for magnetic, electrostatic or other separation methods.

5.7.4. Separator Module Housings (AVLIS)

Specially designed or prepared cylindrical or rectangular vessels for containing the uranium metal vapor source, the electron beam gun, and the ''product'' and ''tails'' collectors.

Explanatory Note: These housings have multiplicity of ports for electrical and water feed-throughs, laser beam windows, vacuum pump connections and instrumentation diagnostics and monitoring. They have provisions for opening and closure to allow refurbishment of internal components.

5.7.5. Supersonic Expansion Nozzles (MLIS)

Specially designed or prepared supersonic expansion nozzles for cooling mixtures of UF_6 and carrier gas to 150 K or less and which are corrosion resistant to UF_6.

5.7.6. Uranium Pentafluoride Product Collectors (MLIS)

Specially designed or prepared uranium pentafluoride (UF_5) solid product collectors consisting of filter, impact, or cyclone-type collectors, or combinations thereof, and which are corrosion resistant to the UF_5/UF_6 environment.

5.7.7. UF_6/Carrier Gas Compressors (MLIS)

Specially designed or prepared compressors for UF_6/carrier gas mixtures, designed for long term operation in a UF_6 environment. The components of these compressors that come into contact with process gas are made of or protected by materials resistant to corrosion by UF_6.

5.7.8. Rotary Shaft Seals (MLIS)

Specially designed or prepared rotary shaft seals, with seal feed and seal exhaust connections, for sealing the shaft connecting the compressor rotor with the driver motor so as to ensure a reliable seal against out-leakage of process gas or in-leakage of air or seal gas into the inner chamber of the compressor which is filled with a UF_6/carrier gas mixture.

5.7.9. Fluorination Systems (MLIS)

Specially designed or prepared systems for fluorinating UF_5 (solid) to UF_6 (gas).

Explanatory Note: These systems are designed to fluorinate the collected UF_5 powder to UF_6 for subsequent collection in product containers or for transfer as feed to MLIS units for additional enrichment. In one approach, the fluorination reaction may be accomplished within the isotope separation system to react and recover directly off the ''product'' collectors. In another approach, the UF_5 powder may be removed/transferred from the ''product'' collectors into a suitable reaction vessel (e.g., fluidized-bed reactor, screw reactor or flame tower) for fluorination. In both approaches, equipment for storage and transfer of fluorine (or other suitable fluorinating agents) and for collection and transfer of UF_6 are used.

5.7.10. UF_6 Mass Spectrometers/Ion Sources (MLIS)

Specially designed or prepared magnetic or quadrupole mass spectrometers capable of taking ''on-line'' samples of feed, ''product,'' or ''tails'' from UF_6 gas streams and having all of the following characteristics:

(a) Unit resolution for mass greater than 320;

(b) Ion sources constructed of or lined with nichrome or monel or nickel plated;

(c) Electron bombardment ionization sources; and

(d) Collector system suitable for isotopic analysis.

5.7.11. Feed Systems/Product and Tails Withdrawal Systems (MLIS)

Specially designed or prepared process systems or equipment for enrichment plants made of or protected by materials resistant to corrosion by UF_6, including:

(a) Feed autoclaves, ovens, or systems used for passing UF_6 to the enrichment process;

(b) Desublimers (or cold traps) used to remove UF_6 from the enrichment process for subsequent transfer upon heating;

(c) Solidification or liquefaction stations used to remove UF_6 from the enrichment process by compressing and converting UF_6 to a liquid or solid form;

(d) ''Product'' or ''tails'' stations used for transferring UF_6 into containers.

5.7.12. UF_6/Carrier Gas Separation Systems (MLIS)

Specially designed or prepared process systems for separating UF_6 from carrier gas. The carrier gas may be nitrogen, argon, or other gas.

Explanatory Note: These systems may incorporate equipment such as:

(a) Cryogenic heat exchangers or cryoseparators capable of temperatures of −120 °C or less, or

(b) Cryogenic refrigeration units capable of temperatures of −120 °C or less, or

(c) UF_6 cold traps capable of temperatures of −20 °C or less.

5.7.13. Laser Systems (AVLIS, MLIS and CRISLA)

Lasers or laser systems specially designed or prepared for the separation of uranium isotopes.

Explanatory Note: The laser system for the AVLIS process usually consists of two lasers: a copper vapor laser and a dye laser. The laser system for MLIS usually consists of a CO_2 or excimer laser and a multi-pass optical cell with revolving mirrors at both ends. Lasers or laser systems for both processes require a spectrum frequency stabilizer for operation over extended periods of time.

5.8. Specially Designed or Prepared Systems, Equipment and Components for Use in Plasma Separation Enrichment Plants

Introductory Note: In the plasma separation process, a plasma of uranium ions passes through an electric field tuned to the U–235 ion resonance frequency so that they preferentially absorb energy and increase the diameter of their corkscrew-like orbits. Ions with a large-diameter path are trapped to produce a product enriched in U–235. The plasma, which is made by ionizing uranium vapor, is contained in a vacuum chamber with a high-strength magnetic field produced by a superconducting magnet. The main technological systems of the process include the uranium plasma generation system, the separator module with superconducting magnet and metal removal systems for the collection of ''product'' and ''tails.''

5.8.1. Microwave Power Sources and Antennae

Specially designed or prepared microwave power sources and antennae for producing or accelerating ions and having the following characteristics: greater than 30 GHz

frequency and greater than 50 kW mean power output for ion production.

5.8.2. Ion Excitation Coils

Specially designed or prepared radio frequency ion excitation coils for frequencies of more than 100 kHz and capable of handling more than 40 kW mean power.

5.8.3. Uranium Plasma Generation Systems

Specially designed or prepared systems for the generation of uranium plasma, which may contain high-power strip or scanning electron beam guns with a delivered power on the target of more than 2.5 kW/cm.

5.8.4. Liquid Uranium Metal Handling Systems

Specially designed or prepared liquid metal handling systems for molten uranium or uranium alloys, consisting of crucibles and cooling equipment for the crucibles, power supply system, the ion source high-voltage power supply system, the vacuum system, and extensive chemical handling systems for recovery of product and cleaning/recycling of components.

5.9.1. Electromagnetic Isotope Separators

Electromagnetic isotope separators specially designed or prepared for the separation of uranium isotopes, and equipment and components therefor, including:

(a) *Ion sources:* Specially designed or prepared single or multiple uranium ion sources consisting of a vapor source, ionizer, and beam accelerator, constructed of suitable materials such as graphite, stainless steel, or copper, and capable of providing a total ion beam current of 50 mA or greater;

(b) *Ion collectors:* Collector plates consisting of two or more slits and pockets specially designed or prepared for collection of enriched and depleted uranium ion beams and constructed of suitable materials such as graphite or stainless steel;

(c) *Vacuum housings:* Specially designed or prepared vacuum housings for uranium electromagnetic separators, constructed of suitable non-magnetic materials such as stainless steel and designed for operation at pressures of 0.1 Pa or lower;

Explanatory Note: The housings are specially designed to contain the ion sources, collector plates and water-cooled liners and have provision for diffusion pump connections and opening and closure for removal and reinstallation of these components.

(d) *Magnet pole pieces:* Specially designed or prepared magnet pole pieces having a diameter greater than 2 m used to maintain a constant magnetic field within an electromagnetic isotope separator and to transfer the magnetic field between adjoining separators.

5.9.2. High Voltage Power Supplies

Specially designed or prepared high-voltage power supplies for ion sources, having all of the following characteristics: capable of continuous operation, output voltage of 20,000 V or greater, output current of 1 A or greater, and voltage regulation of better than 0.01% over a time period of 8 hours.

5.9.3. Magnet Power Supplies

Specially designed or prepared high-power, direct current magnet power supplies having all of the following characteristics: capable of continuously producing a current output of 500 A or greater at a voltage of 100 V or greater and with a current or voltage regulation better than 0.01% over a period of 8 hours.

6. Plants for the Production of Heavy Water, Deuterium and Deuterium Compounds and Equipment Specially Designed or Prepared Therefor

Introductory Note: Heavy water can be produced by a variety of processes. However, the two processes that have proven to be commercially viable are the water-hydrogen sulphide exchange process (GS process) and the ammonia-hydrogen exchange process. The GS process is based upon the exchange of hydrogen and deuterium between water and hydrogen sulphide within a series of towers which are operated with the top section cold and the bottom section hot. Water flows down the towers while the hydrogen sulphide gas circulates from the bottom to the top of the towers. A series of perforated trays are used to promote mixing between the gas and the water. Deuterium migrates to the water at low temperatures and to the hydrogen sulphide at high temperatures. Gas or water, enriched in deuterium, is removed from the first stage towers at the junction of the hot and cold sections and the process is repeated in subsequent stage towers. The product of the last stage, water enriched up to 30% in deuterium, is sent to a distillation unit to produce reactor grade heavy water, i.e., 99.75% deuterium oxide. The ammonia-hydrogen exchange process can extract deuterium from synthesis gas through contact with liquid ammonia in the presence of a catalyst. The synthesis gas is fed into exchange towers and to an ammonia converter. Inside the towers the gas flows from the bottom to the top while the liquid ammonia flows from the top to the bottom. The deuterium is stripped from the hydrogen in the synthesis gas and concentrated in the ammonia. The ammonia then flows into an ammonia cracker at the bottom of the tower while the gas flows into an ammonia converter at the top. Further enrichment takes place in subsequent stages and reactor grade heavy water is produced through final distillation. The synthesis gas feed can be provided by an ammonia plant that, in turn, can be constructed in association with a heavy water ammonia-hydrogen exchange plant. The ammonia-hydrogen exchange process can also use ordinary water as a feed source of deuterium. Many of the key equipment items for heavy water production plants using GS or the ammonia-hydrogen exchange processes are common to several segments of the chemical and petroleum industries. This is particularly so for small plants using the GS process. However, few of the items are available ''off-the-shelf.'' The GS and ammonia-hydrogen processes require the handling of large quantities of flammable, corrosive and toxic fluids at elevated pressures. Accordingly, in establishing the design and operating standards for plants and equipment using these processes, careful attention to the materials selection and specifications is required to ensure long service life with high safety and reliability factors. The choice of scale is primarily a function of economics and need. Thus, most of the equipment items would be prepared according to the requirements of the customer. Finally, it should be noted that, in both the GS and the ammonia-hydrogen exchange processes, items of equipment which individually are not specially designed or prepared for heavy water production can be assembled into systems which are specially designed or prepared for producing heavy water. The catalyst production system used in the ammonia-hydrogen exchange process and water distillation systems used for the final concentration of heavy water to reactor-grade in either process are examples of such systems. The items of equipment which are specially designed or prepared for the production of heavy water utilizing either the water-hydrogen sulphide exchange process or the ammonia-hydrogen exchange process include the following:

6.1. Water-Hydrogen Sulphide Exchange Towers

Exchange towers fabricated from fine carbon steel (such as ASTM A516) with diameters of 6 m (20 ft) to 9 m (30 ft), capable of operating at pressures greater than or equal to 2 MPa (300 psi) and with a corrosion allowance of 6 mm or greater, specially designed or prepared for heavy water production utilizing the water-hydrogen sulphide exchange process.

6.2. Blowers and Compressors

Single stage, low head (i.e., 0.2 MPa or 30 psi) centrifugal blowers or compressors for hydrogen-sulphide gas circulation (i.e., gas containing more than 70% H_2S) specially designed or prepared for heavy water production utilizing the water-hydrogen sulphide exchange process. These blowers or compressors have a throughput capacity greater than or equal to 56 m^3/second (120,000 SCFM) while operating at pressures greater than or equal to 1.8 MPa (260 psi) suction and have seals designed for wet H_2S service.

6.3. Ammonia-Hydrogen Exchange Towers

Ammonia-hydrogen exchange towers greater than or equal to 35 m (114.3 ft) in height with diameters of 1.5 m (4.9 ft) to 2.5 m (8.2 ft) capable of operating at pressures greater than 15 MPa (2225 psi) specially designed or prepared for heavy water production utilizing the ammonia-hydrogen exchange process. These towers also have at least one flanged axial opening of the same diameter as the cylindrical part through which the tower internals can be inserted or withdrawn.

6.4. Tower Internals and Stage Pumps

Tower internals and stage pumps specially designed or prepared for towers for heavy water production utilizing the ammonia-hydrogen exchange process. Tower internals include specially designed stage contactors which promote intimate gas/liquid contact. Stage pumps include specially designed

submersible pumps for circulation of liquid ammonia within a contacting stage internal to the stage towers.

6.5. Ammonia Crackers

Ammonia crackers with operating pressures greater than or equal to 3 MPa (450 psi) specially designed or prepared for heavy water production utilizing the ammonia-hydrogen exchange process.

6.6. Infrared Absorption Analyzers

Infrared absorption analyzers capable of ''on-line'' hydrogen/deuterium ratio analysis where deuterium concentrations are equal to or greater than 90%.

6.7. Catalytic Burners

Catalytic burners for the conversion of enriched deuterium gas into heavy water specially designed or prepared for heavy water production utilizing the ammonia-hydrogen exchange process.

7. Plants for the Conversion of Uranium and Equipment Specially Designed or Prepared Therefor

Introductory Note: Uranium conversion plants and systems may perform one or more transformations from one uranium chemical species to another, including: conversion of uranium ore concentrates to UO_3, conversion of UO_3 to UO_2, conversion of uranium oxides to UF_4 or UF_6, conversion of UF_4 to UF_6, conversion of UF_6 to UF_4, conversion of UF_4 to uranium metal, and conversion of uranium fluorides to UO_2. Many of the key equipment items for uranium conversion plants are common to several segments of the chemical process industry. For example, the types of equipment employed in these processes may include: furnaces, rotary kilns, fluidized bed reactors, flame tower reactors, liquid centrifuges, distillation columns and liquid-liquid extraction columns. However, few of the items are available ''off-the-shelf;'' most would be prepared according to the requirements and specifications of the customer. In some instances, special design and construction considerations are required to address the corrosive properties of some of the chemicals handled (HF, F_2, ClF_3, and uranium fluorides). Finally, it should be noted that, in all of the uranium conversion processes, items of equipment which individually are not specially designed or prepared for uranium conversion can be assembled into systems which are specially designed or prepared for use in uranium conversion.

7.1. Specially Designed or Prepared Systems for the Conversion of Uranium Ore concentrates to UO_3

Explanatory Note: Conversion of uranium ore concentrates to UO_3 can be performed by first dissolving the ore in nitric acid and extracting purified uranyl nitrate using a solvent such as tributyl phosphate. Next, the uranyl nitrate is converted to UO_3 either by concentration and denitration or by neutralization with gaseous ammonia to produce ammonium diuranate with subsequent filtering, drying, and calcining.

7.2. Specially Designed or Prepared Systems for the Conversion of UO_3 to UF_6

Explanatory Note: Conversion of UO_3 to UF_6 can be performed directly by fluorination. The process requires a source of fluorine gas or chlorine trifluoride.

7.3. Specially Designed or Prepared Systems for the Conversion of UO_3 to UO_2

Explanatory Note: Conversion of UO_3 to UO_2 can be performed through reduction of UO_3 with cracked ammonia gas or hydrogen.

7.4. Specially Designed or Prepared Systems for the Conversion of UO_2 to UF_4

Explanatory Note: Conversion of UO_2 to UF_4 can be performed by reacting UO_2 with hydrogen fluoride gas (HF) at 300–500 °C.

7.5. Specially Designed or Prepared Systems for the Conversion of UF_4 to UF_6

Explanatory Note: Conversion of UF_4 to UF_6 is performed by exothermic reaction with fluorine in a tower reactor. UF_6 is condensed from the hot effluent gases by passing the effluent stream through a cold trap cooled to −10 °C. The process requires a source of fluorine gas.

7.6. Specially Designed or Prepared Systems for the Conversion of UF_4 to U Metal

Explanatory Note: Conversion of UF_4 to U metal is performed by reduction with magnesium (large batches) or calcium (small batches). The reaction is carried out at temperatures above the melting point of uranium (1130 °C).

7.7. Specially Designed or Prepared Systems for the Conversion of UF_6 to UO_2

Explanatory Note: Conversion of UF_6 to UO_2 can be performed by one of three processes. In the first, UF_6 is reduced and hydrolyzed to UO_2 using hydrogen and steam. In the second, UF_6 is hydrolyzed by solution in water, ammonia is added to precipitate ammonium diuranate, and the diuranate is reduced to UO_2 with hydrogen at 820 °C. In the third process, gaseous UF_6, CO_2, and NH_3 are combined in water, precipitating ammonium uranyl carbonate. The ammonium uranyl carbonate is combined with steam and hydrogen at 500–600 °C to yield UO_2. UF_6 to UO_2 conversion is often performed as the first stage of a fuel fabrication plant.

7.8 Specially Designed or Prepared Systems for the Conversion of UF_6 to UF_4

Explanatory Note: Conversion of UF_6 to UF_4 is performed by reduction with hydrogen.

PART 784—COMPLEMENTARY ACCESS

Sec.

784.1 Complementary access: General information on the purpose of complementary access, affected locations, and the role of BIS.
784.2 Obtaining consent or warrants to conduct complementary access.
784.3 Scope and conduct of complementary access.
784.4 Notification, duration and frequency of complementary access.
784.5 Subsidiary arrangements.
784.6 Post complementary access activities.

Authority: Public Law 109–401, 120 Stat. 2726 (December 18, 2006); Executive Order 13458 (February 4, 2008).

§ 784.1 Complementary access: General information on the purpose of complementary access, affected locations, and the role of BIS.

(a) *Overview.* The Additional Protocol requires that the United States provide the IAEA with complementary access to locations specified in the U.S. declaration. The IAEA may request and be given complementary access to locations in the United States that are not included in the U.S. declaration as agreed to by the U.S. Government. The IAEA, upon request, will be granted complementary access to locations in the United States in accordance with the provisions of § 784.3 of the APR, which describes the scope and conduct of complementary access.

(b) *Purposes authorized under the APR.* The APR authorize the conduct of complementary access, at locations in the United States, for the following purposes:

(1) *Declared uranium hard-rock mines and ore beneficiation plants.* Complementary access may be conducted, on a selective basis, to verify the absence of undeclared nuclear material and nuclear related activities at reportable uranium hard-rock mines and ore beneficiation plants (see § 783.1(a)(3) of the APR).

(2) *Other locations specified in the U.S. declaration and locations requested by the IAEA that are not included in the U.S. declaration as agreed to by the U.S. Government.* Complementary access may be conducted at other locations specified in the U.S. declaration (i.e., locations required to submit reports to BIS pursuant to § 783.1(a)(1), (a)(2), or (b) of the APR), and locations requested by the IAEA and agreed to by the U.S. Government, to resolve questions relating to the correctness and completeness of the information provided in the U.S. declaration or to resolve inconsistencies relating to that information.

(i) In the event that the IAEA has a question about, or identifies an apparent inconsistency in, information contained in the U.S. declaration (e.g., information based on reports submitted to BIS by one of these locations, pursuant to § 783.1(a)(1), (a)(2), or (b) of the APR), the IAEA will provide the U.S. Government with an opportunity to clarify or resolve the question or inconsistency. The IAEA will not draw any conclusions about the question or

inconsistency, or request complementary access to a location, until the U.S. Government has been provided with an opportunity to clarify or resolve the question or inconsistency, unless the IAEA considers that a delay in access would prejudice the purpose for which the access is sought.

(ii) Upon receipt of a request from the IAEA for clarification concerning information contained in the U.S. declaration, BIS will provide written notification to the U.S. location. The U.S. location must provide BIS with all of the requested information to clarify or resolve the question or inconsistency raised by the IAEA. Unless informed otherwise by BIS, the U.S. location will have 15 calendar days from its receipt of written notification to submit the required forms to BIS (see the Supplemental Information Report requirements in § 783.1(d) of the APR).

(c) *Locations subject to complementary access.* All locations specified in the U.S. declaration and other locations requested by the IAEA and agreed to by the U.S. Government are subject to complementary access by the IAEA. In cases where access cannot be provided to locations specified by the IAEA, BIS may seek to provide complementary access to adjacent locations.

(d) *Responsibilities of BIS.* As the lead U.S. Government agency and point of contact for organizing and facilitating complementary access pursuant to the APR, BIS will:

(1) Serve as the official U.S. Government host to the IAEA inspection team;

(2) Provide prior written notification to any location that is scheduled to undergo complementary access;

(3) Take appropriate action to obtain an administrative warrant in the event that a location does not consent to complementary access;

(4) Upon request of the location, dispatch an advance team, if time and other circumstances permit, to the location to provide administrative and logistical support for complementary access and to assist with preparation for such access;

(5) Accompany the IAEA Team throughout the duration of complementary access;

(6) Assist the IAEA Team with complementary access activities and ensure that each activity adheres to the provisions of the Additional Protocol and to the requirements of the APR and the Act, including the conditions of any warrant issued thereunder; and

(7) Assist in the negotiation and development of a location-specific subsidiary arrangement between the U.S. government and the IAEA, if appropriate (see § 784.5 of the APR).

Note to § 784.1(d): BIS may invite representatives from other U.S. Government agencies to participate as members of the Advance and Host Teams for complementary access. The Host Team will not include employees of the Environmental Protection Agency, the Mine Safety and Health Administration, or the Occupational Safety and Health Administration of the Department of Labor.

§ 784.2 Obtaining consent or warrants to conduct complementary access.

(a) *Procedures for obtaining consent.* (1) For locations specified in the U.S. declaration and other locations specified by the IAEA, BIS will seek consent pursuant to IAEA complementary access requests. In instances where the owner, operator, occupant or agent in charge of a location does not consent to such complementary access, BIS will seek administrative warrants as provided by the Act.

(2) For locations specified by the IAEA where access cannot be provided, BIS may seek consent from an adjacent location pursuant to an IAEA complementary access request.

(b) *Who may give consent.* The owner, operator, occupant or agent in charge of a location may consent to complementary access. The individual providing consent on behalf of the location represents that he or she has the authority to make this decision.

(c) *Scope of consent.* (1) When the owner, operator, occupant, or agent in charge of a location consents to a complementary access request, he or she is agreeing to provide the IAEA Team with the same degree of access as that authorized under § 784.3 of the APR. This includes providing access for the IAEA Team and Host Team to any area of the location, any item on the location, and any records that are necessary to comply with the APR and allow the IAEA Team to accomplish the purpose of complementary access, as authorized under § 784.1(b)(1) or (b)(2) of the APR, except for the following:

(i) Information subject to the licensing jurisdiction of the Directorate of Defense Trade Controls (DDTC), U.S. Department of State, under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130)—see § 784.3(b)(3) of the APR, which states that such access cannot be provided without prior U.S. Government authorization; and

(ii) Activities with direct national security significance to the United States, or locations or information associated with such activities.

(2) The Host Team Leader is responsible for determining whether or not the IAEA's request to obtain access to any area, building, or item, or to record or conduct the types of activities described in § 784.3 of the APR is consistent with the Additional Protocol and subsidiary arrangements to the Additional Protocol.

§ 784.3 Scope and conduct of complementary access.

(a) *General.* IAEA complementary access shall be limited to accomplishing only those purposes that are appropriate to the type of location, as indicated in § 784.1(b) of the APR and shall be conducted in the least intrusive manner, consistent with the effective and timely accomplishment of such purposes. No complementary access may take place without the presence of a U.S. Government Host Team. No information of direct national security significance shall be provided to the IAEA during complementary access.

(b) *Scope.* This paragraph describes complementary access activities that are authorized under the APR.

(1) *Complementary access activities.* Depending on the type of location accessed, the IAEA Team may:

(i) Perform visual observation of parts or areas of the location;

(ii) Utilize radiation detection and measurement devices;

(iii) Utilize non-destructive measurements and sampling;

(iv) Examine relevant records (i.e., records appropriate for the purpose of complementary access, as authorized under § 784.1(b) of the APR), except that the following records may not be inspected unless the Host Team leader, after receiving input from representatives of the location and consulting with other members of the Host Team, determines that such access is both appropriate and necessary to achieve the relevant purpose described in § 784.1(b)(1) or (b)(2) of the APR:

(A) Financial data (other than production data);

(B) Sales and marketing data (other than shipment data);

(C) Pricing data;

(D) Personnel data;

(E) Patent data;

(F) Data maintained for compliance with environmental or occupational health and safety regulations; or

(G) Research data (unless the data are reported on Form AP–3 or AP–4);

(v) Perform location-specific environmental sampling; and

Note to § 784.3(b)(1)(v): BIS will not seek access to a location for location-specific environmental sampling until the President reports to the appropriate congressional

committees his determination to permit such sampling.

(vi) Utilize other objective measures which have been demonstrated to be technically feasible and the use of which have been agreed to by the United States (''objective measures,'' as used herein, means any verification techniques that would be appropriate for achieving the official purpose of complementary access, both in terms of their effectiveness and limited intrusiveness).

(2) *Wide Area Environmental Sampling.* In certain cases, IAEA inspectors may collect environmental samples (e.g., air, water, vegetation, soil, smears), at a location specified by the IAEA, for the purpose of assisting the IAEA to draw conclusions about the absence of undeclared nuclear material or nuclear activities over a wide area.

Note to § 784.3(b)(2): The IAEA will not seek such access until the use of wide-area environmental sampling and the procedural arrangements therefor have been approved by its Board of Governors and consultations have been held between the IAEA and the United States. BIS will not seek access to a location for wide-area sampling until the President reports to the appropriate congressional committees his determination to permit such sampling.

(3) *ITAR-controlled technology.* ITAR-controlled technology shall not be made available to the IAEA Team without prior U.S. Government authorization. The owner, operator, occupant, or agent in charge of the location being accessed is responsible for identifying any ITAR-controlled technology at the location to the Host Team as soon as practicable following the receipt of notification from BIS of complementary access (see § 784.4(a) of the APR).

(c) *Briefing.* Following the arrival of the IAEA Team and Host Team at a location subject to complementary access, and prior to the commencement of complementary access, representatives of the organization will provide the IAEA Team and Host Team with a briefing on the environmental, health, safety, and security regulations (e.g., regulations for protection of controlled environments within the location and for personal safety) that are applicable to the location and which must be observed. In addition, the organization's representatives may include in their briefing an overview of the location, the activities carried out at the location, and any administrative and logistical arrangements relevant to complementary access. The briefing may include the use of maps and other documentation deemed appropriate by the organization. The time spent for the briefing may not exceed one hour, and the content should be limited to that which relates to the purpose of complementary access. The briefing may also address any of the following:

(1) Areas, buildings, and structures specific to any activities relevant to complementary access;

(2) Administrative and logistical information;

(3) Updates/revisions to reports required under the APR;

(4) Introduction of key personnel at the location;

(5) Location-specific subsidiary arrangement, if applicable; and

(6) Proposed access plan to address the purpose of complementary access.

(d) *Visual access.* The IAEA Team may visually observe areas or parts of the location, as agreed by the Host Team Leader, after the Host Team Leader has consulted with the organization's representative for the location.

(e) *Records review.* The location must be prepared to provide the IAEA Team with access to all supporting materials and documentation used by the owner, operator, occupant, or agent in charge of the location to prepare reports required under the APR and to otherwise comply with the APR (see the records inspection and recordkeeping requirements in §§ 786.1 and 786.2 of the APR) and with appropriate accommodations in which the IAEA Team can review these supporting materials and documentation. Such access will be provided in appropriate formats (e.g., paper copies, electronic remote access by computer, microfilm, or microfiche) through the Host Team to the IAEA Team during the complementary access period or as otherwise agreed upon by the IAEA Team and Host Team Leader. If the owner, operator, occupant, or agent in charge of the location does not have access to records for activities that took place under previous ownership, the previous owner must make such records available to the Host Team.

(f) *Managed access.* As necessary, the Host Team will implement managed access measures (e.g., the removal of sensitive papers from office spaces and the shrouding of sensitive displays, stores, and equipment) to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, to protect proprietary or commercially sensitive information, or to protect activities of direct national security significance to the United States, including information associated with such activities. If the IAEA Team is unable to fully achieve its inspection aims under the managed access measures in place, the Host Team will make every reasonable effort to provide alternative means to allow the IAEA Team to meet these aims, consistent with the purposes of complementary access (as described in § 784.1(b) of the APR) and the requirements of this section. If a location-specific subsidiary arrangement applies (see § 784.5(b) of the APR), the Host Team shall, in consultation with the owner, operator, occupant, or agent in charge of the location, implement managed access procedures consistent with the applicable location-specific subsidiary arrangement.

(g) *Hours of complementary access.* Consistent with the provisions of the Additional Protocol, the Host Team will ensure, to the extent possible, that each complementary access is commenced, conducted, and concluded during ordinary business hours, but no complementary access shall be prohibited or otherwise disrupted from commencing, continuing or concluding during other hours.

(h) *Environmental, health, safety, and security regulations and requirements.* In carrying out their activities, the IAEA Team and Host Team shall observe federal, state, and local environmental, health, safety, and security regulations and environmental, health, safety, and security requirements established at the location, including those for the protection of controlled environments within a location and for personal safety. To the extent practicable, any such regulations and requirements that may apply to the conduct of complementary access at the location should be set forth in the location-specific subsidiary arrangement (if any).

(i) *Host Team to accompany the IAEA Team.* The Host Team shall accompany the IAEA Team, during their complementary access at the location, in accordance with the provisions set forth in this part of the APR.

(j) *Scope of authorized communications by the IAEA Team.* (1) The United States shall permit and protect free communications between the IAEA Team and IAEA Headquarters and/or Regional Offices, including attended and unattended transmission of information generated by IAEA containment and/or surveillance or measurement devices. The IAEA Team shall have the right, through consultation with the Host Team, to make use of internationally established systems of direct communications.

(2) No document, photograph or other recorded medium, or sample relevant to complementary access may be removed or transmitted from the location by the IAEA Team without the prior consent of the Host Team.

(k) *IAEA activities, findings, and results related to complementary access.* (1) In accordance with the Additional Protocol, the IAEA shall inform the United States of:

(i) Any activities that took place in connection with complementary access to a location in the United States, including any activities concerning questions or inconsistencies that the IAEA may have brought to the attention of the United States, within 60 calendar days of the time that the activities occurred; and

(ii) The findings or results of any activities that took place, including the findings and results of activities concerning questions or inconsistencies that the IAEA may have brought to the attention of the United States, within 30 calendar days of the time that such findings or results were reached by the IAEA.

(2) BIS will provide the results of complementary access to the owner, operator, occupant, or agent in charge of the inspected location to the extent practicable.

§ 784.4 Notification, duration and frequency of complementary access.

(a) *Complementary access notification.* Complementary access will be provided only upon the issuance of a written notice by BIS to the owner, operator, occupant or agent in charge of the premises to be accessed. If BIS is unable to provide written notification to the owner, operator, or agent in charge, BIS may post a notice prominently at the location to be accessed.

(1) *Content of notice.* (i) Pertinent information furnished by the IAEA. The notice shall include all appropriate information provided by the IAEA to the United States Government concerning:

(A) The purpose of complementary access;

(B) The basis for the selection of the location for complementary access;

(C) The activities that will be carried out during complementary access;

(D) The time and date that complementary access is expected to begin and its anticipated duration; and

(E) The names and titles of the IAEA inspectors who will participate in complementary access.

(ii) *Request for location's consent to complementary access.* The complementary access notification from BIS will request that the location inform BIS whether or not it will consent to complementary access. If a location does not agree to provide consent to complementary access within four hours of its receipt of the complementary access notification, BIS will seek an administrative warrant as provided in § 784.2(a)(1).

(iii) *Availability of advance team from BIS.* An advance team from BIS will be available to assist the location in preparing for complementary access. If the complementary access is a 24-hour advance notice, then the availability of an advance team may be limited. The location requesting advance team assistance will not be required to reimburse the U.S. Government for any costs associated with these activities. The location (in cooperation with the advance team, if available) will make preparations for complementary access, including the identification of any ITAR-controlled technology and/or national security information at the location (see § 784.3(b)(3) of the APR).

(2) *Notification procedures.* The following table sets forth the notification procedures for complementary access.

TABLE TO § 784.4(A)(2)

Activity	Agency action	Location action
IAEA notification of complementary access.	BIS will transmit complementary access notification via facsimile to the owner, operator, occupant, or agent in charge of a location to ascertain whether or not the location: (1) Grants consent to complementary access; and (2) Requests BIS advance team support (subject to availability) in preparing for complementary access If the location does not inform BIS of its consent to complementary access, within 4 hours of the time it receives notification from BIS, BIS will seek an administrative warrant.	Location must inform BIS, within 4 hours of its receipt of complementary access notification, whether or not it: (1) Grants consent to complementary access; and (2) Requests BIS advance team support (subject to availability) to prepare for complementary access. Location not required to reimburse U.S. Government for assistance from the BIS advance team.
Preparation for complementary access.	If a BIS advance team has been requested and is available, it will arrive at the location to be accessed and assist the location in making logistical and administrative preparations for complementary access.	The location will engage in activities that will prepare the location for complementary access (e.g., identifying any ITAR-controlled technology or national security information at the location), either singularly or in cooperation with a BIS advance team if one has been requested and is available.

(3) *Timing of notification.* In accordance with the Additional Protocol, the IAEA shall notify the United States Government of a complementary access request not less than 24 hours prior to the arrival of the IAEA Team at the location. BIS will provide written notice to the owner, operator, occupant or agent in charge of the location as soon as possible after BIS has received notification from the IAEA.

(b) *Duration of complementary access.* The duration of complementary access will depend upon the nature of the complementary access request and the activities that will be conducted at the location. (See § 784.3(b) of the APR for a description of the types of complementary access activities authorized under the APR.)

§ 784.5 Subsidiary arrangements.

(a) *General subsidiary arrangement.* The United States Government may conclude a general subsidiary arrangement with the IAEA that governs complementary access activities, irrespective of the location (i.e., an arrangement that is not location-specific).

(b) *Location-specific subsidiary arrangement*—(1) *Purpose.* If requested by the location or deemed necessary by the U.S. Government, the U.S. Government will negotiate a location-specific subsidiary arrangement with the IAEA. The purpose of such an arrangement is to establish procedures for conducting managed access at a specific declared location. If the location requests, it may participate in preparations for the

negotiation of a location-specific subsidiary arrangement with the IAEA and may observe the negotiations to the maximum extent practicable. The existence of a location-specific subsidiary arrangement does not in any way limit the right of the owner, operator, occupant, or agent in charge of the location to withhold consent to a request for complementary access.

(2) *Format and content.* The form and content of a location-specific subsidiary arrangement will be determined by the IAEA and the U.S. Government, in consultation with the location, on a case-by-case basis.

§ 784.6 Post complementary access activities.

Upon receiving the IAEA's final report on complementary access, BIS will forward a copy of the report to the location for its review, in accordance with § 784.3(k)(2) of the APR. Locations may submit comments concerning the IAEA's final report to BIS, and BIS will consider them, as appropriate, when preparing its comments to the IAEA on the final report. BIS also will send locations a post complementary access letter detailing the issues that require follow-up action (see, for example, the Amended Report requirements in § 783.2(d) of the APR).

PART 785—ENFORCEMENT

Sec.

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Authority: Public Law 109–401, 120 Stat. 2726 (December 18, 2006); Executive Order 13458 (February 4, 2008).

§ 785.1 Scope and definitions.

(a) *Scope.* This part 785 describes the sanctions that apply to violations of the Act and the APR. It also establishes detailed administrative procedures for certain violations of the Act. Violations for which the statutory basis is the Act are set forth in § 785.2 of the APR. BIS investigates these violations, prepares charges, provides legal representation to the U.S. Government, negotiates settlements, and initiates and resolves proceedings. The administrative procedures applicable to these violations are described in §§ 785.3 through 785.19 of the APR.

(b) *Definitions.* The following are definitions of terms as used only in Part 785 of the APR. For definitions of terms applicable to parts 781 through 799 of the APR, unless otherwise noted in this paragraph or elsewhere in the APR, see part 781 of the APR.

The Act. The U.S. Additional Protocol Implementation Act of 2006 (Pub. L. 109–401, 120 Stat. 2726 (December 18, 2006)).

Assistant Secretary for Export Enforcement. The Assistant Secretary for Export Enforcement, Bureau of Industry and Security, United States Department of Commerce.

Final decision. A decision or order assessing a civil penalty, or otherwise disposing of or dismissing a case, which is not subject to further administrative review, but which may be subject to collection proceedings or judicial review in an appropriate Federal court as authorized by law.

Office of Chief Counsel. The Office of Chief Counsel for Industry and Security, United States Department of Commerce.

Recommended decision. A decision of the administrative law judge in proceedings involving violations of Part 785 that is subject to review by the Secretary of Commerce, or a designated United States Government official.

Report. For the purposes of Part 785 of the APR, the term ''report'' means any report required under Parts 783 through 786 of the APR.

Respondent. Any person named as the subject of a letter of intent to charge, a Notice of Violation and Assessment (NOVA), or order.

Under Secretary, Bureau of Industry and Security. The Under Secretary, Bureau of Industry and Security, United States Department of Commerce.

§ 785.2 Violations of the Act subject to administrative and criminal enforcement proceedings.

(a) *Violations*—(1) *Refusal to permit entry or access.* No person may willfully fail or refuse to permit entry or access, or willfully disrupt, delay or otherwise impede complementary access, or an entry in connection with complementary access, authorized by the Act.

(2) *Failure to establish or maintain records.* No person may willfully fail or refuse to do any of the following:

(i) Establish or maintain any record required by the Act or the APR;

(ii) Submit any report, notice, or other information to the United States Government in accordance with the Act or the APR; or

(iii) Permit access to or copying of any record by the United States Government that is related to a person's obligations under the Act or the APR.

(b) *Civil penalties*—(1) *Civil penalty for refusal to permit entry or access.* Any person that is determined to have willfully failed or refused to permit entry or access, or to have willfully disrupted, delayed or otherwise impeded an authorized complementary access, as set forth in paragraph (a)(1) of this section, shall pay a civil penalty in an amount not to exceed $25,000 for each violation. Each day the violation continues constitutes a separate violation.

(2) *Civil penalty for failure to establish or maintain records.* Any person that is determined to have willfully failed or refused to establish or maintain any record, submit any report or other information required by the Act or the APR, or permit access to or copying of any record related to a person's obligations under the Act or the APR, as set forth in paragraph (a)(2) of this section, shall pay a civil penalty in an amount not to exceed $25,000 for each violation.

(c) *Criminal penalty.* Any person that is determined to have violated the Act by willfully failing or refusing to permit entry or access authorized by the Act; by willfully disrupting, delaying or otherwise impeding complementary access authorized by the Act; or by willfully failing or refusing to establish or maintain any required record, submit any required report or other information, or permit access to or copying of any record related to a person's obligations under the Act or the APR, as set forth in paragraph (a) of this section, shall, in addition to or in lieu of any civil penalty that may be imposed, be fined under Title 18 of the United States Code, be imprisoned for not more than five years, or both.

§ 785.3 Initiation of administrative proceedings.

(a) *Issuance of a Notice of Violation and Assessment (NOVA).* Prior to the initiation of an administrative proceeding through issuance of a NOVA, the Bureau of Industry and Security will issue a letter of intent to charge. The letter of intent to charge will advise a respondent that BIS has

conducted an investigation. The letter will give the respondent a specified period of time to contact BIS to discuss settlement of the allegations set forth in the letter of intent to charge. If the respondent does not contact BIS in the time period specified in the letter of intent to charge, the Director of the Office of Export Enforcement, or such other Department of Commerce representative designated by the Assistant Secretary for Export Enforcement, may initiate an administrative enforcement proceeding under this § 785.3 by issuing a NOVA.

(b) *Content of a NOVA.* The NOVA shall constitute a formal complaint and will set forth the alleged violation(s) and the essential facts with respect to the alleged violation(s), reference the relevant statutory, regulatory or other provisions, and state the maximum amount of the civil penalty that could be assessed. The NOVA also will inform the respondent of the requirement to request a hearing pursuant to § 785.4 of the APR.

(c) *Service of a NOVA.* Service of the NOVA shall be made by certified mail or courier delivery with signed acknowledgment of receipt. The date of signed acknowledgment of receipt shall be the effective date of service of the NOVA. One copy of each paper shall be provided to each party in the delivery. BIS files the NOVA with the Administrative Law Judge (ALJ) at the same time that it is sent to the respondent. The ALJ, in turn, will place the case on its docket and will notify both the respondent and BIS of the docket information.

§ 785.4 Request for hearing and answer.

(a) *Deadline for answering the NOVA.* If the respondent wishes to contest the NOVA issued by BIS, the respondent must submit a written request for a hearing to BIS within 15 business days from the date of service of the NOVA. If the respondent requests a hearing, the respondent must answer the NOVA within 30 calendar days from the date of the request for hearing. The request for a hearing and the respondent's answer to the NOVA must be filed with the Administrative Law Judge (ALJ), along with a copy of the NOVA, and served on the Office of Chief Counsel, and any other address(es) specified in the NOVA, in accordance with § 785.6 of the APR.

(b) *Content of respondent's answer.* The respondent's answer must be responsive to the NOVA and must fully set forth the nature of the respondent's defense(s). The answer must specifically admit or deny each separate allegation in the NOVA; if the respondent is without knowledge, the answer will so state and this will serve as a denial. Failure to deny or controvert a particular allegation will be deemed to be an admission of that allegation. The answer must also set forth any additional or new matter that the respondent contends will support a defense or claim of mitigation. Any defense or partial defense not specifically set forth in the answer shall be deemed to be waived, and evidence supporting that defense or partial defense may be refused, except for good cause shown.

(c) *English required.* The request for hearing, the answer to the NOVA, and all other papers and documentary evidence must be submitted in English.

(d) *Waiver.* The failure of the respondent to file a request for a hearing and an answer within the times prescribed in paragraph (a) of this section constitutes a waiver of the respondent's right to appear and contest the allegations set forth in the NOVA. If no hearing is requested and no answer is provided, a final order will be signed by the Secretary of Commerce, or by a designated United States Government official, and will constitute final agency action in the case.

§ 785.5 Representation.

An individual respondent may appear, in person, or be represented by a duly authorized officer or employee. A partner may appear on behalf of a partnership, or a duly authorized officer or employee of a corporation may appear on behalf of the corporation. If a respondent is represented by counsel, counsel shall be a member in good standing of the bar of any State, Commonwealth or Territory of the United States, or of the District of Columbia, or be licensed to practice law in the country in which counsel resides, if not the United States. The U.S. Government will be represented by the Office of Chief Counsel. A respondent personally, or through counsel or other representative who has the power of attorney to represent the respondent, shall file a notice of appearance with the ALJ, or, in cases where settlement negotiations occur before any filing with the ALJ, with the Office of Chief Counsel.

§ 785.6 Filing and service of papers other than the Notice of Violation and Assessment (NOVA).

(a) *Filing.* All papers to be filed with the ALJ shall be addressed to ''Additional Protocol Administrative Enforcement Proceedings,'' at the address set forth in the NOVA, or such other place as the ALJ may designate. Filing by United States certified mail, by express or equivalent parcel delivery service, via facsimile, or by hand delivery is acceptable. Filing from a foreign country shall be by airmail, via facsimile, or by express or equivalent parcel delivery service. A copy of each paper filed shall be simultaneously served on all parties.

(b) *Service.* Service shall be made by United States certified mail, by express or equivalent parcel delivery service, via facsimile, or by hand delivery of one copy of each paper to each party in the proceeding. Service on the government party in all proceedings shall be addressed to Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room H–3839, Washington, DC 20230, or sent via facsimile to (202) 482–0085. Service on a respondent shall be to the address to which the NOVA was sent, or to such other address as the respondent may provide. When a party has appeared by counsel or other representative, service on counsel or other representative shall constitute service on that party.

(c) *Date.* The date of filing or service is the day when the papers are deposited in the mail or are delivered in person, by delivery service, or by facsimile. Refusal by the person to be served, or by the person's agent or attorney, of service of a document or other paper will be considered effective service of the document or other paper as of the date of such refusal.

(d) *Certificate of service.* A certificate of service signed by the party making service, stating the date and manner of service, shall accompany every paper, other than the NOVA, filed and served on the parties.

(e) *Computation of time.* In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period is to be included in the computation unless it is a Saturday, a Sunday, or a legal holiday (as defined in Rule 6(a) of the Federal Rules of Civil Procedure). In such instance, the period runs until the end of the next day that is neither a Saturday, a Sunday, nor a legal holiday. Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation when the period of time prescribed or allowed is 7 days or less—there is no cap on the period of time to which this exclusion applies, whenever the period of time prescribed or allowed by this part is computed in business days, rather than calendar days.

§ 785.7 Summary decision.

The ALJ may render a summary decision disposing of all or part of a proceeding on the motion of any party to the proceeding, provided that there is no genuine issue as to any material fact and the party is entitled to summary decision as a matter of law.

§ 785.8 Discovery.

(a) *General.* The parties are encouraged to engage in voluntary discovery regarding any matter, not privileged, which is relevant to the subject matter of the pending proceeding. The provisions of the Federal Rules of Civil Procedure relating to discovery apply to the extent consistent with this part and except as otherwise provided by the ALJ or by waiver or agreement of the parties. The ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. These orders may include limitations on the scope, method, time and place of discovery, and provisions for protecting the confidentiality of classified or otherwise sensitive information, including Confidential Business Information (CBI) as defined by the Act.

(b) *Interrogatories and requests for admission or production of documents.* A party may serve on any party interrogatories, requests for admission, or requests for production of documents for inspection and copying, and a party may apply to the ALJ for such enforcement or protective order as that party deems warranted with respect to such discovery. The service of a discovery request shall be made at least 30 calendar days before the scheduled date of the hearing unless the ALJ specifies a shorter time period. Copies of interrogatories, requests for admission and requests for production of documents and responses thereto shall be served on all parties and a copy of the certificate of service shall be filed with the ALJ at least 5 business days before the scheduled date of the hearing. Matters of fact or law of which admission is requested shall be deemed admitted unless, within a period designated in the request (at least 10 business days after service, or within such additional time as the ALJ may allow), the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party to whom the request is directed cannot either admit or deny such matters.

(c) *Depositions.* Upon application of a party and for good cause shown, the ALJ may order the taking of the testimony of any person by deposition and the production of specified documents or materials by the person at the deposition. The application shall state the purpose of the deposition and set forth the facts sought to be established through the deposition.

(d) *Enforcement.* The ALJ may order a party to answer designated questions, to produce specified documents or things or to take any other action in response to a proper discovery request. If a party does not comply with such an order, the ALJ may make a determination or enter any order in the proceeding as the ALJ deems reasonable and appropriate. The ALJ may strike related charges or defenses in whole or in part or may take particular facts relating to the discovery request to which the party failed or refused to respond as being established for purposes of the proceeding in accordance with the contentions of the party seeking discovery. In addition, enforcement by any district court of the United States in which venue is proper may be sought as appropriate.

§ 785.9 Subpoenas.

(a) *Issuance.* Upon the application of any party, supported by a satisfactory showing that there is substantial reason to believe that the evidence would not otherwise be available, the ALJ may issue subpoenas to any person requiring the attendance and testimony of witnesses and the production of such books, records or other documentary or physical evidence for the purpose of the hearing, as the ALJ deems relevant and material to the proceedings, and reasonable in scope. Witnesses shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt, challenge or refusal to obey a subpoena served upon any person pursuant to this paragraph, any district court of the United States, in which venue is proper, has jurisdiction to issue an order requiring any such person to comply with a subpoena. Any failure to obey an order of the court is punishable by the court as a contempt thereof.

(b) *Service.* Subpoenas issued by the ALJ may be served by any of the methods set forth in § 785.6(b) of the APR.

(c) *Timing.* Applications for subpoenas must be submitted at least 10 business days before the scheduled hearing or deposition, unless the ALJ determines, for good cause shown, that extraordinary circumstances warrant a shorter time.

§ 785.10 Matters protected against disclosure.

(a) *Protective measures.* The ALJ may limit discovery or introduction of evidence or issue such protective or other orders as in the ALJ's judgment may be needed to prevent undue disclosure of classified or sensitive documents or information. Where the ALJ determines that documents containing classified or sensitive matter must be made available to a party in order to avoid prejudice, the ALJ may direct the other party to prepare an unclassified and nonsensitive summary or extract of the documents. The ALJ may compare the extract or summary with the original to ensure that it is supported by the source document and that it omits only so much as must remain undisclosed. The summary or extract may be admitted as evidence in the record.

(b) *Arrangements for access.* If the ALJ determines that the summary procedure outlined in paragraph (a) of this section is unsatisfactory, and that classified or otherwise sensitive matter must form part of the record in order to avoid prejudice to a party, the ALJ may provide the parties with the opportunity to make arrangements that permit a party or a representative to have access to such matter without compromising sensitive information. Such arrangements may include obtaining security clearances or giving counsel for a party access to sensitive information and documents subject to assurances against further disclosure, including a protective order, if necessary.

§ 785.11 Prehearing conference.

(a) On the ALJ's own motion, or on request of a party, the ALJ may direct the parties to participate in a prehearing conference, either in person or by telephone, to consider:

(1) Simplification of issues;

(2) The necessity or desirability of amendments to pleadings;

(3) Obtaining stipulations of fact and of documents to avoid unnecessary proof; or

(4) Such other matters as may expedite the disposition of the proceedings.

(b) The ALJ may order the conference proceedings to be recorded electronically or taken by a reporter, transcribed and filed with the ALJ.

(c) If a prehearing conference is impracticable, the ALJ may direct the parties to correspond with the ALJ to achieve the purposes of such a conference.

(d) The ALJ will prepare a summary of any actions agreed on or taken pursuant to this section.

The summary will include any written stipulations or agreements made by the parties.

§ 785.12 Hearings.

(a) *Scheduling.* Upon receipt of a valid request for a hearing, the ALJ shall, by agreement with all the parties or upon notice to all parties of at least 30 calendar days from the date of receipt of a request for a hearing, schedule a hearing. All hearings will be held in Washington, DC, unless the ALJ determines, for good cause shown, that another location would better serve the interest of justice.

(b) *Hearing procedure.* Hearings will be conducted in a fair and impartial manner by the ALJ. All hearings will be closed, unless the ALJ for good cause shown determines otherwise. The rules of evidence prevailing in courts of law do not apply, and all evidentiary material deemed by the ALJ to be relevant and material to the proceeding and not unduly repetitious will be received and given appropriate weight, except that any evidence of settlement which would be excluded under Rule 408 of the Federal Rules of Evidence is not admissible. Witnesses will testify under oath or affirmation, and shall be subject to cross-examination.

(c) *Testimony and record.* (1) A verbatim record of the hearing and of any other oral proceedings will be taken by reporter or by electronic recording, and filed with the ALJ. If any party wishes to obtain a written copy of the transcript, that party shall pay the costs of transcription. The parties may share the costs if both want a transcript.

(2) Upon such terms as the ALJ deems just, the ALJ may direct that the testimony of any person be taken by deposition and may admit an affidavit or report as evidence, provided that any affidavits or reports have been filed and served on the parties sufficiently in advance of the hearing to permit a party to file and serve an objection thereto on the grounds that it is necessary that the affiant or declarant testify at the hearing and be subject to cross-examination.

(d) *Failure to appear.* If a party fails to appear in person or by counsel at a scheduled hearing, the hearing may nevertheless proceed. The party's failure to appear will not affect the validity of the hearing or any proceeding or action taken thereafter.

§ 785.13 Procedural stipulations.

Unless otherwise ordered and subject to § 785.14 of the APR, a written stipulation agreed to by all parties and filed with the ALJ will modify the procedures established by this part.

§ 785.14 Extension of time.

The parties may extend any applicable time limitation by stipulation filed with the ALJ before the time limitation expires, or the ALJ may, on the ALJ's own initiative or upon application by any party, either before or after the expiration of any applicable time limitation, extend the time, except that the requirement that a hearing be demanded within 15 calendar days, and the requirement that a final agency decision be made within 60 calendar days, may not be modified.

§ 785.15 Post-hearing submissions.

All parties shall have the opportunity to file post-hearing submissions that may include findings of fact and conclusions of law, supporting evidence and legal arguments, exceptions to the ALJ's rulings or to the admissibility of evidence, and orders and settlements.

§ 785.16 Decisions.

(a) *Recommended decision and order.* After considering the entire record in the case, the ALJ will issue a recommended decision based on a preponderance of the evidence. The decision will include findings of fact, conclusions of law, and a decision based thereon as to whether the respondent has violated the Act. If the ALJ finds that the evidence of record is insufficient to sustain a finding that a violation has occurred with respect to one or more allegations, the ALJ shall order dismissal of the allegation(s) in whole or in part, as appropriate. If the ALJ finds that one or more violations have been committed, the ALJ shall issue an order imposing administrative sanctions.

(b) *Factors considered in assessing penalties.* In determining the amount of a civil penalty, the ALJ shall take into account the nature, circumstances, extent and gravity of the violation(s), and, with respect to the respondent, the respondent's ability to pay the penalty, the effect of a civil penalty on the respondent's ability to continue to do business, the respondent's history of prior violations, and such other matters as justice may require.

(c) *Referral of recommended decision and order.* The ALJ shall immediately issue and serve the recommended decision (and order, if appropriate) to the Office of Chief Counsel, at the address in § 785.6(b) of the APR, and to the respondent, by courier delivery or overnight mail. The recommended decision and order will also be referred to the head of the designated executive agency for final decision and order.

(d) *Final decision and order.* The recommended decision and order shall become the final agency decision and order unless, within 60 calendar days, the Secretary of Commerce, or a designated United States Government official, modifies or vacates it, or unless an appeal has been filed pursuant to paragraph (e) of this section.

(e) *Appeals.* The respondent may appeal the final agency decision within 30 calendar days after the date of certification. Petitions for appeal may be filed in the Court of Appeals for the District of Columbia Circuit or in the Court of Appeals for the district in which the violation occurred.

§ 785.17 Settlement.

(a) *Settlements before issuance of a NOVA.* When the parties have agreed to a settlement of the case prior to issuance of a NOVA, a settlement proposal consisting of a settlement agreement and order will be submitted to the Assistant Secretary for Export Enforcement for approval and signature. If the Assistant Secretary does not approve the proposal, he/she will notify the parties and the case will proceed as though no settlement proposal has been made. If the Assistant Secretary approves the proposal, he/she will issue an appropriate order, and no action will be required by the ALJ.

(b) *Settlements following issuance of a NOVA.* The parties may enter into settlement negotiations at any time during the time a case is pending before the ALJ. If necessary, the parties may extend applicable time limitations or otherwise request that the ALJ stay the proceedings while settlement negotiations continue. When the parties have agreed to a settlement of the case, the Office of Chief Counsel will recommend the settlement to the Assistant Secretary for Export Enforcement, forwarding a proposed settlement agreement and order, which the Assistant Secretary will approve and sign. If a NOVA has been filed, the Office of Chief Counsel will send a copy of the settlement proposal to the ALJ.

(c) *Settlement scope.* Any respondent who agrees to an order imposing any administrative sanction does so solely for the purpose of resolving the claims in the administrative enforcement proceeding brought under this part. The government officials involved have neither the authority nor the responsibility for initiating, conducting, settling, or otherwise disposing of criminal proceedings. That authority and responsibility are vested in the Attorney General and the Department of Justice.

(d) *Finality.* Cases that are settled may not be reopened or appealed, absent a showing of good cause. Appeals and

requests to reopen settled cases must be submitted to the Assistant Secretary for Export Enforcement within 30 calendar days of the execution of a settlement agreement.

§ 785.18 Record for decision.

(a) *The record.* The transcript of hearings, exhibits, rulings, orders, all papers and requests filed in the proceedings, and, for purposes of any appeal under § 785.16 of the APR, the decision of the ALJ and such submissions as are provided for under § 785.16 of the APR will constitute the record and the exclusive basis for decision. When a case is settled, the record will consist of any and all of the foregoing, as well as the NOVA or draft NOVA, settlement agreement, and order.

(b) *Restricted access.* On the ALJ's own motion, or on the motion of any party, the ALJ may direct that there be a restricted access portion of the record for any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. A party seeking to restrict access to any portion of the record is responsible, prior to the close of the proceeding, for submitting a version of the document(s) proposed for public availability that reflects the requested deletion. The restricted access portion of the record will be placed in a separate file and the file will be clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings. The ALJ may act at any time to permit material that becomes declassified or unrestricted through passage of time to be transferred to the unrestricted access portion of the record.

(c) *Availability of documents*—(1) Scope. All NOVAs and draft NOVAs, answers, settlement agreements, decisions and orders disposing of a case will be displayed on the BIS Freedom of Information Act (FOIA) Web site, at *http://www.bis.doc.gov/foia,* which is maintained by the Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce. The Office of Administration does not maintain a separate inspection facility. The complete record for decision, as defined in paragraphs (a) and (b) of this section will be made available on request.

(2) *Timing.* The record for decision will be available only after the final administrative disposition of a case. Parties may seek to restrict access to any portion of the record under paragraph (b) of this section.

§ 785.19 Payment of final assessment.

(a) *Time for payment.* Full payment of the civil penalty must be made within 30 days of the effective date of the order or within such longer period of time as may be specified in the order. Payment shall be made in the manner specified in the NOVA.

(b) *Enforcement of order.* The government party may, through the Attorney General, file suit in an appropriate district court if necessary to enforce compliance with a final order issued under the APR. This suit will include a claim for interest at current prevailing rates from the date of expiration of the 60-day period referred to in § 785.16(d), or the date of the final order, as appropriate.

(c) *Offsets.* The amount of any civil penalty imposed by a final order may be deducted from any sum(s) owed by the United States to a respondent.

§ 785.20 Reporting a violation.

If a person learns that a violation of the Additional Protocol, the Act, or the APR has occurred or may occur, that person may notify: Office of Export Enforcement, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room H–4520, Washington, DC 20230; *Tel:* (202) 482–1208; *Facsimile:* (202) 482–0964.

PART 786—RECORDS AND RECORDKEEPING

Sec.
786.1 Inspection of records.
786.2 Recordkeeping.
786.3 Destruction or disposal of records.

Authority: Public Law 109–401, 120 Stat. 2726 (December 18, 2006); Executive Order 13458 (February 4, 2008).

§ 786.1 Inspection of records.

Upon request by BIS, you must permit access to and copying of any record relating to compliance with the requirements of the APR. This requires that you make available the equipment and, if necessary, knowledgeable personnel for locating, reading, and reproducing any record. Copies may be necessary to facilitate IAEA Team review of documents during complementary access. The IAEA Team may not remove these documents from the location without BIS authorization (see § 784.3(j)(2) of the APR).

§ 786.2 Recordkeeping.

(a) *Requirements.* Each person and location required to submit a report or correspondence under Parts 782 through 784 of the APR must retain all supporting materials and documentation used to prepare such report or correspondence.

(b) *Three year retention period.* All supporting materials and documentation required to be kept under paragraph (a) of this section must be retained for three years from the due date of the applicable report or for three years from the date of submission of the applicable report, whichever is later. Due dates for reports and correspondence are indicated in Parts 782 through 784 of the APR.

(c) *Location of records.* Records retained under this section must be maintained at the location or must be accessible at the location for purposes of complementary access at the location by IAEA Teams.

(d) *Reproduction of original records.* (1) You may maintain reproductions instead of the original records, provided all of the requirements of paragraph (b) of this section are met.

(2) If you must maintain records under this part, you may use any photostatic, miniature photographic, micrographic, automated archival storage, or other process that completely, accurately, legibly and durably reproduces the original records (whether on paper, microfilm, or through electronic digital storage techniques). The process must meet all of the following requirements, which are applicable to all systems:

(i) The system must be capable of reproducing all records on paper.

(ii) The system must record and be able to reproduce all marks, information, and other characteristics of the original record, including both obverse and reverse sides (unless blank) of paper documents in legible form.

(iii) When displayed on a viewer, monitor, or reproduced on paper, the records must exhibit a high degree of legibility and readability. For purposes of this section, legible and legibility mean the quality of a letter or numeral that enable the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readable and readability mean the quality of a group of letters or numerals being recognized as complete words or numbers.

(iv) The system must preserve the initial image (including both obverse and reverse sides, unless blank, of paper documents) and record all changes, who made them and when they were made. This information must be stored in such a manner that none of it may be altered once it is initially recorded.

(v) You must establish written procedures to identify the individuals who are responsible for the operation, use and maintenance of the system.

(vi) You must keep a record of where, when, by whom, and on what equipment the records and other information were entered into the system.

(3) *Requirements applicable to a system based on digital images.* For systems based on the storage of digital images, the system must provide accessibility to any digital image in the system. The system must be able to locate and reproduce all records according to the same criteria that would have been used to organize the records had they been maintained in original form.

(4) *Requirements applicable to a system based on photographic processes.* For systems based on photographic, photostatic, or miniature photographic processes, the records must be maintained according to an index of all records in the system following the same criteria that would have been used to organize the records had they been maintained in original form.

§ 786.3 Destruction or disposal of records.

If BIS or any other authorized U.S. government agency makes a formal or informal request for a certain record or records, such record or records may not be destroyed or disposed of without the written authorization of the requesting entity.

PARTS 787–799—[RESERVED]

Dated: July 17, 2008.

Christopher R. Wall,

Assistant Secretary for Export Administration.

[FR Doc. E8–16815 Filed 7–24–08; 8:45 am]

BILLING CODE 3510–33–P

Federal Register

Friday,
July 25, 2008

Part V

The President

Notice of July 23, 2008—Continuation of Emergency Regarding Export Control Regulations

Federal Register
Vol. 73, No. 144
Friday, July 25, 2008

Presidential Documents

Title 3—

The President

Notice of July 23, 2008

Continuation of Emergency Regarding Export Control Regulations

On August 17, 2001, consistent with the authority provided to me under the International Emergency Economic Powers Act (50 U.S.C. 170l *et seq.*), I issued Executive Order 13222. In that order, I declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on August 17, 2001, must continue in effect beyond August 17, 2008. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13222.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
July 23, 2008.

[FR Doc. 08–1467
Filed 07–24–08; 9:06 am]
Billing code 3195–W8–P

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Bombardier Model DHC-8-400, DHC-8-401, and DHC-8-402 Airplanes; comments due by 8-1-08; published 7-2-08 [FR E8-14964]

Dornier Model 328-100 and -300 Airplanes; comments due by 7-28-08; published 5-29-08 [FR E8-11468]

Dowty Propellers Models R354/4 123 F/13, et al.; comments due by 7-30-08; published 6-30-08 [FR E8-14715]

Fokker Model F.28 Mark 0070 and 0100 Airplanes; comments due by 8-1-08; published 7-2-08 [FR E8-14969]

Fokker Model F.28 Mark 0070 and Mark 0100 Airplanes; comments due by 8-1-08; published 7-2-08 [FR E8-14976]

Rolls-Royce plc (RR) RB211 Trent 500 Series Turbofan Engines; comments due by 7-29-08; published 5-30-08 [FR E8-11946]

Proposed Establishment of Class E Airspace; Weiser, ID; comments due by 7-31-08; published 6-16-08 [FR E8-13514]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

National Standards for Traffic Control Devices:

Uniform Traffic Control Devices for Streets and Highways Manual; Revision; comments due by 7-31-08; published 1-2-08 [FR E7-24863]

TRANSPORTATION DEPARTMENT

Federal Motor Carrier Safety Administration

Medical Certification Requirements as Part of the Commercial Driver's License:

Availability of Supplemental Document; comments due by 7-28-08; published 6-27-08 [FR E8-14608]

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Suspension of Running of Period of Limitations During a Proceeding to Enforce or Quash a Designated or Related Summons; comments due by 7-28-08; published 4-28-08 [FR E8-09147]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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.

H.R. 3403/P.L. 110–283
New and Emerging Technologies 911 Improvement Act of 2008 (July 23, 2008; 122 Stat. 2620)

H.R. 3712/P.L. 110–284
To designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. Ashley and Thomas W.L. Ashley United States Courthouse". (July 23, 2008; 122 Stat. 2627)

Last List July 24, 2008

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