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Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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Presidential Documents

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The President

Proclamation 8063 of October 4, 2006

Leif Erikson Day, 2006

By the President of the United States of America

A Proclamation

Leif Erikson Day honors a great son of Iceland and grandson of Norway who became one of the first Europeans known to reach North America. This day is also an opportunity to celebrate the generations of Nordic Americans who have contributed to our country and strengthened the ties that forever bind the United States with Denmark, Finland, Iceland, Norway, and Sweden.

Like the crew of risk takers that Leif Erikson boldly led on a quest to find new lands, Americans have always valued the ideals of exploration and discovery. A desire to seek and understand inspired their voyage more than a millennium ago, and it remains a central part of our national character as a new generation pursues great new goals today. Nordic Americans continue to make valuable contributions to our society that have expanded human knowledge and helped make our world a better place.

To honor Leif Erikson and to celebrate our citizens of Nordic-American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 9, 2006, as Leif Erikson Day. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs to honor our rich Nordic-American heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–8610
Filed 10–6–06; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1218

[Doc. No. FV–06–705–Notice]

Blueberry Promotion, Research, and Information Order; Results of Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Continuance Referendum Results.

SUMMARY: The Agricultural Marketing Service's Continuance Referendum shows that cultivated blueberry producers and importers favor the continuation of the Blueberry Promotion, Research, and Information Order (Order). The Continuance Referendum was held from August 1, 2006, through August 22, 2006. The Department of Agriculture (Department) will continue the Order if it is favored by a majority of producers and importers voting, who also represent a majority of the volume of blueberries represented in the referendum. The results of the continuance referendum shows 86.9% (293) of producers and importers, who also represent 93.9% (100,685,843 pounds) of the volume of blueberries represented in the referendum, favor the continuance of the Order.

FOR FURTHER INFORMATION CONTACT: Deborah S. Simmons, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Stop 0244, Room 0635–S, 1400 Independence Avenue, SW., Washington, DC 20250–0244, telephone 888–720–9917 (toll free), Fax 202–205–2800, e-mail *deborah.simmons@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research, and Information Act of 1996 [Pub. L. 104–427, 7 U.S.C. 7401–7425] (Act), a referendum is to be conducted not later than seven years after assessments first begin under an order to ascertain whether continuance of the Order is favored by producers and importers of blueberries. The Order is authorized under the Act.

The initial referendum was conducted during the period of March 13 through April 14, 2000. The final results of the initial referendum were that 67.84 percent of the voters in the referendum favored implementation of the Order. Those voting in favor represented 73.15 percent of the volume represented in the referendum. Therefore, the Order became effective July 17, 2000.

Under section 1218.71 of the Order, the Department is authorized to conduct a referendum every five years or when 10 percent or more of the eligible voters petition the Secretary of Agriculture to hold a referendum to determine if persons subject to assessment favor continuance of the Order. The Department would continue the Order if continuance of the Order is approved by a majority of the producers and importers voting in the referendum who also represent a majority of the volume of blueberries produced or imported during the representative period determined by the Secretary.

A notice of a Continuance Referendum was publicized in the **Federal Register** on May 26, 2006, at 71 FR 30317. Blueberry producers and importers who were engaged in the production or importation of blueberries and paid assessments during the representative period between November 1, 2004, and October 31, 2005, were eligible to vote. Persons who received an exemption from assessments for the entire representative period were ineligible to vote. The referendum was conducted by mail from August 1, 2006, through August 22, 2006.

The results of the continuance referendum shows 86.9% (293) of producers and importers, who also represent 93.9% (100,685,843 pounds) of the volume of blueberries represented in the referendum, favor the continuance of the Order. This is a majority of producers and importers, who also represent a majority of the volume of blueberries represented in the referendum. Therefore, based on the Continuance Referendum results, the Order shall continue. In accordance with the provisions of the Order, blueberry producers and importers will be provided another opportunity to participate in a continuance referendum in five years.

Authority: 7 U.S.C. 7401–7425.

Dated: October 3, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–16636 Filed 10–6–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26004; Directorate Identifier 2006–NM–212–AD; Amendment 39–14785; AD 2006–21–02]

RIN 2120–AA64

Airworthiness Directives; Raytheon (Beech) Model 400, 400A, and 400T Series Airplanes; and Raytheon (Mitsubishi) Model MU–300 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Raytheon (Beech) Model 400, 400A, and 400T series airplanes; and Raytheon (Mitsubishi) Model MU–300 airplanes. This AD requires revising the airplane flight manual to modify the Operating Limitations, Abnormal Procedures, and Normal Procedures, as applicable, for flight in icing conditions. This AD results from multiple reports of high-altitude, dual-engine flameouts on airplanes operating in certain meteorological conditions. We are issuing this AD to advise the flightcrew that the buildup of ice on certain internal areas of the engine could result in a dual-engine flameout and what action they must take to avoid this hazard.

DATES: This AD becomes effective October 25, 2006.

The Director of the Federal Register approved the incorporation by reference

of certain publications listed in the AD as of October 25, 2006.

We must receive comments on this AD by December 11, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Steve Roell, Aerospace Engineer, Flight Test and Program Management Branch, ACE–117W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4146; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report that, on June 14, 2006, a Raytheon Model 400A (Beechjet 400A) airplane lost all power while in cruise flight near Norfolk, Virginia. Both engines restarted and the airplane landed without further incident. The pilots reported that the airplane was in clouds at the time of the incident. Due to concern about entering a cloud deck, the pilots decided to turn on the engine anti-ice. The pilots followed the instruction in the airplane flight manual (AFM) to reduce power before activating anti-ice. Both engines flamed out simultaneously as soon as they retarded the throttles but before they could turn on the engine anti-ice.

We have also received other reports of engine failure on Model Raytheon 400A (Beechjet 400A) airplanes operating in certain meteorological conditions. Further analysis by the engine manufacturer demonstrated that, with engine anti-ice off, conditions along the engine internal flow path can allow ice crystals to stick on warm surfaces and accrete rapidly in areas like the leading edges of the front inner compressor stator of the engine. The resulting ice buildup could result in a compressor surge or flameout and consequent loss of engine power. This condition, if not corrected, could result in a dual-engine flameout.

Relevant Service Information

We have reviewed the Raytheon temporary changes (TCs), all dated September 15, 2006, to the AFMs specified in the following table. The TCs describe revisions to the AFMs to modify the Operating Limitations, Abnormal Procedures, and Normal Procedures, as applicable, for flight in icing conditions. Accomplishing the revisions to the AFMs as specified in the TCs is intended to adequately address the unsafe condition.

RAYTHEON TEMPORARY CHANGES

For Raytheon airplane model—	Use Raytheon TC—	Subject title—	To the Raytheon AFM—
MU–300 (Diamond I)	MR–0460TC5	In Flight Operation of Ice Protection Systems	MR–0460
MU–300 (Diamond IA)	MR–0873TC5	In Flight Operation of Ice Protection Systems	MR–0873
400 (Beechjet 400)	128–590001–13BTC6	Anti/Deice Systems (In Flight Operation)	128–590001–13B
400A (Beechjet 400A)	128–590001–91TC12	Anti/Deice Systems (In Flight Operation)	128–590001–91
400A (Beechjet 400A)	128–590001–95TC13	Anti/Deice Systems (In Flight Operation)	128–590001–95
400A (Beechjet 400A)	128–590001–107TC11	Anti/Deice Systems (In Flight Operation)	128–590001–107
400A (Beechjet 400A)	128–590001–109TC12	Anti/Deice Systems (In Flight Operation)	128–590001–109
400A (Beechjet 400A), Hawker 400XP (Model 400A).	128–590001–167TC18	Anti/Deice Systems (In Flight Operation)	128–590001–167
400A (Beechjet 400A)	128–590001–169TC9	Anti/Deice Systems (In Flight Operation)	128–590001–169
400T (Beechjet 400T)	132–590002–5TC4	Anti/Deice Systems (In Flight Operation)	132–590002–5
400T (Beechjet 400T (TX))	134–590002–1TC4	Anti/Deice Systems (In Flight Operation)	134–590002–1B1

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to advise the flightcrew that the buildup of ice on certain internal areas of the engine could result in a dual-engine flameout and what action they must take to avoid this hazard. This AD requires accomplishing the actions specified in the service information described previously.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2006–26004; Directorate Identifier 2006–NM–212–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of that web site, anyone can find and read the comments in any

of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–21–02 Raytheon Aircraft Company (Formerly Beech): Amendment 39–14785. Docket No. FAA–2006–26004; Directorate Identifier 2006–NM–212–AD.

Effective Date

(a) This AD becomes effective October 25, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Raytheon (Beech) Model 400, 400A, and 400T series airplanes; and Raytheon (Mitsubishi) Model MU–300 airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from multiple reports of high-altitude, dual-engine flameout on airplanes operating in certain meteorological conditions. We are issuing this AD to advise the flightcrew that the buildup of ice on certain internal areas of the engine could result in a dual-engine flameout and what action they must take to avoid this hazard.

Compliance

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

Revisions to the Airplane Flight Manual (AFM)

(f) Within 7 days after the effective date of this AD, revise the Operating Limitations, Abnormal Procedures, and Normal Procedures sections, as applicable, of the applicable AFM to include the information in the Raytheon temporary changes (TCs), all dated September 15, 2006, as specified in Table 1 of this AD.

Note 1: The actions required by paragraph (f) of this AD may be done by inserting a copy of the applicable TC into the applicable AFM. When the information in the applicable TC has been included in the AFM, the general revisions may be inserted in the AFM and the copy of the applicable TC may be removed, provided the relevant information in the general revisions is identical to that in the applicable TC.

TABLE 1.—TEMPORARY CHANGES

For Raytheon airplane model—	Which is identified in the Raytheon TC as—	Use Raytheon TC—	Subject Title—	To the Raytheon AFM—
MU–300	MU–300 Diamond I	MR–0460TC5	In Flight Operation of Ice Protection Systems	MR–0460
MU–300	MU–300 Diamond IA	MR–0873TC5	In Flight Operation of Ice Protection Systems	MR–0873
400	Beechjet 400	128–590001–13BTC6	Anti/Deice Systems (In Flight Operation)	128–590001–13B
400A	Beechjet (Model 400A)	128–590001–91TC12	Anti/Deice Systems (In Flight Operation)	128–590001–91
400A	Beechjet (Model 400A)	128–590001–95TC13	Anti/Deice Systems (In Flight Operation)	128–590001–95
400A	Beechjet (Model 400A)	128–590001–107TC11	Anti/Deice Systems (In Flight Operation)	128–590001–107
400A	Beechjet (Model 400A)	128–590001–109TC12	Anti/Deice Systems (In Flight Operation)	128–590001–109
400A	Beechjet (Model 400A), Hawker 400XP (Model 400A).	128–590001–167TC18	Anti/Deice Systems (In Flight Operation)	128–590001–167
400A	Beechjet (Model 400A)	128–590001–169TC9	Anti/Deice Systems (In Flight Operation)	128–590001–169
400T	Beechjet (Model 400T)	132–590002–5TC4	Anti/Deice Systems (In Flight Operation)	132–590002–5

TABLE 1.—TEMPORARY CHANGES—Continued

For Raytheon airplane model—	Which is identified in the Raytheon TC as—	Use Raytheon TC—	Subject Title—	To the Raytheon AFM—
400T	Beechjet Model 400T (TX).	134–590002–1TC4	Anti/Deice Systems (In Flight Operation)	134–590002–1B1

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Wichita Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Material Incorporated by Reference

(h) You must use the service information specified in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Raytheon temporary change—	Dated—	To the Raytheon airplane flight manual—
128–590001–107TC11	September 15, 2006	128–590001–107
128–590001–109TC12	September 15, 2006	128–590001–109
128–590001–13BTC6	September 15, 2006	128–590001–13B
128–590001–167TC18	September 15, 2006	128–590001–167
128–590001–169TC9	September 15, 2006	128–590001–169
128–590001–91TC12	September 15, 2006	128–590001–91
128–590001–95TC13	September 15, 2006	128–590001–95
132–590002–5TC4	September 15, 2006	132–590002–5
134–590002–1TC4	September 15, 2006	134–590002–1B1
MR–0460TC5	September 15, 2006	MR–0460
MR–0873TC5	September 15, 2006	MR–0873

Issued in Renton, Washington, on September 29, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–16552 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25259; Directorate Identifier 2006–CE–36–AD; Amendment 39–14783; AD 2006–20–13]

RIN 2120–AA64

Airworthiness Directives; Fuji Heavy Industries, Ltd. FA–200 Series Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to require actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective November 14, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 14, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 9, 2006 (71 FR 45449). That NPRM proposed to require creation of inspection holes, corrosion inspection of the flange of the wing spar, repair of corrosion if necessary, and removal of the sealing compound.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

Jack Buster with the Modification and Replacement Parts Association (MARPA) provides comments on the MCAI AD process pertaining to how the FAA addresses publishing manufacturer service information as part of a proposed AD action. The commenter states that the proposed rule attempts to require compliance with a public law by reference to a private writing (as referenced in paragraph (e) of the

proposed AD). The commenter would like the FAA to incorporate by reference (IBR) the Fuji service bulletin.

We agree with Mr. Buster. However, we do not IBR any document in a proposed AD action, instead we IBR the document in the final rule. Since we are issuing the proposal as a final rule AD action, Fuji Heavy Industries, Ltd. (FHI) Service Bulletin No. 200–015, dated February 28, 2006, is incorporated by reference.

Mr. Buster requests IBR documents be made available to the public by publication in the **Federal Register** or in the Docket Management System (DMS).

We are currently reviewing issues surrounding the posting of service bulletins in the Department of Transportation's DMS as part of the AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements, if any, take precedence over the actions copied from the MCAI.

Costs of Compliance

We estimate that this AD will affect 3 products of U.S. registry. We also estimate that it will take about 128 work-hours per product to comply with this AD. The average labor rate is $80 per work-hour. Required parts will cost about $100 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $31,020, or $10,340 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–20–13 Fuji Heavy Industries, Ltd.: Amendment 39–14783 Docket No. FAA–2006–25259; Directorate Identifier 2006–CE–36–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 14, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all FA–200 series airplanes, certificated in any U.S. category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that the aircraft manufacturer has identified field reports indicating corrosion of the flanges of the main wing spars. If not corrected, the corrosion could cause deterioration of wing strength. The MCAI requires creation of inspection holes, corrosion inspection of the flange of the wing spar, repair of corrosion if necessary and removal of the sealing compound. You may obtain further information by examining the MCAI in the docket.

Actions and Compliance

(e) Unless already done, do the following except as stated in paragraph (f) below.

(1) Within 1 year after the effective date of this AD, carry out creation of inspection holes, corrosion inspection of the flange of the wing spar, repair of corrosion if necessary, and removal of the sealing compound in accordance with Fuji Heavy Industries, Ltd. (FHI) Service Bulletin (SB) No. 200–015, dated February 28, 2006.

(2) Repetitively inspect the flange of the wing spar for corrosion at intervals not to exceed 5 years. Before further flight, repair corrosion, if necessary, in accordance with the SB.

FAA AD Differences

(f) The SB calls out contacting Fuji Heavy Industries Ltd. for a structural integrity evaluation if measured thickness exceeds minimum allowable limits or if corrosion is

found on main spar flange in areas other than fuel tank bay. Per paragraph (g)(2) of this AD, any corrective action in this aspect or any other aspect per this AD must be FAA-approved before returning the airplane to service.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Return to Airworthiness:* When complying with this AD, perform FAA-approved corrective actions before returning the product to an airworthy condition.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) This AD is related to Japan Civil Aviation Bureau AD TCD–6832–2006, Date of Issue: April 10, 2006, which references Fuji Heavy Industries Ltd. SB No. 200–015, dated February 28, 2006.

Material Incorporated by Reference

(i) You must use Fuji Heavy Industries Ltd. SB No. 200–015, dated February 28, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Fuji Heavy Industries, Ltd., AEROSPACE COMPANY, 1–11 YOUNAN 1 CHOME UTSUNOMIYA TOCHIGI, JAPAN 320–8564; telephone: +81–28–684–7253; facsimile: +81–28–684–7260.

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

Issued in Kansas City, Missouri, on September 27, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–16354 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23815; Directorate Identifier 2005–NM–222–AD; Amendment 39–14784; AD 2006–21–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Boeing Model 737 airplanes. This AD requires repetitive measurement of the freeplay of both aileron balance tabs; repetitive lubrication of the aileron balance tab hinge bearings and rod end bearings; and related investigative and corrective actions if necessary. This AD results from reports of freeplay-induced vibration of the aileron balance tab. The potential for vibration of the control surface should be avoided because the point of transition from vibration to divergent flutter is unknown. We are issuing this AD to prevent excessive vibration of the airframe during flight, which could result in loss of control of the airplane.

DATES: This AD becomes effective November 14, 2006. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of November 14, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6450; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Boeing Model 737 airplanes. That NPRM was published in the **Federal Register** on February 8, 2006 (71 FR 6417). That NPRM proposed to require repetitive measurement of the freeplay of both aileron balance tabs; repetitive lubrication of the aileron balance tab hinge bearings and rod end bearings; and related investigative and corrective actions if necessary.

Comments

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

Request To Revise Initial Compliance Times

Boeing, the airplane manufacturer, requests that the initial compliance times for the freeplay measurement and the lubrication be revised. Specifically, Boeing asks that airplanes completed after release of the AD be allowed a compliance threshold of 24 months for the freeplay measurement. The commenter explains that the initial compliance time of 18 months for the measurement resulted partially from a need for a more timely inspection to address airplanes currently in service that may not have been maintained frequently enough and that consequently may have excessive freeplay. For this reason, the initial compliance time is shorter than the repetitive intervals. But the commenter notes that when airplanes leave its production line, excessive freeplay is not yet an issue. So, for the actions in paragraph (g) of the NPRM, the commenter suggests that airplanes delivered more recently or in the future should be given a compliance time of 24 months after the date of issuance of the original standard airworthiness certificate or original export certificate of airworthiness, or 18 months after the effective date of the AD, whichever is later.

The commenter also states that the initial compliance time for the lubrication for all airplanes should be equal to the lowest of the repetitive intervals (9 months) specified in the NPRM because airplanes may be

delivered with either type of grease. The commenter suggests that the compliance time for paragraph (i) of the NPRM be revised to 9 months after the date of issuance of the original standard airworthiness certificate or original export certificate of airworthiness, or 9 months after the effective date of this AD, whichever is later.

The commenter notes that it is planning to incorporate these changes in an upcoming revision to Boeing Special Attention Service Bulletin 737–27–1273, dated September 29, 2005. (The NPRM refers to that service bulletin as the appropriate source of service information for Boeing 737–600, –700, –700C, –800, and –900 series airplanes. The parallel service bulletin for Boeing Model 737–100, –200, –300, –400, and –500 series airplanes is Boeing Special Attention Service Bulletin 737–27–1272, dated September 29, 2005.)

We agree with Boeing to revise the initial compliance times, for the reasons that Boeing states in its comment. We have determined that extending the initial compliance times for certain airplanes will not adversely affect safety. We have revised the compliance times in paragraphs (g) and (i) of this AD accordingly.

Request To Revise Applicability of Repetitive Intervals

Boeing requests that the wording of the applicability for the repetitive intervals specified in paragraphs (i)(2) and (i)(3) of the NPRM be revised. The commenter states that the intent of the wording in Boeing Special Attention Service Bulletin 737–27–1273 was for the longer repetitive interval to be allowed only if BMS 3–33 grease is already in use at the time the lubrication task is being accomplished. Boeing recommends that paragraph (i)(2) of the NPRM be revised to read ''* * * BMS 3–33 grease is not already being used * * *'' and paragraph (i)(3) of the NPRM be revised to read ''* * * BMS 3–33 grease is already being used * * *.'' This will prevent an operator taking credit for planned future use of BMS 3–33 grease.

We agree with the commenter. For clarity, we have revised paragraphs (i)(2) and (i)(3) of this AD.

Request To Revise Compliance Times and Repetitive Intervals

Several commenters—AirTran Airways (AirTran), British Airways (BA), and the Air Transport Association (ATA) on behalf of its member American Airlines (AA), and Ryanair—request that we revise the initial compliance times and repetitive intervals specified in the NPRM.

AirTran and BA specifically request that we revise the compliance times to more closely match the flight-hour limits determined by Maintenance Steering Group 3 (MSG3). AirTran notes that the MSG3 flight-hour limits are based on average utilization of the fleet. AirTran states that, for an airplane with an average utilization of 8 hours/day, the calendar time element of the compliance times proposed in the NPRM is potentially 27 percent less than the limits determined by MSG3. BA notes that the repetitive interval for the freeplay measurement in the similar task in the maintenance planning document (MPD) is 8,000 flight hours, and the repetitive interval for the lubrication in the similar MPD tasks is 4,000 flight hours, without calendar-time limits. These intervals were established during the MSG3 analysis, and BA questions our rationale for introducing a 24-month limit for the measurements and a 12-month limit for the lubrications. Based on its data, BA states that it agrees with the need for the freeplay measurement, but not with the 24-month calendar limit. BA states that the MPD intervals are adequate to control the wear rate of the aileron tab hinges and control rods.

Also, the ATA, on behalf of AA, observes that the proposed repetitive interval for lubrications is more frequent than AA's existing schedule of 5,000 flight hours. AA contends that the 5,000-flight-hour interval is sufficient, given that it has not measured freeplay of the aileron tab outside the required limits. (AA also states that, for scheduling convenience, it accomplishes the repetitive measurement for freeplay at a 5,000-flight-hour interval.)

Ryanair asks that, if we do not agree to remove 737NG airplanes from the applicability (see ''Request to Remove 737NG Airplanes from Applicability,'' below), we consider relaxing the initial compliance time and repetitive intervals. Ryanair states that the initial compliance time and repetitive intervals seem too short, particularly for a problem that has never been reported on this airplane type and for newer airplanes.

We do not agree with the commenters' requests to revise the compliance times and repetitive intervals. With regard to the requests to more closely match the intervals established by MSG3, we have determined that the limits currently specified in the MPD may not be adequate to ensure that the aileron balance tabs are properly maintained on airplanes currently in service. Also, the maintenance program documents to which BA refers can change without the knowledge or consent of The Manager, Seattle Aircraft Certification Office (ACO), FAA, and compliance times must be based on defined intervals to ensure that the required action in an AD will be done within an appropriate timeframe for safe operation of the airplane.

In developing appropriate compliance times for the actions in this AD, we considered the urgency associated with the subject unsafe condition, the manufacturer's recommendation, and the practical aspect of accomplishing the required measurements and lubrications within a period of time that corresponds to the normal scheduled maintenance for most affected operators. Also, while we have taken into account the average utilization rate of the affected airplanes, it would be nearly impossible to customize the AD to take into consideration each operator's utilization rate. In consideration of these items, as well as the reports of freeplay-induced vibration of the aileron balance tab, we have determined that the repetitive intervals as proposed are appropriate.

With regard to Ryanair's statement that the initial compliance times are too low for newer airplanes, we note that, as explained previously under ''Request to Revise Initial Compliance Times,'' we have revised paragraphs (g) and (i) of this AD to extend the compliance times for airplanes delivered more recently.

We have made no further changes to this AD.

Request To Refer to Alternative Source of Service Information

BA requests that we revise the NPRM to refer to a certain MPD task, Task 27–022–01, or its associated task card, 27–022–01–01, as an acceptable source of service information for the repetitive measurements of freeplay of the aileron control balance tabs. The commenter states that the measurement in the MPD task and its associated task card is the same as that specified in Boeing Special Attention Service Bulletin 737–27–1272, for Boeing 737–100, –200, –200C, –300, –400, and –500 series airplanes.

We do not agree to allow the MPD tasks as an acceptable source of service information for accomplishing the freeplay measurement. We find that neither appropriate procedures nor applicable limits are specified in the MPD tasks that describe checking the ailerons for freeplay. Thus, the MPD tasks are not adequate to ensure that the aileron balance tab would be maintained to an acceptable level of safety. Further, an MPD task may be revised in the future without authorization by the Manager, Seattle

ACO. Such a revision could result in differences between the MPD task and the requirements of this AD. Operators may request approval of an alternative method of compliance (AMOC) in accordance with paragraph (k) of this AD if data are presented to substantiate that the actions provide an acceptable level of safety.

Request for Credit for Actions Accomplished Previously

Similarly, several commenters—BA, AirTran, and the ATA on behalf of its members Delta Airlines (DAL) and AA—request that we revise the NPRM to give credit for actions accomplished before the effective date of the AD in accordance with the MPD or the airplane maintenance manual (AMM). Specific requests are as follows:

- BA asks that the most recent accomplishment of MPD Task 27–022–01 be considered as acceptable for the initial measurement that would be required by paragraph (g) of the NPRM. BA also asks that the most recent accomplishment of MPD Task 27–018–01 be considered as acceptable for compliance with the initial lubrication that would be required by paragraph (i) of the NRPM.
- AirTran asks that we revise the NPRM to give credit for doing the initial freeplay measurement in accordance with 737 Next Generation (737NG, defined as Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes) MPD Task 27–033–00, and doing the initial lubrication in accordance with 737NG MPD Tasks 27–026–01 and 27–026–02. AirTran states that these tasks are the same as the procedures for the measurement and lubrication specified in Boeing Special Attention Service Bulletin 737–27–1273.
- DAL asks that we revise the NPRM to give credit specifically for lubrications of the aileron balance tab accomplished previously in accordance with MPD Tasks 27–026–01 and 27–026–02 and the AMM. The commenter notes that Boeing has advised that the existing lubrication procedures specified in the AMM are acceptable, and Boeing would support allowing operators credit for previous lubrications. (The commenter also notes that Boeing does not consider the freeplay inspection procedures in the AMM to be adequate for compliance with Service Bulletin 737–27–1273.)

We do not agree to give credit for measurements and lubrications accomplished in accordance with the MPD tasks referenced by the commenters. As we explained previously, an MPD task may have been revised without the authorization of the Manager, Seattle ACO, potentially resulting in differences between the MPD task and the requirements of this AD. However, operators may request approval of an AMOC in accordance with paragraph (k) of this AD if data are presented to substantiate that the actions provide an acceptable level of safety.

We partially agree with the request to give credit for actions accomplished in accordance with the AMM. The service bulletins refer to specific chapters of the AMM as a source of an acceptable procedure for lubricating the aileron balance tab components. Lubrications accomplished according to the chapters of the AMM specified in the relevant service bulletin are acceptable for compliance with the corresponding requirements of paragraph (i) of this AD. We find that no change to the AD is needed to give credit for these actions. Credit for actions accomplished previously is always provided through this statement included in paragraph (e) of this AD: ''You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.'' We have not changed the AD in this regard.

Request To Remove 737NG Airplanes From Applicability

Ryanair requests that we review the applicability of the NPRM for 737NG airplanes. The commenter believes that the NPRM is too severe for 737NG airplanes. The commenter is not aware of any reports of freeplay-induced vibrations on 737NG airplanes.

We infer that the commenter is asking us to remove Model 737NG airplanes from the applicability of this AD. We do not agree. The aileron balance tab design is the same on both Model 737 ''Classic'' airplanes (defined as Boeing Model 737–100, –200, –200C, –300, –400, and –500 airplanes) and Model 737NG airplanes. Therefore, all of these airplanes are subject to the same unsafe condition. We have not changed the AD in this regard.

Request To Withdraw NPRM

AA, in its comment submitted through ATA, states that, ''The proposed rule simply restates the existing 737NG continuous maintenance program.'' The commenter also notes that it is accomplishing the repetitive measurement of freeplay and lubrication at intervals of 5,000 flight hours, and has not found any freeplay outside acceptable limits. BA also notes that it has had no reports of freeplay-induced vibration of the aileron tabs and believes that current MPD tasks are adequate to prevent the unsafe condition.

We infer that AA and BA are asking us to withdraw the NPRM. We do not agree. We have determined that existing maintenance actions similar to those required by this AD are not sufficient to prevent freeplay-induced vibration of the aileron balance tab. Also, the current repetitive intervals for these similar actions are not adequate. Evidence of this inadequacy is the reports of freeplay-induced vibration in service. We note that the intervals AA uses are shorter than those recommended in the manufacturer's maintenance documents, which may help to account for the fact that AA has had no reports of freeplay that is outside acceptable limits. We have not changed the AD in this regard.

Request To Revise Service Documents Related to Service Bulletins

The ATA, on behalf of DAL, asks the FAA to encourage Boeing to address conflicts between procedures before issuing service bulletins that conflict with procedures in the AMM and MPD. DAL notes that the relevant service bulletins do not advise whether the AMM and MPD are affected by the changes in those service bulletins. DAL believes that relevant sections of the AMM and MPD should be revised before the NPRM is issued. The commenter notes that, in this case, if Boeing had revised the AMM and MPD when it issued Boeing Special Attention Service Bulletins 737–27–1272 and 737–27–1273, operators might be in a position to get credit for freeplay measurements and lubrications accomplished in accordance with the AMM.

We acknowledge the comment. We agree that it would be beneficial for Boeing to revise its AMM and MPD to reflect the requirements in the service bulletins. While we have encouraged them to do so, we do not have the authority to require Boeing to do so. We have not changed the AD in this regard.

Request To Acknowledge Errors in Service Bulletins

DAL notes a discrepancy in the Work Instructions of Part 2 in Boeing Special Attention Service Bulletins 737–27–1272 and 737–27–1273. The commenter points out that a note in Step 1 in Part 2 of the Work Instructions of 737–27–1273 indicates to lubricate '' * * * as shown in Part 1, Aileron Balance Tab Freeplay Check.'' A similar discrepancy exists in the corresponding note in Step 1 of Group 1: Part 2 and Group 2: Part 2 of the Work Instructions of 737–27–1272. DAL states that this note should refer to Part 2, Lubrication of the

Aileron Balance Tab Bearings. DAL has advised Boeing of this discrepancy, and Boeing agrees that it is an error that will be corrected in future revisions to the service bulletin. DAL notes that the wording of the NPRM is sufficiently broad that the service bulletin discrepancy will not affect operators' ability to comply with the proposed requirements.

We acknowledge the discrepancy in the service bulletins to which the commenter refers, and we agree with the commenter that no change to the AD is needed in this regard.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 5,651 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD. No parts are necessary to accomplish either action.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Freeplay measurement	8	$65	$520, per measurement cycle	2,280	$1,185,600, per measurement cycle.
Lubrication	4	65	$260, per lubrication cycle	2,280	$592,800, per lubrication cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–21–01 Boeing: Amendment 39–14784. Docket No. FAA–2006–23815; Directorate Identifier 2005–NM–222–AD.

Effective Date

(a) This AD becomes effective November 14, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–100, –200, –200C, –300, –400, –500, –600, –700, –700C, –800, and –900 series airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from reports of freeplay-induced vibration of the aileron balance tab. The potential for vibration of the control surface should be avoided because the point of transition from vibration to divergent flutter is unknown. We are issuing this AD to prevent excessive vibration of the airframe during flight, which could result in loss of control of the airplane.

Compliance

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

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes: Boeing Special Attention Service Bulletin 737–27–1272, dated September 29, 2005.

(2) For Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes: Boeing Special Attention Service Bulletin 737–27–1273, dated September 29, 2005.

Repetitive Measurements

(g) Within 24 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or 18 months after the effective date of the AD, whichever is later: Measure the freeplay of both aileron control balance tabs. Repeat the measurement thereafter at the applicable interval in paragraph (g)(1) or (g)(2) of this AD. Do all actions required by this paragraph in accordance with the applicable service bulletin.

(1) For Boeing Model 737–100, –200, and –200C series airplanes: At intervals not to exceed 6,000 flight hours or 24 months, whichever occurs first.

(2) For Boeing Model 737–300, –400, –500, –600, –700, –700C, –800 and –900 series

airplanes: At intervals not to exceed 8,000 flight hours or 24 months, whichever occurs first.

Related Investigative and Corrective Actions

(h) If any measurement found in paragraph (g) of this AD is outside the acceptable limits specified in the service bulletin: Before further flight, do the applicable related investigative and corrective actions in accordance with the applicable service bulletin.

Repetitive Lubrication

(i) Within 9 months after the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 9 months after the effective date of this AD, whichever is later: Lubricate the aileron balance tab components specified in the applicable service bulletin. Repeat the lubrication thereafter at the applicable interval in paragraph (i)(1), (i)(2), or (i)(3) of this AD. Do all actions required by this paragraph in accordance with the applicable service bulletin.

(1) For Boeing Model 737–100, –200, and –200C series airplanes: At intervals not to exceed 3,000 flight hours or 9 months, whichever occurs first.

(2) For Boeing Model 737–300, –400, –500, –600, –700, –700C, –800, and –900 series airplanes, on which BMS 3–33 grease is not already in use prior to the time the lubrication task is being accomplished: At intervals not to exceed 3,000 flight hours or 9 months, whichever occurs first.

(3) For Boeing Model 737–300, –400, –500, –600, –700, –700C, –800, and –900 series airplanes, on which BMS 3–33 grease is already in use prior to the time the lubrication task is being accomplished: At intervals not to exceed 4,000 flight hours or 12 months, whichever occurs first.

Concurrent Repetitive Cycles

(j) If a freeplay measurement required by paragraph (g) of this AD and a lubrication cycle required by paragraph (i) of this AD are due at the same time or will be accomplished during the same maintenance visit, the freeplay measurement and applicable related investigative and corrective actions must be done before the lubrication is accomplished.

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(l) You must use Boeing Special Attention Service Bulletin 737–27–1272, dated September 29, 2005; or Boeing Special Attention Service Bulletin 737–27–1273, dated September 29, 2005; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on September 28, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–16553 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25180; Airspace Docket No. 06–AAL–19]

Establishment of Class E Airspace; Kokohanok, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action establishes Class E airspace at Kokohanok, AK to provide adequate controlled airspace to contain aircraft executing new Standard Instrument Approach Procedures (SIAPs) and a new Departure Procedure (DP). This rule results in new Class E airspace established upward from 700 feet (ft) and 1,200 ft. above the surface at Kokohanok, AK.

EFFECTIVE DATE: 0901 UTC, January 18, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: 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 Monday, July 17, 2006, 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. and 1,200 ft. above the surface at Kokohanok, AK (71 FR 40444). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing two new SIAPs and one new DP for the Kokohanok Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS) Runway (RWY) 06, Original and (2) RNAV (GPS) RWY 24, Original. The DP is unnamed and will be listed in the front of the U.S. Terminal Procedures publication for Alaska. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Kokohanok Airport area is established by this action. The Notice of Proposed Rulemaking airfield coordinate location was not accurate. Runway construction currently underway will result in updated location coordinates. The updated coordinates are listed in this final rule.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comment have been received; thus 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 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation 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 Kokohnaok Airport, Alaska. This Class E airspace is created to accommodate aircraft executing two new SIAPs and one DP, and will be depicted on aeronautical charts for pilot reference.

The intended effect of this rule is to provide adequate controlled airspace for IFR operations at the Kokohanok Airport, Kokohanok, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routing 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 the 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 Kokohanok 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 9563, 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 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, 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 Kokohanok, AK [New]

Kokohanok Airport, AK
(Lat. 59°26′00″N., long. 154°48′09″W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Kokohanok Airport, and that airspace 1 mile north and 1 mile south of the 260° bearing from the Kokohanok Airport extending from the 6.9-mile radius to 8.8 miles west of the Kokohanok Airport, and that airspace extending upward from 1,200 feet above the surface within a 49-mile radius of the Kokohanok Airport.

* * * * *

Issued in Anchorage, AK, on September 26, 2006.

Anthony M. Wylie,

Director, Alaska Flight Service Information Office.

[FR Doc. 06–8523 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 125 and 135

[Docket No. FAA–2006–25334; Amendment Nos. 125–51 and 135–106]

RIN 2120–AI76

Additional Types of Child Restraint Systems That May Be Furnished and Used on Aircraft; Corrections

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule; correction.

SUMMARY: The Federal Aviation Administration published a final rule in the **Federal Register** on July 14, 2006 (71 FR 40003). The final rule allowed the use of child restraint systems that the FAA approves under the aviation standards of Technical Standard Order C–100b, Child Restraint Systems, or under its certification regulations regarding the approval of materials, parts, processes, and appliances. That final rule contained two non-substantive typographical errors in the rule text of two sections. This document corrects the final regulations by revising these sections.

DATES: These amendments become effective October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Nancy Lauck Claussen, Federal Aviation Administration, Flight Standards Service, Air Transportation Division (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591; Telephone 202–267–8166, e-mail *nancy.l.claussen@faa.gov.*

SUPPLEMENTARY INFORMATION: This document corrects two typographical errors in the text of rule language that was published in the **Federal Register** on July 14, 2006 (71 FR 40003). In that final rule, the FAA inadvertently omitted ''ii'' in the exception referenced in §§ 125.211(b)(2)(ii)(D) and 135.128(a)(2)(ii)(D).

List of Subjects

14 CFR Part 125

Aircraft, Aviation Safety.

14 CFR Part 135

Air Taxis, Aircraft, Aviation Safety.

■ Accordingly, 14 CFR parts 125 and 135 are corrected by making the following correcting amendments:

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 1. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 2. In § 125.211, amend paragraph (b)(2)(ii)(D) to read as follows:

§ 125.211 Seat and safety belts.

(b) * * *

(2) * * *

(ii) * * *

(D) Except as provided in § 125.211(b)(2)(ii)(C)(*3*) and § 125.211(b)(2)(ii)(C)(*4*), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 3. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

4. In § 135.128, amend paragraph (a)(2)(ii)(D) to read as follows:

§ 135.128 Use of safety belts and child restraint systems

(a) * * *

(2) * * *

(ii) * * *

(D) Except as provided in § 135.128(a)(2)(ii)(C)(*3*) and § 135.128(a)(2)(ii)(C)(*4*), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

* * * * *

Issued in Washington, DC on September 29, 2006.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

[FR Doc. E6–16622 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Omeprazole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merial Ltd. The supplemental NADA provides for administration of omeprazole paste to horses for 8 or 28 days for the prevention of gastric ulcers.

DATES: This rule is effective October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: *melanie.berson@.fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640, filed a supplement to NADA 141–227 for ULCERGARD (omeprazole) Paste. The supplemental application provides for administration of omeprazole paste to horses for 8 or 28 days for the prevention of gastric ulcers. The supplemental NADA is approved as of September 15, 2006, and 21 CFR 520.1615 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning September 15, 2006.

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

§ 520.1615 Omeprazole.

■ 2. In paragraph (d)(1)(ii) of § 520.1615, at the end of the first sentence remove ''for up to 28 days'' and add in its place ''for 8 or 28 days''.

Dated: September 27, 2006.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. E6–16604 Filed 10–6–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2006–OS–0134; RIN 0790–AG91]

32 CFR Part 284

Waiver Procedures for Debts Resulting from Erroneous Payments of Pay and Allowances

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule implements policy and prescribes procedures for considering applications for the waiver of debts resulting from erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services and civilian Department of Defense (DoD) employees. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense. Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding $1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

DATES: *Effective Date:* October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Michael Hipple, 703–696–8510.

SUPPLEMENTARY INFORMATION: On Thursday, November 14, 2002 (67 FR 68964), the Department of Defense published 32 CFR part 284 along with parts 281, 282, and 283 as proposed rules with request for public comments.

No public comments were received on part 284. Numerous comments, however, were received from the DoD components on the appropriate format, syntax, and in some instances, the substance of the final regulation. None of the possibly substantive changes negatively impact individual applicants. The changes deal mostly with internal government organization or process. However, the redesign of the regulation, and its coordination throughout DoD, was time consuming.

In consideration of the various internal comments that were offered, the final rule modifies the proposed rule as follows:

(1) The functional process for obtaining a waiver is now contained in the appendices of the regulation rather than being intermingled with such internal matters as purpose, policy and responsibilities. Accordingly, subparts 284.6 through 284.12 were eliminated, and the content of these former subparts is now contained in Appendix A to part 284 (Overview of Waiver Application Process). The word ''and functions'' was deleted from the heading of 284.5. The other appendices were re-labeled to reflect that there is a new Appendix A (*e.g.*, former Appendix A is now Appendix B, *etc.*).

(2) Technical changes include the deletion of the word ''Instruction'' where it appears and the substitution of the word ''part.'' While Part 284 is the same regulation as DoD Instruction 1340.23, the word ''Instruction'' is not used in the **Federal Register** format. The underlining of statutory citations is deleted, and underlines are now used to differentiate separate processes and concepts. Numbers less than 10 are spelled out rather written as a number; *e.g.* ''Three'' has been substituted for ''3.''

(3) The overall format was changed to provide for a more distinct, and less verbose, paragraph style. The bulk of the modifications involve simpler sentence structures and word reduction. For example, in Appendix B (Standards for Waiver Determinations), paragraph A.1, the words ''In other words,'' were deleted from the beginning of the third sentence which now reads: ''If a benefit is bestowed by mistake, no matter how careless the act of the Government may have been, the recipient must make restitution.'' The phrase ''In other words,'' added nothing to the meaning of the standard. Another example is the deletion of ''strict conformity,'' and the substitution of compliance,'' from the definition of ''Erroneous Payment''in Subpart 284.3 (*Erroneous Payment.* A payment that is not in compliance with applicable laws or regulations.) Other examples include the deletion of words like ''therefore'' and the splitting of larger sentences into multiple, smaller ones. Examples are found throughout the entire document and are too numerous to detail each instance.

(4) Changes that could be considered as substantive are as follows:

(a) Subpart 284.2(b) was revised to include references to agreements between DoD and the departments and agencies that involve the ''non-DoD Components'' that are impacted by the regulation. The substance of former Subpart 284.2(b) is now found at Subpart 284.2(c), and is contained in a more succinct form.

(b) The definition of ''Uniformed Services'' was eliminated from Subpart 284.3 because it is defined by statute.

(c) The words ''of Uniformed Service personnel'' were added for clarification purposes to make it clear that the regulation only pertained to the debts of uniformed service members and not to those of civilian employees working under the Heads of the Non-DoD Components. *See* Subpart 284.5(d) and Appendix D paragraph C.1.i. The General Accounting Office Act of 1996 and the subsequent delegation of the Director, Office of Management and Budget to the Secretary of Defense affected only uniformed service personnel of the non-DoD Components. Part 284 was never intended to affect the civilian employees of the heads of the Non-DoD Components. The only civilian employees affected by this regulation are those within the Department of Defense.

(d) The reference to the Director, Department of Defense Dependent Schools (DoDDS) was struck and replaced with the Director, Department of Defense Education Activity (DoDEA) to assure that all elements within DoDEA were included.

(e) An additional responsibility for DoD Components is added. DoD Components must also ensure that, if applicable, the submission and filing of waiver applications/appeals also satisfy the requirements of 5 U.S.C. 552a. *See* Appendix A, paragraph B and E.

(f) The requirement that an applicant include his social security number to DOHA was eliminated, and is now only required if the component concerned requires such information as part of its procedures. *See* Appendix C, paragraph C.3 and Appendix F, paragraph C.3.

(g) For clarification purposes, the date of discovery of an overpayment is further defined by adding the following sentence to Appendix C, paragraph F: ''The date of discovery is the date it is definitely determined by an appropriate official that an erroneous payment has been made.'' This language is consistent with the explanation provided in the decisions of the Defense Office of Hearings and Appeals and the Comptroller General.

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

It has been determined that 32 CFR Part 284 is not economically significant regulatory actions and will not significantly affect a substantial number of small entities.

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

It has been certified that 32 CFR part 284 does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

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

It has been certified that 32 CFR Part 284 is not subject to the ''Regulatory Flexibility Act'' (5 U.S.C. 601) because, if promulgated, they would not have a significant economic impact on a substantial number of small entities. These rules affect members of the Uniformed Services, Federal employees and transportation carriers. 32 CFR Part 284 establishes policies and provide procedures for considering applications for waiver of debts resulting from erroneous pay and allowances to or on behalf of members and civilian DoD employees.

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

It has been certified that these parts do not impose any reporting or record-keeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

It has been certified that these parts do not have federalism implications, as set forth in Executive Order 13132. These parts do not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 284

Administrative practice and procedure, Armed Forces, Waivers.

■ Accordingly, 32 CFR part 284 is added to read as follows:

PART 284—WAIVER PROCEDURES FOR DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES

Sec.
284.1 Purpose.
284.2 Applicability and scope.
284.3 Definitions.
284.4 Policy.
284.5 Responsibilities.
Appendix A to part 284—Overview of Waiver Application Process.
Appendix B to part 284—Standards for Waiver Determinations.
Appendix C to part 284—Submitting a Waiver Application.
Appendix D to part 284—Processing a Waiver Application When the Debt is $1,500 or Less.
Appendix E to part 284—Processing a Waiver Application When the Debt is More than $1,500.
Appendix F to part 284—Appeals.

Authority: 10 U.S.C. 2575, 2771, 4712, 9712; 24 U.S.C. 420; 31 U.S.C. 3529, 3702; 32 U.S.C. 714; 37 U.S.C. 554.

§ 284.1 Purpose.

This part implements policy under 32 CFR part 283 and prescribes procedures for considering waiver applications under 10 U.S.C. 2774, 32 U.S.C. 716, and 5 U.S.C. 5584.

§ 284.2 Applicability and Scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the Department of Defense Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the ''DoD Components'').

(b) The Coast Guard, when it is not operating as a Service in the Navy under agreement with the Department of Homeland Security, the Commissioned Corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA) under agreements with the Departments of Health and Human Services and Commerce, respectively (hereafter referred to collectively as the ''non-DoD Components'').

(c) Certain functions for considering waiver applications that, by statute or delegation, are vested in the Department of Defense or the Secretary of Defense.

§ 284.3 Definitions.

Committee. The person or persons invested, by order of a proper court, with the guardianship of a minor or incompetent person and/or the estate of a minor or incompetent person.

Component Concerned. The agency/activity (as well as the official designated by the Head of the agency/activity) required to perform the function or take the action indicated or that notifies the individual of the debt that is the subject of a waiver application.

Debt. An amount an individual owes the Government as the result of erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services or civilian DoD employees.

Employee. A person who is or was an officer or employee as defined in 5 U.S.C. 2104 and 2105.

Erroneous Payment. A payment that is not in compliance with applicable laws or regulations.

Final Action. A finding by the appropriate official under this part concerning a waiver application from which there is no right to appeal or request reconsideration, or for which the time limit prescribed in this part for submitting an appeal or request for reconsideration has expired without such a submission.

Member. A member or former member of the Uniformed Services.

Waiver Application. A request that the United States relinquish its claim against an individual for a debt resulting from erroneous payments of pay or allowances (including travel and transportation allowances) under 10 U.S.C. 2774, 32 U.S.C. 716, and 5 U.S.C. 5584.

§ 284.4 Policy.

It is DoD policy under 32 CFR part 283 that waiver applications for debts resulting from erroneous payments of pay and allowances (hereafter referred to as ''waiver applications'') be processed according to all pertinent statutes, regulations, and other relevant authorities.

§ 284.5 Responsibilities.

(a) The *General Counsel of the Department of Defense* (GC, DoD) or designee shall consult on, or render opinions concerning, questions of law or equity that arise in the course of the performance of the Director, Defense Office of Hearings and Appeals' (DOHA) responsibilities under paragraph (b) of this section when requested by the Director.

(b) The *Director, Defense Office of Hearings and Appeals* or designee, under the GC, DoD (as the Director, Defense Legal Services Agency), shall:

(1) Deny or grant all or part of a waiver application, if the aggregate amount of the debt is more than $1,500.

(2) Consider an appeal of an initial determination and affirm, modify, reverse, or remand the initial determination, according to this part and relevant GC, DoD opinions.

(3) Process waiver applications and appeals according to this part.

(c) The Heads of the DoD Components or designee shall process waiver applications according to this part.

(d) The *Heads of the Non-DoD Components* or designee concerning debts of Uniformed Services personnel resulting from the Component's activity; the *Director, Department of Defense Education Activity* (DoDEA) or designee, concerning debts of civilian employees resulting from that Component's activity; the *Director, National Security Agency* (NSA) or designee, concerning debts resulting from that Component's activity; and the *Director, Defense Finance and Accounting Service* (DFAS) or designee, under the Under Secretary of Defense (Comptroller)/Chief Financial Officer (USD(C)/CFO), concerning debts resulting from all other DoD Components' activities shall:

(1) Deny or grant all or part of a waiver application, if the aggregate amount of the debt is $1,500 or less.

(2) If the aggregate amount of the debt is more than $1,500:

(i) Deny a waiver application in its entirety, or

(ii) Refer a waiver application for consideration with a recommendation that part or all of the application be granted, according to this part.

(3) Process waiver applications, when the aggregate amount of the debt is more than $1,500, and appeals according to this part.

(4) Resolve a debt according to the final action that results from the waiver application process provided for in this part.

Appendix A to Part 284—Overview of Waiver Application Process

A. Standards for Waiver Determinations

The standards that must be applied in determining whether all or part of a waiver application should be granted or denied are at Appendix B to this part.

B. Submitting a Waiver Application

The DoD Components shall ensure, if applicable, the submission and filing of waiver applications/appeals satisfy the requirements of 5 U.S.C. 552a. The procedures an applicant must follow to submit a waiver application are at Appendix C to this part.

C. Processing A Waiver Application When The Debt Is $1,500 Or Less

The procedures a DoD Component must follow in processing a waiver application

when the debt is $1,500 or less are at Appendix D to this part.[1]

D. Processing a Waiver Application When the Debt Is More Than $1,500

The procedures a DoD Component must follow in processing a waiver application when the debt is more than $1,500 are at Appendix E to this part.

E. Appeals

The DoD Components shall ensure, if applicable, the submission and filing of waiver applications/appeals satisfy the requirements of 5 U.S.C. 552 and 552a. The procedures for appealing initial determinations are at Appendix F to this part.

F. Refund of Repaid Debts That Are Subsequently Waived

When a final action waives all or part of a debt that has been repaid, the waiver application shall be interpreted as an application for a refund and the Component concerned shall, to the extent of the waiver, refund the amount repaid.

G. Publication

The Director, DOHA or designee shall make redacted copies of responses to requests for reconsideration available for public inspection and copying at the DOHA's public reading room and on the worldwide web according to 5 U.S.C. 552 and 552a.

Appendix B to Part 284—Standards for Waiver Determinations

A. Standards

1. Generally, persons who receive a payment erroneously from the Government acquire no right to the money. They are bound in equity and good conscience to make restitution. If a benefit is bestowed by mistake, no matter how careless the act of the Government may have been, the recipient must make restitution. In theory, restitution results in no loss to the recipient because the recipient received something for nothing. However, 10 U.S.C. 2774, 32 U.S.C. 716, and 5 U.S.C. 5584 provide authority to waive, under certain conditions debts individuals owe the Government that are the result of erroneous payments of pay and allowances (including travel and transportation allowances). A waiver is not a matter of right. It is available to provide relief as a matter of equity, if the circumstances warrant.

2. Debts may be waived only when collection would be against equity and good conscience and would not be in the best interests of the United States. There must be no indication the erroneous payment was solely or partially the result of the fraud, misrepresentation, fault, or lack of good faith of the applicant.

3. The fact that an erroneous payment is solely the result of administrative error or mistake on the part of the Government is not sufficient basis in and of itself for granting a waiver.

4. A waiver usually is not appropriate when a recipient knows, or reasonably should know, that a payment is erroneous. The recipient has a duty to notify an appropriate official and to set aside the funds for eventual repayment to the Government, even if the Government fails to act after such notification.

5. A waiver generally is not appropriate when a recipient of a significant unexplained increase in pay or allowances, or of any other unexplained payment of pay or allowances, does not attempt to obtain a reasonable explanation from an appropriate official. The recipient has a duty to ascertain the reason for the payment and to set aside the funds in the event that repayment should be necessary.

6. A waiver may be inappropriate in cases where a recipient questions a payment (which ultimately is determined to be erroneous) and is mistakenly advised by an appropriate official that the payment is proper, if under the circumstances the recipient knew or reasonably should have known that the advice was erroneous.

7. Financial hardship is not a factor for consideration in determining whether a waiver is appropriate.

8. Waiver determinations under these standards depend on the facts in each case.

Appendix C to Part 284—Submitting a Waiver Application

A. Who May Apply for Waiver

Any person (''applicant'') from whom collection is sought for a debt resulting from erroneous payments of pay or allowances (including travel and transportation allowances) may submit a waiver application under 10 U.S.C. 2774, 32 U.S.C. 716, and 5 U.S.C. 5584. Additionally, an authorized official of the Component concerned, or the Director, DOHA or designee may initiate a waiver application during the processing of a claim under 32 CFR part 281.

B. Where To Submit A Waiver Application

An applicant must submit a waiver application to the Component concerned according to the guidance provided by that Component. A waiver application submitted somewhere other than to the Component concerned does not stop the calculation of the time limit as discussed in paragraph F to this Appendix. It is the applicant's responsibility to submit the waiver application properly.

C. Format of a Waiver Application

An applicant must submit a waiver application in the format prescribed by the Component concerned. It must be written and signed by the applicant (in the case of an application on behalf of a minor or incompetent person, there are additional requirements explained at paragraph E to this Appendix) or by the applicant's authorized agent or attorney (there are additional requirements explained at paragraph D to this Appendix). In addition, the waiver application should include:

1. The applicant's mailing address.
2. The applicant's telephone number.
3. The applicant's social security number when required by the Component concerned.
4. The amount for which waiver is requested.
5. An explanation why a waiver should be granted under the standards explained at Appendix B to this part.
6. Copies of documents referred to in the application.
7. Statements (that are attested to be true and correct to the best of the individual's knowledge and belief) of the applicant or other persons in support of the application.

D. Waiver Application Submitted by Agent or Attorney

In addition to the requirements in paragraph C to this Appendix, a waiver application submitted by the applicant's agent or attorney must include or have attached a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the applicant.

E. Waiver Application Submitted on Behalf of a Minor or Incompetent Person

In addition to the requirements in paragraph C to this Appendix:

1. If a guardian or committee has not been appointed, a waiver application submitted on behalf of a minor or incompetent person must:

i. State the applicant's relationship to the minor or incompetent person.

ii. Provide the name and address of the person having care and custody of the minor or incompetent person.

iii. Include an affirmation that any moneys received shall be applied to the use and benefit of the minor or incompetent person, and that the appointment of a guardian or committee is not contemplated.

2. If a guardian or committee has been appointed, a waiver application on behalf of a minor or incompetent person must include or have attached a certificate of the court showing the appointment and qualification of the guardian or committee.

F. When To Submit a Waiver Application

An applicant must submit a waiver application so that it is received by the Component concerned within three years after the erroneous payment is discovered. The date of discovery is the date it is definitely determined by an appropriate official that an erroneous payment has been made. The time limit is set by 10 U.S.C. 2774, 32 U.S.C. 716, and 5 U.S.C. 5584, whichever applies. It may not be extended or waived. Although the issue of timeliness is usually raised on initial submission (as explained in paragraph B to Appendix D in this part), the issue may be raised at any point during the waiver application consideration process.

Appendix D to Part 284—Processing a Waiver Application When the Debt Is $1,500 or Less

A. Initial Component Processing

Upon receipt of a waiver application, the Component concerned must:

1. Date stamp the application on the date received.

2. Determine whether the application was received within three years after the discovery of the erroneous payment. If the application was not timely, follow the procedures in paragraph B to this Appendix.

[1] Contact the appropriate non-DoD Component for the procedures it follows in processing a waiver application.

3. Investigate the circumstances relating to the erroneous payment.

4. Refer the application to the appropriate determining official (see paragraph C to this Appendix) for consideration and an initial determination.

B. Untimely Waiver Applications

When the Component concerned determines that a waiver application was not received within three years after the erroneous payment was discovered, the Component must send the applicant a notice of untimely receipt.

1. The notice must:

i. Cite the applicable statute and explain the reasons for the finding of untimely receipt.

ii. State that the application was not received within the statutory time limit and may not be considered unless that finding is reversed on appeal.

iii. Explain that the applicant may submit a rebuttal to the finding of untimely receipt (as explained in paragraph B.2.).

iv. State that the statutory time limit may not be extended or waived.

2. An applicant may submit a written rebuttal, signed by the applicant or the applicant's agent or attorney, to a notice of untimely receipt. The Component concerned must receive the rebuttal within 30 days of the date of the notice and may grant an extension of up to an additional 30 days for good cause shown. The rebuttal should:

i. Explain the points of, and reasons for, disagreement with the notice.

ii. Have any documents referred to in the rebuttal attached.

iii. Include or have attached statements (that are attested to be true and correct to the best of the individual's knowledge and belief) by the applicant or other persons in support of the rebuttal.

3. If the applicant does not submit a rebuttal within the time permitted, the notice of untimely receipt is a final action and the Component must return the application to the applicant with a notice that the finding is final and the application may not be considered.

4. If the applicant submits a timely rebuttal, the Component must consider the rebuttal.

i. If the Component finds that the application was received within the required time limit, the Component must reverse its finding of untimely receipt, notify the applicant in writing, and process the application on its merits.

ii. If the Component does not reverse the finding of untimely receipt, the Component must forward the record, including the application, notice of untimely receipt, and rebuttal, to the appropriate determining official (*see* paragraph C.1. to this Appendix) for an initial determination on the issue of untimely receipt. The Component does not need to investigate the merits of the application before forwarding the record.

5. After making an initial determination on the issue of untimely receipt, the determining official must follow the procedures in paragraph D to this Appendix. In addition, if the determining official finds that the application was timely, the official may:

i. Return the application to the Component concerned for processing on its merits according to this part, or

ii. Consider the application and make an initial determination on its merits according to paragraph C.2. to this Appendix.

C. Initial Determinations

The standards in Appendix B to this part must be applied when considering the merits of a waiver application. After making an initial determination, the determining official must follow the procedures at paragraph D to this Appendix.

1. The officials listed and referred to in this part as determining officials shall consider waiver applications and take the appropriate action described in paragraph C.2. to this Appendix. These officials are identified as follows:

i. The Head of a non-DoD Component or designee for debts of Uniformed Services personnel resulting from that Component's activity.

ii. The Director, DoDEA or designee for debts of civilian employees resulting from that Component's activity.

iii. The Director, NSA or designee for debts resulting from that Component's activity.

iv. The Director, DFAS or designee for debts resulting from the DoD Component activity not included in paragraphs C.1.ii. and C.1.iii. to this Appendix.

2. The officials listed in paragraph C.1. to this Appendix may make an initial determination for the following:

i. Whether or not a waiver application was received within three years after the discovery of the erroneous payment.

ii. Deny a waiver application in its entirety.

iii. Grant all or part of a waiver application.

D. Processing After An Initial Determination

After making an initial determination, the determining official must:

1. Notify the applicant. The notification must explain:

i. The determination and the reasons for it.

ii. The appropriate Component action to resolve the debt as a consequence of the determination if it is or becomes a final action (the finality of an initial determination is explained at paragraph E to this Appendix).

iii. The appeal process (as explained in Appendix F to this part) if the determination does not grant the entire application or does not contain a finding of timely receipt.

2. Notify the Component concerned if the determining official is not an official of the Component concerned when and if the determination is a final action. The notice must explain:

i. The determination and its reasons.

ii. The appropriate Component action to resolve the debt as a consequence of the determination.

E. When an Initial Determination Is Final

A final action is an initial determination that grants the entire waiver application or finds that the application was timely received. Also, an initial determination (including one of untimely receipt) is a final action if the determining official does not receive an appeal within 30 days of the date of the initial determination (plus any extension of up to 30 additional days granted by the determining official for good cause shown).

Appendix E to Part 284—Processing a Waiver Application When the Debt Is More Than $1,500

A. Initial Component Processing

Upon receipt of a waiver application, the Component concerned must:

1. Date stamp the application on the date received.

2. Determine whether the application was received within three years after the discovery of the erroneous payment. If the application was not timely, follow the procedures in paragraph B in this part.

3. Investigate the circumstances relating to the erroneous payment.

4. Refer the waiver application to the appropriate determining official (*see* paragraph C to this Appendix) who after applying the standards in Appendix B in this part may either:

i. Deny the application in its entirety, if appropriate, and follow the procedures in Appendix D to this part, or

ii. Refer the application with a recommendation that part or all of the application be granted to the DOHA for consideration and an initial determination under paragraph C to this Appendix. The determining official must send the entire record and prepare and submit a recommendation and administrative report (as explained in paragraphs D and E to this Appendix) with the application.

B. Untimely Waiver Applications

When the Component concerned determines that a waiver application was not received within three years after the erroneous payment was discovered, the Component must send the applicant a notice of untimely receipt.

1. The notice must:

i. Cite the applicable statute and explain the reasons for the finding of untimely receipt.

ii. State that the application was not received within the statutory time limit and may not be considered unless that finding is reversed on appeal.

iii. Explain that the applicant may submit a rebuttal to the finding of untimely receipt (as explained in paragraph B.2. to this Appendix.).

iv. State that the statutory time limit may not be extended or waived.

2. An applicant may submit a written rebuttal, signed by the applicant or the applicant's agent or attorney, to a notice of untimely receipt. The Component concerned must receive the rebuttal within 30 days of the date of the notice and may grant an extension of up to an additional 30 days for good cause shown. The rebuttal should:

i. Explain the points of, and reasons for, disagreement with the notice.

ii. Have any documents referred to in the rebuttal attached.

iii. Include or have attached statements (that are attested to be true and correct to the best of the individual's knowledge and belief) by the applicant or other persons in support of the rebuttal.

3. If the applicant does not submit a rebuttal within the time permitted, the notice of untimely receipt is a final action and the Component must return the application to the applicant with a notice that the finding is final and the application may not be considered.

4. If the applicant submits a timely rebuttal, the Component must consider the rebuttal:

i. If the Component finds that the application was received within the required time limit, the Component must reverse its finding of untimely receipt, notify the applicant in writing, and process the application on its merits.

ii. If the Component does not reverse the finding of untimely receipt, the Component must forward the record, including the application, notice of untimely receipt, and rebuttal, to the appropriate determining official (*see* paragraph C.1. of Appendix D to this part) for an initial determination on the issue of untimely receipt. The Component does not need to investigate the merits of the application before forwarding the record.

5. After making an initial determination on the issue of untimely receipt, the determining official must follow the procedures in Appendix D to this part. In addition, if the determining official finds that the application was timely, the official may:

i. Return the application to the Component concerned for processing on the merits according to this part, or

ii. Make a recommendation to the DOHA to grant all or part of the application as described in paragraph D to this Appendix.

C. Initial Determinations

The standards in Appendix B to this part must be applied when considering the merits of a waiver application. After making an initial determination, the DOHA must follow the procedures at paragraph F to this Appendix and may take the following actions regarding waiver applications referred under paragraph A.4.ii. or B.5.ii. to this Appendix:

1. Make an initial determination denying a waiver application in its entirety; or

2. Make an initial determination granting all or part of a waiver application.

D. Recommendation to the DOHA To Grant All or Part of an Application

Referrals to the DOHA must include the entire record along with the recommendation and administrative report described in paragraph E to this Appendix. The record and the report must be sent to: Defense Office of Hearings and Appeals, Claims Division, P.O. Box 3656, Arlington, VA 22203–1995.

E. Recommendation and Administrative Report

The recommendation and administrative report required by paragraph D to this Appendix must describe the recommended action (and its reasons) and the following:

1. The names and mailing addresses of each employee, member, or other person from whom collection is sought, or a statement that the person cannot reasonably be located.

2. The aggregate amount of the debt, including an itemization showing the elements of the aggregate amount.

3. The date the erroneous payment was discovered.

4. The date the recipient was notified of the error and a statement of the erroneous amounts paid before and after receipt of such notice.

5. A summary of the facts and circumstances describing how the erroneous payment occurred; the recipient's knowledge of the erroneous nature of the payment; the steps taken by the recipient to bring the matter to the attention of the appropriate official; and the Component's response, if any.

6. A finding of whether there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the applicant and the reasons for such a finding.

7. Legible copies or the originals of supporting documents, such as leave and earnings statements, notifications of personnel actions, travel authorizations and vouchers, and military orders.

8. Statements (that are attested to be true and correct to the best of the individual's knowledge and belief) of the applicant or other persons in support of the application.

F. Processing After an Initial Determination

After making an initial determination, the DOHA must:

1. Notify the applicant if all or part of the waiver application is denied. The notification must explain:

i. The determination and the reasons for it.

ii. The appropriate Component action to resolve the debt as a consequence of the determination if it is or becomes a final action (the finality of an initial determination is explained at paragraph G to this Appendix).

iii. The appeal process (as explained in Appendix F to this part) if the determination does not grant the entire application or does not contain a finding of timely receipt.

2. Notify the Component concerned when and if the determination is a final action. The notice must explain:

i. The determination and its the reasons.

ii. The appropriate Component action to resolve the debt as a consequence of the determination.

G. When an Initial Determination Is Final

A final action is an initial determination that grants the entire waiver application or finds that the application was timely received. Also, an initial determination (including one of untimely receipt) is a final action if the determining official does not receive an appeal within 30 days of the date of the initial determination (plus any extension of up to 30 additional days granted by the determining official for good cause shown).

Appendix F to Part 284—Appeals

A. Who May Appeal

An applicant may appeal if an initial determination denies all or part of a waiver application or finds that the application was not received by the Component concerned within the time limit required by statute.

B. When and Where To Submit an Appeal

1. When the determining official is not in the DOHA, the determining official must receive an applicant's appeal within 30 days of the date of the initial determination. The determining official may extend this period for up to an additional 30 days for good cause shown. No appeal may be accepted after this time has expired. The appeal shall be processed under the procedures in paragraphs C through K to this Appendix.

2. When the determining official is in the DOHA, the DOHA must receive an applicant's appeal within 30 days of the date of the initial determination. The DOHA may extend this period for up to an additional 30 days for good cause shown. No appeal may be accepted after this time has expired. The appeal shall be considered to be a request for reconsideration and shall be processed under the procedures in paragraphs L through Q of this Appendix.

C. Content of an Appeal

No specific format for an appeal is required however it must be written and signed by the applicant, the applicant's authorized agent, or the applicant's attorney. In addition, it should:

1. Provide the applicant's mailing address.

2. Provide the applicant's telephone number.

3. Provide the applicant's social security number when required by the Component concerned.

4. Identify specific:

i. Errors or omissions of material and relevant facts.

ii. Legal or equitable (under the standards in Appendix B to this part) considerations that were overlooked or misapplied.

iii. Conclusions that were arbitrary, capricious, or an abuse of discretion.

5. Present evidence of the correct or additional facts alleged.

6. Explain the reasons why the findings or conclusions should be reversed or modified.

7. Have attached copies of documents referred to in the appeal.

8. Include or have attached statements (that are attested to be true and correct to the best of the individual's knowledge and belief) by the applicant or other persons in support of the appeal.

D. Determining Official's Review

The determining official must review an applicant's appeal, and affirm, modify, or reverse the initial determination.

1. When the determining official grants the entire waiver appeal or grants the application to the extent requested in the appeal after review of an appeal in a case involving a debt in the aggregate amount of $1,500 or less, the determining official must notify the applicant in writing and the Component concerned if the determining official is not an official of the Component concerned. The notice must explain the appropriate action to resolve the debt. This is a final action.

2. When the determining official finds that the application was received within the time limit required by statute after review of an appeal concerning the untimely receipt of the waiver application, the determining official must notify the applicant in writing and take the appropriate action under paragraph B.5. of Appendix D to this part or paragraph B.5. of Appendix E to this part, as appropriate.

3. In all other cases, the determining official must forward the appeal to the DOHA according to paragraph E. of this Appendix. The determining official must prepare a recommendation and administrative report (as explained in paragraph F to this Appendix) and send a copy of the administrative report to the applicant with a notice that the applicant may submit a rebuttal to the determining official (as explained in paragraph G to this Appendix).

4. The determining official must date stamp the applicant's rebuttal on the date it is received.

E. Submission of Appeal to the DOHA

The determining official must send the entire record along with the recommendation and administrative report required by paragraph F to this Appendix no earlier than 31 days after the date of the administrative report or the day after the applicant's rebuttal period, as extended, expires, to the following address: Defense Office of Hearings and Appeals, Claims Division, P.O. Box 3656, Arlington, Virginia 22203–1995.

F. Recommendation and Administrative Report

The recommendation and administrative report required by paragraph D.3. to this Appendix must describe the recommended action (and its reasons) and include:

1. The names and mailing addresses of each employee, member, or other person from whom collection is sought, or a statement that the person cannot reasonably be located.

2. The aggregate amount of the debt, including an itemization showing the elements of the aggregate amount.

3. The date the erroneous payment was discovered.

4. The date the recipient was notified of the error and a statement of the erroneous amounts paid before and after receipt of such notice.

5. A summary of the facts and circumstances describing how the erroneous payment occurred; the recipient's knowledge of the erroneous nature of the payment; the steps taken by the recipient to bring the matter to the attention of the appropriate official; and the Component's response;

6. A finding of whether there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the applicant and the reasons for such a finding.

7. Legible copies or the originals of supporting documents, such as leave and earnings statements, notifications of personnel actions, travel authorizations and vouchers, and military orders.

8. Statements (that are attested to be true and correct to the best of the individual's knowledge and belief) of the applicant or other persons in support of the application.

G. Applicant's Rebuttal

An applicant may submit a written rebuttal, signed by the applicant or the applicant's agent or attorney, in response to the recommendation and administrative report. The rebuttal must be received by the determining official within 30 days of the date of the recommendation and administrative report. The determining official may grant an extension of up to an additional 30 days for good cause shown. The rebuttal should include:

1. An explanation of the points and reasons for disagreeing with the report.

2. The file reference number.

3. Any documents referred to in the rebuttal.

4. Statements (that are attested to be true and correct to the best of the individual's knowledge and belief) by the applicant or other persons in support of the rebuttal.

H. DOHA Appeal Decision

Except as provided in paragraph P to this Appendix, the DOHA must base its decision on the written record, including the recommendation and administrative report and any rebuttal by the applicant. The written decision must:

1. Affirm, modify, reverse, or remand the initial determination and decide the application on its merits or return the application to the Component concerned for investigation and processing for an initial determination on the merits according to Appendix D to this part.

2. State the amount of the waiver application that is granted and the amount denied and/or that the application was or was not received within the statutory time limit, as appropriate.

3. Explain the reasons for the decision.

I. Processing After the Appeal Decision

After issuing an appeal decision, the DOHA must:

1. Send the applicant the decision and notify the applicant of:

i. The appropriate Component action to resolve the debt as a consequence of the decision if it is or becomes a final action (as explained in paragraph J to this Appendix).

ii. The procedures under this Appendix to request reconsideration (as explained in paragraphs K through M to this Appendix), if the decision does not grant the waiver application to the extent requested, or does not contain a finding of timely receipt, when applicable.

2. Notify the Component concerned of the decision and the appropriate Component action to resolve the debt as a consequence of the decision.

J. Finality of a DOHA Appeal Decision

An appeal decision that grants the waiver application to the extent requested on appeal, or that finds that the application was timely received, when applicable, is a final action when issued. An appeal decision is a final action if the DOHA does not receive a request for reconsideration within 30 days of the date of the appeal decision (plus any extension of up to 30 additional days granted by the DOHA for good cause shown). **Note:** In the case of a DOHA appeal decision issued before the effective date of this part that denied all or part of the waiver application, a request for reconsideration by the GC, DoD may be submitted within 60 days of the effective date of this part. The GC DoD shall consider such requests and affirm, modify, reverse, or remand the DOHA appeal decision. Requests for reconsideration by the GC, DoD received more than 60 days after the effective date of this part shall not be accepted. Requests must be submitted to the address in paragraph E.5. to this Appendix. The provisions of paragraph M to this Appendix apply.

K. Who May Request Reconsideration

An applicant may request reconsideration of a DOHA appeal decision.

L. When and Where To Submit a Request for Reconsideration

The DOHA must receive a request for reconsideration within 30 days of the date of the appeal decision.[2] The DOHA may extend this period for up to an additional 30 days for good cause shown. No request for reconsideration may be accepted after this time has expired. A request for reconsideration must be sent to the DOHA at the address in paragraph E to this Appendix.

M. Content of a Request for Reconsideration

The requirements of paragraph C to this Appendix for the content of an appeal apply to a request for reconsideration.

N. DOHA's Review of a Request for Reconsideration

No earlier than 31 days after the date of the appeal decision or the day after the last period for submitting a request, as extended, expires, the DOHA must:

1. Consider a request for reconsideration.

2. Affirm, modify, or reverse the appeal decision.

3. Prepare a response that explains the reasons for the finding.

4. Send the response to the applicant and the Component concerned and notify them of the appropriate action on the debt.

O. Finality of a DOHA Reconsideration Decision

The response is a final action. It is precedent in the consideration of all waiver applications covered by this part unless otherwise stated in the document.

P. Consideration of Appeals and Requests for Reconsideration

When considering an appeal or request for reconsideration, the DOHA may:

1. Take administrative notice of matters that are generally known or are capable of confirmation by resort to sources whose accuracy cannot reasonably be questioned.

2. Remand a matter to the Component with instructions to provide additional information.

Dated: October 3, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, DoD.

[FR Doc. E6–16649 Filed 10–6–06; 8:45 am]

BILLING CODE 5001–06–P

[2] Request for reconsideration by the GC, DoD must be received by the DOHA within 60 days of the effective date of this Instruction as explained in paragraph J of this appendix for appeal decisions issued before the effective date of this Instruction.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–06–045]

RIN 1625–AA09

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway (NJICW), Grassy Sound Channel, Great Channel, and Townsend Inlet, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations of four Cape May County Bridge Commission bridges: The Townsend Inlet Bridge, at mile 0.3 in Avalon; the County of Cape May Bridge, at mile 0.7, across Great Channel between Stone Harbor and Nummy Island; the Ocean Drive Bridge, at mile 1.0, across Grassy Sound Channel in North Wildwood; and the Two-Mile Bridge, at NJICW mile 112.2, across Middle Thorofare in Wildwood Crest, in NJ. This final rule will allow the bridges to remain in the closed position at particular dates and times to accommodate the Ocean Drive Marathon. Vessels that can pass under the bridges without a bridge opening may do so at all times.

DATES: This rule is effective November 9, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–06–045 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Gary Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6629.

SUPPLEMENTARY INFORMATION:

Regulatory History

On June 29, 2006, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), Grassy Sound Channel, Great Channel, and Townsend Inlet, NJ'' in the **Federal Register** (71 FR 37022). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

On behalf of the Ocean Drive Run Club, Inc., (Ocean Drive RC), Cape May County Bridge Commission (CMCBC) requested changes to the operating drawbridge regulations to accommodate the Ocean Drive Marathon. The race is an annual event sponsored by the Ocean Drive RC, attracting spectators and participants from the surrounding cities and states.

In accordance with 33 CFR 117.37(a) for reasons of public safety or for public functions, the District Commander may authorize the opening and closing of a drawbridge for a specified period of time.

CMCBC who owns and operates the Townsend Inlet Bridge, at mile 0.3 in Avalon; the County of Cape May Bridge, at mile 0.7, across Great Channel between Stone Harbor and Nummy Island; the Grassy Sound Channel Bridge, at mile 1.0 in North Wildwood; and the Two-Mile Bridge, at NJICW mile 112.2, across Middle Thorofare in Wildwood Crest, requested the following drawbridge changes:

Great Channel

The County of Cape May Bridge, at mile 0.7, across Great Channel between Stone Harbor and Nummy Island has a vertical clearance of 15 feet above mean high water (MHW) and 19 feet above mean low water (MLW) in the closed position to vessels. The existing regulation is listed at 33 CFR 117.720.

The Ocean Drive Marathon is held on the fourth Sunday in March of every year with the third Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday. To facilitate the race, the final rule will maintain the bridge in the closed-to-navigation position from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year.

Grassy Sound Channel

The Grassy Sound Channel Bridge, at mile 1.0 in Middle Township, has a vertical clearance of 15 feet above MHW and 19 feet above MLW in the closed position to vessels. The existing regulation is listed at 33 CFR 117.721.

The Ocean Drive Marathon is held on the fourth Sunday in March of every year with the third Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday. To facilitate the race, the final rule will maintain the bridge in the closed-to-navigation position from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year.

New Jersey Intracoastal Waterway

The Two-Mile Bridge, at NJICW mile 112.2 at Wildwood Crest, has a vertical clearance of 23 feet above MHW and 27 feet above MLW in the closed position to vessels. The existing operating regulations are set out in 33 CFR 117.5 which requires the bridge to open on signal.

The Ocean Drive Marathon is held on the fourth Sunday in March of every year with the third Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday. To facilitate the race, the final rule will maintain the bridge in the closed-to-navigation position from 9:15 a.m. to 10:30 a.m. on the fourth Sunday in March of every year.

Townsend Inlet

The Townsend Inlet Bridge, at mile 0.3 in Avalon, has a vertical clearance of 23 feet above MHW and 26 feet above MLW in the closed position to vessels. The existing regulation is listed at 33 CFR 117.5, which requires the bridge to open on signal.

The Ocean Drive Marathon is held on the fourth Sunday in March of every year with the third Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday. To facilitate the race, the final rule will maintain the bridge in the closed-to-navigation position from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year.

The Coast Guard believes that these changes are reasonable due to the short duration the drawbridges will be maintained in the closed position to vessels and because this event has been observed in past years with little or no impact to marine or vehicular traffic. This is also a necessary measure to facilitate public safety and allow for the orderly movement of participants and vehicular traffic before, during and after the race.

Discussion of Comments and Changes

The Coast Guard did not receive any comments on the NPRM. Therefore, no changes were made to the final rule.

Discussion of Rule

Great Channel

This final rule amends 33 CFR 117.720 which details the operating regulations for the County of Cape May Bridge.

A new paragraph (c) will be added to 117.720, which allows the County of Cape May Bridge to remain in the closed-to-navigation position from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year with the third

Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday.

Grassy Sound Channel

This final rule amends 33 CFR 117.721 which details the operating regulations for the Grassy Sound Channel Bridge. Section 117.721 will be revised to allow the Grassy Sound Channel Bridge to remain in the closed-to-navigation position from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year with the third Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday.

New Jersey Intracoastal Waterway

This final rule amends 33 CFR 117.733 by redesignating paragraph (k) as paragraph (l) and adding the newly redesignated paragraph (k) which details the operating regulations for the Two-Mile Bridge, at mile 112.2, across Middle Thorofare in Wildwood Crest.

A new paragraph (k) will be added to § 117.733, which allows the Two-Mile Bridge to remain in the closed-to-navigation position from 9:15 a.m. to 10:30 a.m. on the fourth Sunday in March of every year with the third Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday.

Tuckahoe River

Section 117.757 Tuckahoe River will be redesignated as § 117.758 to allow alphabetical placement and codification of Townsend Inlet at § 117.757.

Townsend Inlet

Townsend Inlet will be added at new § 117.757, detailing the operating regulations and allowing the Townsend Inlet Bridge to remain in the closed-to-navigation position from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year with the third Sunday used as the alternate day, if the fourth Sunday falls on a religious holiday.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that these changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings, to minimize delays.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would not have a significant economic impact on a substantial number of small entities for the following reason. The rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Section 117.720 is revised by adding a new paragraph (c) to read as follows:

§ 117.720 Great Channel.

* * * * *

(c) From 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year.

■ 3. § 117.721 is revised to read as follows:

§ 117.721 Grassy Sound Channel.

The draw of the Grassy Sound Channel Bridge, mile 1.0 in Middle Township, shall open on signal from 6 a.m. to 8 p.m. from May 15 through September 30. From 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year. Two hours advance notice is required for all other openings by calling (609) 368–4591.

■ 4. Section 117.733 is amended by redesignating paragraph (k) as paragraph (m) and adding a new paragraph (k) to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(k) The draw of Two-Mile Bridge, mile 112.2, across Middle Thorofare in Wildwood Crest, shall open on signal; except from 9:15 a.m. to 10:30 a.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open for vessels from 9:15 a.m. to 10:30 a.m. on the third Sunday of March of every year.

* * * * *

§ 117.757 [Redesignated]

■ 5. Redesignate § 117.757 as § 117.758.

■ 6. Add new § 117.757 to read as follows:

§ 117.757 Townsend Inlet.

The draw of Townsend Inlet Bridge, mile 0.3 in Avalon, shall open on signal; except from 9:15 a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year.

Dated: September 18, 2006.

L.L. Hereth,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E6–16426 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2005–MO–0005; FRL–8228–9]

Approval and Promulgation of Implementation Plans; State of Missouri; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: On July 11, 2006, EPA published a final rule approving revisions to the Missouri State Implementation Plan (SIP). In the July 11, 2006, rule EPA inadvertently included an incorrect state effective date for this rule and omitted part of the information in the explanation column of the Constructions Permits Required rule. We are making a correction to the state effective date and to the explanation in this document.

DATES: This action is effective October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551–7942, or by e-mail at *algoe-eakin.amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

On July 11, 2006, EPA published a SIP revision for Missouri that included a revision to rule 10 CSR 10–6.060. In § 52.1320(c), the portion of the table referencing Missouri Chapter 6, the State Effective Date should have been December 30, 2004, and the Explanation column for this rule should have included the statement ''This revision incorporates by reference elements of EPA's NSR reform rule published December 31, 2002. Provisions of the incorporated reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from record keeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved. This revision also incorporates by reference the other provisions of 40 CFR 52.21 as in effect on July 1, 2003, which supersedes any conflicting provisions in the Missouri rule. Section 9, pertaining to hazardous air pollutants, is not SIP approved.'' This statement was included in the Explanation column of the June 27, 2006 (71 FR 36489) revision to this rule. Therefore, in this correction notice we are adding this information to the table for Chapter 6.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is such good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting our identification of the effective date of a state rule and reinserting an explanation which was included in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the agency has made a good cause finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects an incorrect citation in a previous action, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. As stated previously, we made such a good cause finding, including the reasons therefore and established an effective date of October 10, 2006. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the Missouri SIP table is not a ''major rule'' as defined by 5 U.S.C. 804 et seq (2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate mater, reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 27, 2006.

John Askew,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for rule ''10–6.060'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
*	*	*	*	*
10–6.060	Construction Permits Required..	12/30/2004	10/10/2006 [*insert FR page number where the document begins*].	This revision incorporates by reference elements of EPA's NSR reform rule published December 31, 2002. Provisions of the incorporated reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from record keeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved. This revision also incorporates by reference the other provisions of 40 CFR 52.21 as in effect on July 1, 2003, which supersedes any conflicting provisions in the Missouri rule. We are conditionally approving references to 10 CSR 10–6.062 contained in the last sentence of Section (1)(B) and all of section (1)(D). Section 9, pertaining to hazardous air pollutants, is not SIP approved.
*	*	*	*	*

* * * * *

[FR Doc. E6–16700 Filed 10–6–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–B–7466]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Division Director reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton Jr., Engineering Management Section, Mitigation Division, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by the other Federal, State, or regional entities.

The changes BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director for the FEMA certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable

standards of Section 2(b)(2) of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
North Carolina:					
Buncombe ...	City of Asheville (05–04–2753P).	December 22, 2005; December 29, 2005; *Asheville Citizen-Times*.	Mr. Gary Jackson, City Manager, City of Asheville, P.O. Box 7148, Asheville, North Carolina 28802.	March 30, 2006	370032
Durham	City of Chapel Hill (06–04–B144P).	January 27, 2006; January 30, 2006; *Chapel Hill Herald*.	The Honorable Kevin C. Foy, Mayor, Town Chapel Hill, 19 Oakwood Drive, Chapel Hill, North Carolina 27517.	May 1, 2006	370180
Durham	City of Durham (06–04–B144P).	January 27, 2006; January 30, 2006; *Chapel Hill Herald*.	The Honorable William V. Bell, Mayor, City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701.	May 1, 2006	370086
Durham	City of Durham (06–04–B046P).	June 15, 2006; June 22, 2006; *Herald Sun*.	The Honorable William V. Bell, Mayor, City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701.	September 21, 2006 ..	370086
Durham	City of Durham (06–04–0057P).	August 17, 2006; August 24, 2006; *Herald Sun*.	The Honorable William V. Bell, Mayor, City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701.	November 23, 2006 ..	370086
Durham	Unincorporated Areas of Durham County (06–04–B144P).	January 27, 2006; January 30, 2006; *Chapel Hill Herald*.	The Honorable Ellen W. Reckhow, Chairman, Durham County, Board of Supervisors, 11 Pine Top Place, Durham, North Carolina 27705.	May 1, 2006	370085
Durham	Unincorporated Areas of Durham County (06–04–0057P).	August 17, 2006; August 24, 2006; *Herald Sun*.	Mr. Michael M. Ruffin, County Manager, Durham County, 200 East Main Street, Second Floor, Durham, North Carolina 27701.	November 23, 2006 ..	370085
Guilford	City of High Point (05–04–3099P).	December 15, 2005; December 22, 2005; *High Point Enterprise*.	The Honorable Rebecca Rhodes-Smoothers, Mayor, City of High Point, 1843 Country Club Drive, High Point, North Carolina 27262.	March 23, 2006	370113
Mecklenburg	City of Charlotte (05–04–A580P).	May 18, 2006; May 25, 2006; *Charlotte Observer*.	The Honorable Patrick McCrory, Mayor, City of Charlotte, 600 East Fourth Street, Charlotte, North Carolina 28202.	May 30, 2006	370159
Orange	Town of Carrboro (05–04–3236P).	May 17, 2006; May 24, 2006; *Chapel Hill News*.	The Honorable Mark Chilton, Mayor, Town of Carrboro, 301 West Main Street, Carrboro, North Carolina 27510.	April 25, 2006	370275
Rowan	Unincorporated Areas of Rowan County (05–04–A505P).	March 23, 2006; March 30, 2006; *Salisbury Post*.	The Honorable Arnold Chamberlain, Chairman, Rowan County Commission, 130 West Innes Street, Salisbury, North Carolina 28144–4326.	June 29, 2006	370351
Wake	Town of Cary (06–04–B143P).	January 27, 2006; January 30, 2006; *News and Observer*.	The Honorable Ernie McAlister, Mayor, Town of Cary, P.O. Box 8005, Cary, North Carolina 27512–8005.	May 1, 2006	370238
Wake	Town of Cary (06–04–1527P).	July 20, 2006; July 27, 2006; *Wake Weekly*.	The Honorable Ernie McAlister, Mayor, Town of Cary, P.O. Box 8005, Cary, North Carolina 27512–8005.	June 30, 2006	370238

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Wake	Town of Cary (05–04–3129P).	August 24, 2006; August 31, 2006; *Wake Weekly*.	The Honorable Ernie McAlister, Mayor, Town of Cary, P.O. Box 8005, Cary, North Carolina 27512–8005.	November 30, 2006	370238
Wake	Town of Morrisville (05–04–3129P).	August 24, 2006; August 31, 2006; *Wake Weekly*.	The Honorable Jan Faulkner, Mayor, Town of Morrisville, Morrisville Town Hall, 100 Town Hall Drive, Morrisville, North Carolina 27560.	November 30, 2006	370242
Nebraska:					
Burt	City of Tekamah (04–07–A619P).	March 15, 2006; March 22, 2006; *Midwest Messenger,* Burt County Plaindealer.	The Honorable Bill Anderson, Mayor, City of Tekamah, 1315 K Street, Tekamah, Nebraska 68061–0143.	June 21, 2006	310024
Lincoln	City of North Platte (04–07–A439P).	January 27, 2006; February 2, 2006; *North Platte Telegraph*.	The Honorable G. Keith Richardson, Mayor, City of North Platte, 211 West Third Street, North Platte, Nebraska 69101.	May 4, 2006	310143
Sarpy	City of Bellevue (06–07–B016P).	July 19, 2006; July 26, 2006; *Bellevue Leader*.	The Honorable Jerry Ryan, Mayor, City of Bellevue, City Hall, 210 West Mission Avenue, Bellevue, Nebraska 68005.	June 30, 2006	310191
New Jersey:					
Middlesex	City of South Amboy (05–02–0716P).	April 12, 2006; April 19, 2006; *Home News Tribune*.	The Honorable John T. O'Leary, Jr., Mayor, City of South Amboy, Municipal Building, 140 North Broadway, South Amboy, New Jersey 08879.	March 29, 2006	340277
Ocean	Township of Jackson (04–02–A038P).	August 24, 2006; August 31, 2006; *Ocean County Observer*.	The Honorable Mark A. Seda, Mayor, Township of Jackson, 95 West Veterans Highway, Jackson, New Jersey 08527.	August 7, 2006	340375
Union	Borough of Roselle Park (05–02–0038P).	January 26, 2006; February 2, 2006; *Newark Star Ledger*.	The Honorable Joseph DeIorio, Mayor, Borough of Roselle Park, 110 East Westfield Avenue, Roselle, New Jersey 07204.	January 11, 2006	340473
New Mexico:					
Bernalillo	City of Albuquerque (06–06–A653P).	February 9, 2006; February 16, 2006; *Albuquerque Journal*.	The Honorable Martin Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	January 30, 2006	350002
Bernalillo	City of Albuquerque (06–06–B190P).	July 13, 2006; July 20, 2006; *Albuquerque Journal*.	The Honorable Martin Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	June 27, 2006	350002
Bernalillo	City of Albuquerque (06–06–BC48P).	August 17, 2006; August 24, 2006; *Albuquerque Journal*.	The Honorable Martin Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	July 26, 2006	350002
Bernalillo	Unincorporated Areas of Bernalillo County (06–06–B190P).	July 13, 2006; July 20, 2006; *Albuquerque Journal*.	The Honorable Tim Cummins, County Commissioner, Bernalillo County, One Civic Plaza Northwest, 10th Floor, Albuquerque, New Mexico 87102.	June 27, 2006	350001
Chaves	City of Roswell (06–06–B752P).	June 22, 2006; June 29, 2006; *Roswell Daily Record*.	The Honorable Sam D. LaGrone, Mayor, City of Roswell, P.O. Box 1838, Roswell, New Mexico 88202.	May 30, 2006	350006
Sandoval	City of Rio Rancho (05–06–0661P).	November 28, 2005; November 30, 2005; *Santa Fe New Mexican*.	The Honorable Jim Owen, Mayor, City of Rio Rancho, 3900 Southern Boulevard, Rio Rancho, New Mexico 87124.	November 14, 2005	350146
Nevada:					
Clark	City of Henderson (05–09–A069P).	December 1, 2005; December 8, 2005; *Las Vegas Review-Journal*.	The Honorable James B. Gibson, Mayor, City of Henderson, 240 South Water Street, Fourth Floor, Henderson, Nevada 89009–5050.	March 9, 2006	320005

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Clark	Unincorporated Areas of Clark County (05–09–A069P).	December 1, 2005; December 8, 2005; *Las Vegas Review-Journal*.	The Honorable Rory Reid, Chair, Clark County, Board of Commissioners, 500 Grand Central Parkway, Las Vegas, Nevada 89106.	March 9, 2006	320003
Clark	Unincorporated Areas of Clark County (06–09–B083P).	March 16, 2006; March 23, 2006; *Las Vegas Review-Journal*.	The Honorable Rory Reid, Chair, Clark County, Board of Commissioners, 500 Grand Central Parkway, Las Vegas, Nevada 89106.	June 22, 2006	320003
New York:					
Orange	Town of Wallkill (06–02–B016P).	July 27, 2006; August 3, 2006; *Times Herald Record*.	The Honorable John Ward, Supervisor, Town of Wallkill, P.O. Box 398, Middletown, New York 10940.	June 30, 2006	360634
Ohio:					
Butler	Unincorporated Areas of Butler County (05–05–A433P).	August 10, 2006; August 17, 2006; *Middletown Journal*.	The Honorable Gregory V. Jolivette, County Commissioner, Butler County, 130 High Street, Sixth Street, Hamilton, Ohio 45011.	November 16, 2006	390037
Hamilton	Unincorporated Areas of Hamilton County (05–05–3352P).	January 18,2006; January 25, 2006; *Hill Top Press*.	The Honorable Phil Heimlich, Chairman, Hamilton County, Board of Supervisors, 138 East Court Street, Room 603, Cincinnati, Ohio 45202.	April 26, 2006	390204
Fairfield	City of Reynoldsburg (05–05–1178P).	June 29, 2006; July 6, 2006; *Lancaster Eagle Gazette*.	The Honorable Ronald L. McPherson, Mayor, City of Reynoldsburg, 7232 East Main Street, Reynoldsburg, Ohio 43068.	October 5, 2006	390177
Franklin	City of Reynoldsburg (05–05–3716P).	June 1, 2006; June 8, 2006; *Columbus Dispatch*.	The Honorable Ronald L. McPherson, Mayor, City of Reynoldsburg, 7232 East Main Street, Reynoldsburg, Ohio 43068.	May 10, 2006	390177
Franklin	Unincorporated Areas of Franklin County (05–05–3716P).	June 1, 2006; June 8, 2006; *Columbus Dispatch*.	The Honorable Mary Jo Kilroy, County Commissioner, Franklin County Board of Commissioners, 373 South High Street, Columbus, Ohio 43215.	May 10, 2006	390167
Lucas	Village of Berkey (05–05–3351P).	April 20, 2006; April 27, 2006; *Toledo Legal News*.	The Honorable Barb Huff, Mayor, Village of Berkey, Village of Council Building, 12360 Sylvania Metamore Road, Berkey, Ohio 43504.	July 27, 2006	390901
Lucas	Unincorporated Areas of Lucas County (05–05–3351P).	April 20, 2006; April 27, 2006; *Toledo Legal News*.	The Honorable Tina Skeldon Wozniak, President, Lucas County, Board of Commissioners, One Government Center, Suite 800, Toledo, Ohio 43604.	July 27, 2006	390359
Medina	City of Brunswick (06–05–B240P).	August 17, 2006; August 24, 2006; *Medina Gazette*.	The Honorable Dale Strasser, Mayor, City of Brunswick, 4095 Center Road, Brunswick, Ohio 44212.	November 23, 2006	390380
Montgomery	City of Clayton (05–05–2903P).	February 15, 2006; February 22, 2006; *Englewood Independent*.	The Honorable Ted Gudorf, Mayor, City of Clayton, 14 West Fourth Street, Dayton, Ohio 45481.	May 24, 2006	390821
Montgomery	City of Englewood (05–05–2903P).	February 15, 2006; February 22, 2006; *Englewood Independent*.	The Honorable Michael Bowers, Jr, Mayor, City of Englewood, 333 West National Road, Englewood, Ohio 45322–1495.	May 24, 2006	390828
Montgomery	City of Englewood (06–05–B499P).	July 5, 2006; July 12, 2006; *Englewood Independent*.	The Honorable Michael Bowers, Jr, Mayor, City of Englewood, 333 West National Road, Englewood, Ohio 45322–1495.	October 11, 2006	390828

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Montgomery	Unincorporated Areas of Montgomery County (05–05–4118P).	December 21, 2005; December 28, 2005; *Englewood Independent*.	Ms. Deborah A. Feldman, County Administrator, Montgomery County, 451 West Third Street, Dayton, Ohio 45422.	December 8, 2005	390775
Oklahoma:					
Oklahoma	City of Edmond (05–06–1554P).	April 12, 2006; April 19, 2006; *Edmond Sun*.	The Honorable Saundra Naifeh, Mayor, City of Edmond, P.O. Box 2970, Edmond, Oklahoma 73083.	July 19, 2006	400252
Oklahoma	City of Midwest (05–06–0976P).	August 23, 2006; August 30, 2006; *Oklahoma County News*.	The Honorable Eddie Reed, Mayor, City of Midwest City, P.O. Box 10870, Midwest City, Oklahoma 73140.	August 28, 2006	400405
Oklahoma	City of Oklahoma City (05–06–0453P).	January 12, 2006; January 19, 2006; *Oklahoma Journal Record*.	The Honorable Mick Cornett, Mayor, City of Oklahoma City, City Hall, 200 North Walker Street, Third Floor, Oklahoma City, Oklahoma 73102.	December 29, 2005 ..	405378
Pottawatomie	City of Shawnee (06–06–B821P).	August 17, 2006; August 24, 2006; *Shawnee New Star*.	The Honorable Chuck Mills, Mayor, City of Shawnee, P.O. Box 1448, Shawnee, Oklahoma 74802–1448.	July 31, 2006	400178
Tulsa	City of Tulsa (05–06–A430P).	April 20, 2006; April 27, 2006; *Tulsa World*.	The Honorable Bill Lafortune, Mayor, City of Tulsa, 200 Civic Center, 11th Floor, Room 532, Tulsa, Oklahoma 74103.	March 31, 2006	405381
Tulsa	City of Tulsa (05–06–A125P).	August 10, 2006; August 17, 2006; *Tulsa World*.	The Honorable Kathy Taylor, Mayor, City of Tulsa, 200 Civic Center, Tulsa, Oklahoma 74103.	November 16, 2006 ..	405381
Oregon:					
Marion	City of Stayton (03–10–0442P).	February 2, 2006; February 9, 2006; *The Statesman Journal*.	The Honorable Gerry Aboud, Mayor, City of Stayton, 362 North Third Avenue, Stayton, Oregon 97383.	May 11, 2006	410170
Marion	Unincorporated Areas of Marion County (03–10–0442P).	February 2, 2006; February 9, 2006; *Journal Statesman*.	The Honorable Sam Brentano, Chairman, Marion County, Board of Commissioners, P.O. Box 14500, Salem, Oregon 97309.	May 11, 2006	410154
Pennsylvania:					
Berks	Township of Longswamp (05–03–0239P).	March 2, 2006; March 9, 2006; *Reading Eagle*.	The Honorable Donald C. Stegfried, Chairman, Longswamp Township, 1112 State Street, Mertztown, Pennsylvania 19539.	June 8, 2006	421380
Berks	Township of Rockland (05–03–0239P).	March 2, 2006; March 9, 2006; *Reading Eagle*.	The Honorable Russell W. Coffin, Chairman, Rockland Township, Board of Supervisors, P.O. Box 149, Bowers, Pennsylvania 19511.	June 8, 2006	421098
York	York Township (06–03–B333P).	August 24, 2006; August 31, 2006; *York Dispatch*.	The Honorable Phillip W. Briddell, President, York Township, Board of Commissioners, 335 Hill-N-Dale Drive, York, Pennsylvania 17403.	July 31, 2006	421032
Puerto Rico	Commonwealth of Puerto Rico (05–02–0421P).	June 29, 2006; July 6, 2006; *San Juan Star*.	The Honorable Anibal Acevedo-Vila, Governor of Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	October 5, 2006	720000
Puerto Rico	Commonwealth of Puerto Rico (05–02–0270P).	August 17, 2006; August 24, 2006; *San Juan Star*.	The Honorable Anibal Acevedo-Vila, Governor of Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	November 23, 2006 ..	720000
Rhode Island: Washington.	Town of Westerly (05–01–A502P).	June 22, 2006; June 29, 2006; *Westerly Sun*.	Mr. Joseph T. Turo, Esq., Town Manager, Town of Westerly, Town Hall, 45 Broad Street, Westerly, Rhode Island 02891.	May 25, 2006	445410
South Carolina:					

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Charleston ...	Town of Mount Pleasant (06–04–B002P).	February 15, 2006; February 22, 2006; *Moultries News*.	The Honorable Harry M. Hallman, Jr., Mayor, Town of Mount Pleasant, P.O. Box 745, Mount Pleasant, South Carolina 29465.	January 31, 2006	455417
Horry	Unincorporated Areas of Horry County (06–04–B138X).	December 22, 2005; December 29, 2005; *Horry Independent*.	The Honorable Elizabeth Gilland, Chairman, Horry County Council, 1511 Elm Street, Conway, South Carolina 29526.	March 30, 2006	450104
Greenville	City of Simpsonville (05–04–A572P).	June 29, 2006; July 06, 2006; *Greenville News*.	The Honorable Dennis C. Waldrop, Mayor, City of Simpsonville, City Hall, 118 Northeast Main Street, Simpsonville, South Carolina 29681.	October 5, 2006	450092
Greenville	Unincorporated Areas of Greenville County (06–04–B011P).	May 20, 2006; May 25, 2006; *Greenville News*.	The Honorable Herman G. Kirven, Chairman, Greenville County Council, 313 League Road, Simpsonville, South Carolina 29681.	August 24, 2006	450089
Greenville	Unincorporated Areas of Greenville County (06–04–B012P).	May 20, 2006; May 26, 2006; *Greenville News*.	The Honorable Herman G. Kirven, Chairman, Greenville County Council, 313 League Road, Simpsonville, South Carolina 29681.	August 25, 2006	450089
Greenville	Unincorporated Areas of Greenville County (05–04–A572P).	June 29, 2006; July 6, 2006; *Greenville News*.	The Honorable Herman G. Kirven, Chairman, Greenville County Council, 313 League Road, Simpsonville, South Carolina 29681.	October 5, 2006	450089
Lancaster	Unincorporated Areas of Lancaster County (05–04–2990P).	February 2, 2006; February 9, 2006; *The Herald*.	Mr. Chappell "Chap" Hurst, Jr., County Administrator, Lancaster County, P.O. Box 1809, Lancaster, South Carolina 29721.	May 11, 2006	450120
Richland	City of Columbia (05–04–A589P).	August 11, 2006; August 18, 2006; *Columbia Star*.	The Honorable Bob Cobble, Mayor, City of Columbia, P.O. Box 147, Columbia, South Carolina 29217.	November 17, 2006 ..	450172
Richland	Town of Irmo (05–04–3485P).	May 18, 2006; May 25, 2006; *Irmo News*.	The Honorable John L. Gibbons, Mayor, Town of Irmo, P.O. Box 406, Irmo, South Carolina 29063.	August 24, 2006	450133
Richland	Unincorporated Areas of Richland County (05–04–3127P).	March 24, 2006; March 31, 2006; *Columbia Star*.	Mr. T. Cary McSwaim, County Administrator, Richland County, P.O. Box 192, Columbia, South Carolina 29202.	February 24, 2006	450170
Richland	Unincorporated Areas of Richland County (05–04–3485P).	May 18, 2006; May 25, 2006; *Irmo News*.	The Honorable Tony Mizzell, Chair, Richland County Council, 2020 Hampton, Columbia, South Carolina 29202.	August 24, 2006	450170
Richland	Unincorporated Areas of Richland County (05–04–A589P).	August 11, 2006; August 18, 2006; *Columbia Star*.	Mr. J. Milton Pope, Interim County Administrator, Richland County, P.O. Box 192, Columbia, South Carolina 29202.	November 17, 2006 ..	450170
Sumter	Unincorporated Areas of Sumter County (04–04–B134P).	June 15, 2006; June 22, 2006; *The Item*.	Mr. William T. Noonan, County Administrator, Sumter County, 13 East Canal Street, Sumter, South Carolina 29150.	September 21, 2006	450182
York	Unincorporated Areas of York County (05–04–2990P).	February 2, 2006; February 9, 2006; *The Herald*.	Mr. Alfred W. " Al" Greene, County Manager, York County, P.O. Box 66, York, South Carolina 29745.	May 11, 2006	450193
Tennessee:					
Cheatham	Town of Ashland City (06–04–A705P).	May 18, 2006; May 25, 2006; *Ashland City Times*.	The Honorable Gary Norwood, Mayor, Town of Ashland City, P.O. Box 36, Ashland City, Tennessee 37015.	August 23, 2006	470027

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Davidson	City of Forest Hills (05–04–A471P).	June 15, 2006; June 22, 2006; *Nashville Record*.	The Honorable Charles K. Evers, Mayor, City of Forest Hills, 4012 Hillsboro Road, Suite 5, Nashville, Tennessee 37215.	September 21, 2006	470407
Davidson	Metropolitan Government of Nashville and Davidson County (05–04–2201P).	January 26, 2006; February 2, 2006; *Nashville Record*.	The Honorable Bill Purcell, Mayor, Metropolitan Government of Nashville and Davidson County, 107 Metropolitan Courthouse, Nashville, Tennessee 37201.	January 12, 2006	470040
Davidson	Metropolitan Government of Nashville and Davidson County (05–04–B137P).	March 23, 2006; March 30, 2006; *Nashville Record*.	The Honorable Bill Purcell, Mayor, Metropolitan Government of Nashville and Davidson County, 107 Metropolitan Courthouse, Nashville, Tennessee 37201.	June 29, 2006	470040
Davidson	Metropolitan Government of Nashville and Davidson County (05–04–A471P).	June 15, 2006; June 22, 2006; *Nashville Record*.	The Honorable Bill Purcell, Mayor, Metropolitan Government of Nashville and Davidson County, 107 Metropolitan Courthouse, Nashville, Tennessee 37201.	September 21, 2006	470040
Henry	City of Paris (05–04–3184P).	March 30, 2006; April 6, 2006; *Paris Post -Intelligencer*.	The Honorable Larry Crawford, Mayor, City of Paris, P.O. Box 970, Paris, Tennessee 38242.	July 06, 2006	470090
Rutherford	Unincorporated Areas of Rutherford County (06–04–B427P).	May 25, 2006; June 1, 2006; *Daily News Journal*.	The Honorable Nancy R. Allen, County Executive, Rutherford County, County Courthouse, Room 101, Murfreesboro, Tennessee 37130.	August 24, 2006	470165
Shelby	Town of Collierville (06–04–B865P).	August 24, 2006; August 31, 2006; *Daily News*.	The Honorable Linda Kerley, Mayor, Town of Collierville, 500 Poplar View Parkway, Collierville, Tennessee 38017.	July 31, 2006	470263
Shelby	City of Memphis (05–04–0247P).	August 21, 2006; August 28, 2006; *Commercial Appeal*.	The Honorable Willie W. Herenton, Mayor, City of Memphis, City Hall, 125 North Main Street, Room 700, Memphis, Tennessee 38103.	July 28, 2006	470177
Shelby	Unincorporated Areas of Shelby County (06–04–B865P).	August 24, 2006; August 31, 2006; *Daily News*.	The Honorable A.C. Wharton, Jr., Mayor, Shelby County, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	July 31, 2006	470214
Williamson	City of Brentwood (06–04–B110P).	June 22, 2006; June 29, 2006; *The Nennessean*.	The Honorable Brian Joe Sweeney, Mayor, City of Brentwood, P.O. Box 788, Brentwood, Tennessee 37024–0788.	September 27, 2006	470205
Texas:					
Angelina	City of Lufkin (05–06–0240P).	March 16, 2006; March 23, 2006; *Lufkin Daily News*.	The Honorable Louis A. Bronaugh, Mayor, City of Lufkin, P.O. Box 190, Lufkin, Texas 75902–0190.	June 22, 2006	480009
Bell	City of Killeen (05–06–0514P).	March 23, 2006; March 30, 2006; *Killeen Daily Herald*.	The Honorable Maureen Jouett, Mayor, City of Killeen, 101 North College Street, Third Floor, Killeen, Texas 76541.	March 1, 2006	480031
Bexar	City of San Antonio (05–06–0892P).	December 8, 2005; December 15, 2005; *Austin American Statesman*.	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	March 16, 2006	480045
Bexar	City of San Antonio (05–06–1714P).	February 24, 2006; March 3, 2006; *Daily Commercial Recorder*.	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	June 1, 2006	480045
Bexar	City of San Antonio (05–06–A206P).	April 27, 2006; May 5, 2006; *Daily Commercial Recorder*.	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	August 4, 2006	480045

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Bexar	City of San Antonio (06–06–B641P).	July 21, 2006; July 28, 2006; *Daily Commercial Recorder*.	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	October 27, 2006	480035
Bexar	City of San Antonio (05–06–1455P).	August 24, 2006; August 31, 2006; *Daily Commercial Recorder*.	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	September 7, 2006 ...	480045
Bexar	Unincorporated Areas of Bexar County (05–06–1445P).	January 12, 2006; January 19, 2006; *Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, Bexar County Courthouse, 100 Dolorosa, Suite 120, San Antonio, Texas 78205.	January 5, 2006	480035
Bexar	Unincorporated Areas of Bexar County (05–06–A206P).	April 27, 2006; May 5, 2006; *Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, Bexar County Courthouse, 100 Dolorosa, Suite 120, San Antonio, Texas 78205.	August 4, 2006	480035
Bexar	Unincorporated Areas of Bexar County (06–06–B271P).	June 22, 2006; June 29, 2006; *Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, Bexar County Courthouse, 100 Dolorosa, Suite 120, San Antonio, Texas 78205.	May 31, 2006	480035
Bexar	Unincorporated Areas of Bexar County (06–06–A673P).	June 22, 2006; June 29, 2006; *Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, Bexar County Courthouse, 100 Dolorosa, Suite 120, San Antonio, Texas 78205.	September 28, 2006	480035
Bexar	Unincorporated Areas of Bexar County (05–06–A520P).	July 14, 2006; July 21, 2006; *Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, Bexar County Courthouse, 100 Dolorosa, Suite 120, San Antonio, Texas 78205.	October 20, 2006	480035
Bexar	Unincorporated Areas of Bexar County (05–06–A521P).	August 24, 2006; August 31, 2006; *Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, Bexar County Courthouse, 100 Dolorosa, Suite 120, San Antonio, Texas 78205.	July 31, 2006	480035
Collin	City of Allen (06–06–B418P).	July 27, 2006; August 3, 2006; *Allen American*.	The Honorable Stephen Terrell, Mayor, City of Allen, City Hall, 305 Century Parkway, Allen, Texas 75013.	November 2, 2006	480131
Collin	City of Allen (06–06–B430P).	August 17, 2006; August 24, 2006; *Allen American*.	The Honorable Stephen Terrell, Mayor, City of Allen, City Hall, 305 Century Parkway, Allen, Texas 75013.	July 31, 2006	480131
Collin	City of Frisco (06–06–B193P).	September 1, 2006; September 8, 2006; *Frisco Enterprise*.	The Honorable Mike Simpson, Mayor, City of Frisco, 6891 Main Street, Frisco, Texas 75034.	August 24, 2006	480134
Collin	City of Frisco (05–06–1675P).	September 8, 2006; September 15, 2006; *Frisco Enterprise*.	The Honorable Mike Simpson, Mayor, City of Frisco, 6891 Main Street, Frisco, Texas 75034.	December 15, 2006 ..	480134
Collin	City of McKinney (05–06–0127P).	February 16, 2006; February 23, 2006; *McKinney Courier Gazette*.	The Honorable Bill Whitfield, Mayor, City of McKinney, 222 North Tennessee, McKinney, Texas 75069.	May, 25, 2006	480135
Collin	City of McKinney (05–06–A318P).	April 20, 2006; April 27, 2006; *McKinney Courier Gazette*.	The Honorable Bill Whitfield, Mayor, City of McKinney, 222 North Tennessee, McKinney, Texas 75069.	July 27, 2006	480135
Collin	City of McKinney (06–06–B170P).	August 24, 2006; August 31, 2006; *McKinney Courier Gazette*.	The Honorable Bill Whitfield, Mayor, City of McKinney, 222 North Tennessee, McKinney, Texas 75069.	November 30, 2006 ..	480135
Collin	City of Plano (06–06–B005P).	March 16, 2006; March 23, 2006; *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	February 24, 2006	480140

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Collin	City of Plano (06–06–B026P).	July 19, 2006; July 26, 2006; *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	October 25, 2006	480140
Collin	City of Plano (06–06–B374P).	August 16, 2006; August 23, 2006; *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	November 22, 2006	480140
Dallas	City of Carrollton (05–06–0086P).	April 5, 2006; April 12, 2006; *Carrollton Leader*.	The Honorable Becky Miller, Mayor, City of Carrollton, 1945 East Jackson Road, Carrollton, Texas 75006.	July 12, 2006	480167
Dallas	City of Dallas (05–06–0199P).	December 8, 2005; December 15, 2005; *Daily Commercial Record*.	The Honorable Laura Miller, Mayor, City of Dallas, Dallas City Hall, 1500 Marilla Street, Room 5EN, Dallas, Texas 75201–6390.	March 16, 2006	480171
Dallas	City of Garland (06–06–B043P).	June 22, 2006; June 29, 2006; *Daily Commercial Record*.	The Honorable Bob Day, Mayor, City of Garland, P.O. Box 469002, Garland, Texas 75046.	May 31, 2006	485471
Dallas	City of Garland (05–06–A172P).	July 20, 2006; July 27, 2006; *Daily Commercial Record*.	The Honorable Bob Day, Mayor, City of Garland, P.O. Box 469002, Garland, Texas 75046.	October 26, 2006	485471
Dallas	City of Garland (06–06–B168P).	August 17, 2006; August 24, 2006; *Daily Commercial Record*.	The Honorable Bob Day, Mayor, City of Garland, P.O. Box 469002, Garland, Texas 75046.	November 23, 2006	485471
Dallas	City of Sachse (06–06–B043P).	June 22, 2006; June 29, 2006; *Daily Commercial Record*.	The Honorable Michael Felis, Mayor, City of Sachse, 5560 State Highway 78, Sachse, Texas 75048.	May 31, 2006	480186
Dallas	Unincorporated Areas of Dallas County (05–06–A509P).	May 5, 2006; May 11, 2006; *Dallas Morning News*.	The Honorable Margaret Keliher, Dallas County Judge, Administration Office, 411 Elm Street, Dallas, Texas 75202.	April 19, 2006	480165
Denton	City of Corinth (05–06–1383P).	March 9, 2006; March 16, 2006; *Denton Record-Chronicle*.	The Honorable Vic Burgess, Mayor, Town of Corinth, 3300 Corinth Street, Corinth, Texas 76205.	June 15, 2006	481143
Denton	City of Denton (05–06–1383P).	March 9, 2006; March 16, 2006; *Denton Record-Chronicle*.	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201.	June 15, 2006	480194
Denton	City of Denton (05–06–A100P).	August 10, 2006; August 17, 2006; *Denton Record Chronicle*.	The Honorable Michael Conduff, Mayor, City of Denton, 215 East McKinney, Denton, Texas 76201.	November 16, 2006	480194
Denton	City of Lewisville (05–06–0170P).	January 4, 2006; January 11, 2006; *Lewisville Leader*.	The Honorable Gene Carey, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, Texas 75029–9002.	April 12, 2006	480195
Denton	City of Ponder (06–06–B215P).	July 13, 2006; July 20, 2006; *Denton Record Chronicle*.	The Honorable Vivian Cockburn, Mayor, City of Ponder, P.O. Box 297, Ponder, Texas 76259.	October 19, 2006	480784
Denton	Unincorporated Areas of Denton County (05–06–1429P).	April 20, 2006; April 27, 2006; *Fort Worth Star Telegram*.	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, Second Floor, Denton, Texas 76201.	July 27, 2006	480774
Denton	Unincorporated Areas of Denton County (05–06–A100P).	August 10, 2006; August 17, 2006; *Denton Record Chronicle*.	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, Second Floor, Denton, Texas 76201.	November 16, 2006	480774
Ellis	Unincorporated Areas of Ellis County (05–06–A558P).	April 13, 2006; April 20, 2006; *Ellis County Press*.	The Honorable Chad Adams, Ellis County Judge, 101 West Main Street, Waxahachie, Texas 75165.	July 20, 2006	480798
Ellis	City of Waxahachie (06–06–B466P).	June 21, 2006; June 28, 2006; *Waxahachie Daily Light*.	The Honorable Jay Barksdale, Mayor, City of Waxahachie, P.O. Box 757, Waxahachie, Texas 75168–0757.	September 27, 2006	480211

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
El Paso	Unincorporated Areas of El Paso County (06–06–B324P).	May 11, 2006; May 18, 2006; *El Paso Times*.	The Honorable John Cook, Mayor, City of El Paso, Two Civic Center Plaza, 10th Floor, El Paso, Texas 79901.	April 17, 2006	480214
Fort Bend	Unincorporated Areas of Fort Bend County (06–06–B011P).	May 18, 2006; May 25, 2006; *Ford Bend Herald*.	Ms. Ellen Hughes, District President, Fort Bend County Municipal Utility, District No. 23, 1715 Misty Fawn Lane, Fresno, Texas 77545.	August 24, 2006	481590
Galveston	City of League City (05–06–1666P).	April 20, 2006; April 27, 2006; *Galveston County Daily News*.	The Honorable Jerry Shults, Mayor, City of League City, 300 West Walker Street, League City, Texas 77573.	March 31, 2006	485488
Gregg & Rusk.	City of Kilgore (04–06–A011P).	March 24, 2006; March 31, 2006; *Kilgore News Herald*.	The Honorable Joe Parker, Mayor, City of Kilgore, P.O. Box 990, Kilgore, Texas 75663.	June 30, 2006	480263
Harris	City of Houston (04–06–1460P).	April 6, 2006; April 13, 2006; *Houston Chronicle*.	The Honorable Bill White, Mayor, City of Houston, P.O. Box 1562, Houston, Texas 77251.	July 6, 2006	480296
Harris	Unincorporated Areas of Harris County (04–06–1299P).	March 16, 2006; April 6, 2006; *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston, Suite 911, Houston, Texas 77002.	June 22, 2006	480287
Harris	Unincorporated Areas of Harris County (04–06–1460P).	April 6, 2006; April 13, 2006; *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston, Suite 911, Houston, Texas 77002.	July 6, 2006	480287
Hays	Unincorporated Areas of Hays County (06–06–B006P);.	August 17, 2006; August 24, 2006; *Hays County Free Press*.	The Honorable Jim Powesr, Hays County Judge, 111 East San Antonio Street, Suite 300, San Marcos, Texas 78666.	November 23, 2006	480321
Hidalgo	City of McAllen (05–06–1607P).	March 9, 2006; March 16, 2006; *The Monitor*.	The Honorable Richard F. Cortez, Mayor, City of McAllen, 1300 Houston Avenue, McAllen, Texas 78501.	February 21, 2006	480343
Jones and Taylor.	City of Abilene (05–06–1712P).	January 26, 2006; February 2, 2006; *Abilene Reporter News*.	The Honorable Norm Archibald, Mayor, City of Abilene, 717 Byrd Drive, Abilene, Texas 79601.	May 4, 2006	485450
Kendall	Unincorporated Areas of Kendall County (04–06–A211P).	August 22, 2006; August 29, 2006; *Boerne Star*.	The Honorable Eddie John Vogt, Kendall County Judge, 204 East San Antonio Street, Boerne, Texas 78006.	November 28, 2006	480417
Lampasas	City of Lampasas (06–06–B513P).	August 15, 2006; August 22, 2006; *Lampasas Dispatch Record*.	The Honorable Jack Calcert, Mayor, City of Lampasas, 312 East Third Street, Lampasas, Texas 76550.	August 21, 2006	480430
Lubbock	City of Lubbock (05–06–1579P).	January 12, 2006; January 19, 2006; *Lubbock Avalanche-Journal*.	The Honorable Mark McDougal, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457.	December 28, 2005	480452
Lubbock	City of Lubbock (05–06–1480P).	March 30, 2006; April 6, 2006; *Lubbock Avalanche-Journal*.	The Honorable Mark McDougal, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457.	March 1, 2006	480452
Lubbock	City of Wolfforth (05–06–0566P).	February 2, 2006; February 9, 2006; *Lubbock Avalanche-Journal*.	The Honorable L.C. Childers, Mayor, City of Wolfforth, P.O. Box 36, Wolfforth, Texas 79382.	May, 11 2006	480918
Medina	Unincorporated Areas of Medina County (06–06–BB97P).	August 24, 2006; August 31, 2006; *Hondo Anvil Herald*.	The Honorable James E. Barden, Medina County Judge, Medina County Courthouse, 1100 16th Street, Room 101, Hondo, Texas 78861.	July 31, 2006	480472
Montgomery	Unincorporated Areas of Montgomery County (05–06–A477P).	May 10, 2006; May 17, 2006; *Houston Community Newspapers* Observer Newspapers.	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	April 24, 2006	480483

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Parker	City of Weatherford (05–06–0653P).	May 18, 2006; May 25, 2006; *Weatherford Democrat*.	The Honorable Joe M. Tison, Mayor, City of Weatherford, P.O. Box 255, Weatherford, Texas 76086.	August 24, 2006	480522
Rockwall	City of Royse (05–06–A064P).	April 12, 2006; April 19, 2006; *Royse City Herald Banner*.	The Honorable Jim Mellody, Mayor, City of Royse City, P.O. Box 638, Royse City, Texas 75189.	July 20, 2006	480548
Tarrant	City of Arlington (05–06–0568P).	April 20, 2006; April 27, 2006; *Fort Worth Star Telegram*.	The Honorable Dr. Robert N. Cluck, Mayor, City of Arlington, 101 West Abram Street, Arlington, Texas 76004–0231.	July 27, 2006	485454
Tarrant	City of Bedford (05–06–A515P).	April 27, 2006; May 4, 2006; *Fort Worth Star Telegram*.	The Honorable James Story, Mayor, City of Bedford, 2000 Forest Ridge Drive, Bedford, Texas 76021.	August 3, 2006	480585
Tarrant	City of Benbrook (05–06–0711P).	February 2, 2006; February 9, 2006; *Benbrook News*.	The Honorable Jerry B. Dittrich, Mayor, City of Benbrook, 911 Winscott Road, Benbrook, Texas 76126.	May 11, 2006	480586
Tarrant	City of Dalworthington Gardens (05–06–0568P).	April 20, 2006; April 27, 2006; *Fort Worth Star Telegram*.	The Honorable Albert Taub, Mayor, City of Dalworthington Gardens, 2600 Roosevelt Drive, Arlington, Texas 76016.	July 27, 2006	480013
Tarrant	City of Fort Worth (05–06–0767P).	December 8, 2005; December 15, 2005; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	March 16, 2006	480596
Tarrant	City of Fort Worth (05–06–0796P).	December 22, 2005; December 29, 2005; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	December 13, 2005	480596
Tarrant	City of Fort Worth (05–06–A227P).	January 12, 2006; January 19, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	April 20, 2006	480596
Tarrant	City of Fort Worth (05–06–1757P).	January 12, 2006; January 19, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	December 28, 2005	480596
Tarrant	City of Fort Worth (05–06–A171P).	March 16, 2006; March 23, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	February 28, 2006	480596
Tarrant	City of Fort Worth (06–06–B068P).	April 20, 2006; April 27, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	July 27, 2006	480596
Tarrant	City of Fort Worth (06–06–B004P).	April 20, 2006; April 27, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	July 27, 2006	480596
Tarrant	City of Fort Worth (06–06–B169P).	June 15, 2006; June 22, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	September 21, 2006	480596
Tarrant	City of Fort Worth (05–06–1252P).	June 22, 2006; June 29, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	September 28, 2006	480596
Tarrant	City of Fort Worth (06–06–B536P).	June 22, 2006; June 29, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	September 28, 2006	480596
Tarrant	City of Fort Worth (06–06–B065P).	July 13, 2006; July 20, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	October 19, 2006	480596

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tarrant	City of Fort Worth (06–06–B570P).	July 13, 2006; July 20, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	October 19, 2006	480596
Tarrant	City of Fort Worth (05–06–0916P).	July 20, 2006; July 27, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	October 26, 2006	480596
Tarrant	City of Fort Worth (06–06–B207P).	August 17, 2006; August 24, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	November 23, 2006	480596
Tarrant	City of Fort Worth (05–06–A230P).	August 24, 2006; August 31, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	November 30, 2006	480596
Tarrant	City of Fort Worth (06–06–B029P).	August 24, 2006; August 31, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	July 31, 2006	480596
Tarrant	City of Fort Worth (06–06–BD72P).	August 24, 2006; August 31, 2006; *Fort Worth Star Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 10000 Throckmorton Street, Fort Worth, Texas 76102.	July 31, 2006	480596
Tarrant	City of Saginaw (06–06–B837P).	July 27, 2006; August 3, 2006; *Northwest Tarrant County Times Record*.	The Honorable Gary Brinkley, Mayor, City of Saginaw, 333 West McLeroy Boulevard, Saginaw, Texas 76179.	August 11, 2006	480610
Denton &Tarrant.	Unincorporated Areas of Tarrant County (05–06–1429P).	April 20, 2006; April 27, 2006; *Fort Worth Star Telegram*.	The Honorable Tom Vandergriff, Tarrant County Judge, 100 East Weatherford Street, Suite 502 A, Fort Worth, Texas 76196.	July 27, 2006	480582
Tarrant	Unincorporated Areas of Tarrant County (06–06–B004P).	April 20, 2006; April 27, 2006; *Fort Worth Star Telegram*.	The Honorable Tom Vandergriff, Tarrant County Judge, 100 East Weatherford Street, Suite 502 A, Fort Worth, Texas 76196.	July 27, 2006	480582
Travis	City of Austin (05–06–0770P).	April 27, 2006; May 4, 2006; *Austin American Statesman*.	The Honorable Will Wynn, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	August 3, 2006	480624
Travis	City of Austin (05–06–A445P).	June 15, 2006; June 22, 2006; *Austin American Statesman*.	The Honorable Will Wynn, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	September 21, 2006	480624
Travis	City of Austin (04–06–1466P).	July 13, 2006; July 20, 2006; *Austin American Statesman*.	The Honorable Will Wynn, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	October 19, 2006	480624
Travis	City of Austin (05–06–A031P).	July 27, 2006; August 3, 2006; *Austin American Statesman*.	The Honorable Will Wynn, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	June 30, 2006	480624
Travis	City of Pflugerville (05–06–0397P).	March 30, 2006; April 6, 2006; *Austin American Statesman*.	The Honorable Catherin T. Callen, Mayor, City of Pflugerville, P.O. Box 589, Pflugerville, Texas 78691.	March 15, 2006	481028
Travis	Unincorporated Areas of Travis County (05–06–0770P).	April 27, 2006; May 4, 2006; *Austin American Statesman*.	The Honorable Samuel T. Biscoe, Travis County Judge, 314 West 11th Street, Suite 520, Austin, Texas 78701.	August 3, 2006	481026
Travis	Unincorporated Areas of Travis County (05–06–A031P).	April 27, 2006; May 4, 2006; *Austin American Statesman*.	The Honorable Samuel T. Biscoe, Travis County Judge, 314 West 11th Street, Suite 520, Austin, Texas 78701.	June 30, 2006	481026
Williamson	City of Round Rock (05–06–0490P).	February 23, 2006; March 2, 2006; *Round Rock Leader*.	The Honorable Nyle Maxwell, Mayor, City of Round Rock, 221 East Main Street, Round Rock, Texas 78664.	March 8, 2006	481048
Virginia:					

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Fauquier	Unincorporated Areas of Fauquier County (04–03–A019P).	December 29, 2005; January 5, 2006; *Fauquier Citizen*.	The Honorable Raymond E. Graham, Chairman, Fauquier County Board of Supervisors, 10 Hotel Street, Suite 208, Warrenton, Virginia 20186.	April 6, 2006	510055
Fauquier	Town of Warrenton (05–03–A447P).	August 23, 2006; August 30, 2006; *Fauquier Times*.	The Honorable George B. Fitch, Mayor, Town of Warrenton, 18 Court Street, Warrenton, Virginia 20186.	November 30, 2006	510057
Independent City.	City of Fairfax (04–03–A027P).	April 13, 2006; April 20, 2006; *Fairfax Connection Newspapers*.	The Honorable Robert F. Lederer, Mayor, City of Fairfax, City Hall, 10455 Armstrong Street, Fairfax, Virginia 22030–3630.	July 20, 2006	515524
Loudoun	Unincorporated Areas of Loudoun County (05–03–A388P).	May 3, 2006; May 10, 2006; *Loudoun Times*.	The Honorable Scott K. York, Chairman, Loudoun County Board of Supervisors, P.O. Box 7000, Leesburg, Virginia 20177–7000.	August 9, 2006	510090
Loudoun	Unincorporated Areas of Loudoun County (05–03–0412P).	August 16, 2006; August 23, 2006; *Loudoun Times Mirror*.	The Honorable Scott K. York, Chairman, Loudoun County Board of Supervisors, P.O. Box 7000, Leesburg, Virginia 20177–7000.	July 25, 2006	510090
Stafford	Unincorporated Areas of Stafford County (05–03–0456P).	June 16, 2006; June 23, 2006; *Stafford County Sun*.	Mr. R. Steve Crosby, County Administrator, Stafford County, P.O. Box 339, Stafford, Virginia 22555–0339.	May 10, 2006	510154
Rockbridge	City of Lexington (05–03–0901P).	August 23, 2006; August 30, 2006; *Rockbridge Weekly*.	The Honorable John Knapp, Mayor, City of Lexington, 300 East Washington Street, Lexington, Virginia 24450.	August 7, 2006	510089
Vermont:					
Windsor	Town of Woodstock (05–01–0287P).	June 22, 2006; June 29, 2006; *Upper Connecticut River Valley*.	The Honorable Philip Swanson, Mayor, Town of Woodstock, Woodstock Town Hall, 29 The Green, Woodstock, Vermont 05091.	September 28, 2006	500160
Washington:					
King	City of Issaquah (06–10–B008P).	February 22, 2006; March 1, 2006; *Issaquah Press*.	The Honorable Ava Frisinger, Mayor, City of Issaquah, P.O. Box 1307, Issaquah, Washington 98027.	May 31, 2006	530079
Walla Walla	Unincorporated Areas of Walla Walla County (06–10–0491P).	August 17, 2006; August 24, 2006; *Waitsburg Times*.	The Honorable David G. Carey, Chairman, Walla Walla County Board of Commissioners, P.O. Box 1506, Walla Walla, Washington 99362.	November 23, 2006	530194
Whatcom	City of Bellingham (05–10–0554P).	April 20, 2006; April 27, 2006; *Bellingham Herald*.	The Honorable Mark Asmundson, Mayor, City of Bellingham, Bellingham City Hall, Second Floor, 210 Lottie Street, Bellingham, Washington 98225.	July 13, 2006	530199
Yakima	City of Toppenish (06–10–B462P).	September 8, 2006; September 14, 2006; *Daily Sun News*.	The Honorable Bill Rogers, Mayor, City of Toppenish, Toppenish City Hall, 21 West First Avenue, Toppenish, Washington 98948.	December 14, 2006	530228
Wisconsin:					
Milwaukee and Washington.	City of Milwaukee (04–05–A652P).	February 23, 2006; March 2, 2006; *Milwaukee Journal Sentinel*.	The Honorable Tom Barrett, Mayor, City of Milwaukee, City Hall, Room 201, 200 East Wells Street, Milwaukee, Wisconsin 53202.	June 1, 2006	550278
Outagamie	Unincorporated Areas of Outagamie County (05–05–A000P).	June 1, 2006; June 8, 2006; *Post Crescent*.	The Honorable Toby Paltzer, County Executive, Outagamie County, 410 South Walnut Street, Appleton, Wisconsin 54911.	April 28, 2006	550302

State and county	Location and case No.	Date and name of newspaper Where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Pierce	Village of Plum City (05–05–1545P).	August 16, 2006; August 23, 2006; *Pierce County Herald*.	The Honorable Douglas E. Watkins, Village President, Village of Plum City, P.O. Box 207, Plum City, Wisconsin 54761.	November 23, 2006	550328
Wyoming:					
Teton	Unincorporated Areas of Teton County (05–08–0317P).	March 29, 2006; April 5, 2006; *Jackson Hole News*.	The Honorable Leland Christensen, Chair, Teton County, Board of Commissioners, P.O. Box 3594, Jackson, Wyoming 83001.	March 15, 2006	560094

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: September 25, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–16659 Filed 10–6–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: *Effective Date:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD) +Elevation in feet (NAVD) Modified
Parkston, South Dakota Docket No.: FEMA–B–7454				
South Dakota	City of Parkston, Hutchinson County.	Pony Creek	Approximately 1,100 feet downstream of Glynn Drive.	*1,378
			Approximately 200 feet upstream of Highway 37.	*1,407

Depth in feet above ground
*National Geodetic Vertical Datum
+North American Vertical Datum

ADDRESSES

City of Parkston:

Maps are available for inspection at the Office of the Chief Executive Officer, 207 West Main Street, Parkston, South Dakota 57366.
Send comments to the Honorable David J. Hoffman, Mayor, City of Parkston, 207 West Main Street, Parkston, South Dakota 57366.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Adams County, Colorado and Incorporated Areas Docket No.: FEMA–B–7460			
Basin 4100	60 feet upstream of Colorado Boulevard	+5095	Adams County (Unincorporated Areas), City of Thornton.
	300 feet upstream of Thornton Parkway	+5223	
Bear Gulch	Confluence with Box Elder Creek	+5283	Adams County (Unincorporated Areas).
	Approximately 100 feet downstream from Quail Run Mile Road.	+5536	
Bear Gulch Tributary D	Approximately 900 feet upstream of the confluence with Bear Gulch.	+5410	Adams County (Unincorporated Areas).
	Approximately 400 feet downstream of future Quail Run Road alignment.	+5440	
Bear Gulch Tributary E	Confluence with Bear Gulch	+5388	Adams County (Unincorporated Areas).
	1115 feet upstream from confluence with Bear Gulch	+5390	
Bear Gulch Tributary G	Confluence with Bear Gulch	+5335	Adams County (Unincorporated Areas).
	320 feet upstream from Quail Run Mile Road	+5367	
Box Elder Creek	Approximately 130 feet downstream from East 168th Avenue.	+5054	Adams County (Unincorporated Areas).
	3000 feet north of the Union Pacific Railroad	+5516	
Clear Creek	Confluence with South Platte River	+5106	Adams County (Unincorporated Areas).
	At Sheridan Boulevard	+5263	
Clear Creek North Overflow	Confluence with Clear Creek	+5222	Adams County (Unincorporated Areas).
	At Sheridan Boulevard	+5263	
Coyote Run	Confluence with Box Elder Creek	+5394	Adams County (Unincorporated Areas).
	Immediately downstream of U.S. 36	+5512	
Hayesmount Creek	Approximately 130 feet downstream from East 168th Avenue.	+5071	Adams County (Unincorporated Areas).
	Adams/Denver County Line	+5234	
Hayesmount Creek East Tributary.	Confluence with Hayesmount Creek	+5190	Adams County (Unincorporated Areas).
	Approximately 5800 feet upstream from East 120th Avenue	+5234	
Hayesmount Creek West Tributary.	Confluence with Hayesmount Creek	+5165	Adams County (Unincorporated Areas).
	Approximately 9000 feet upstream from East 128th Avenue	+5225	
South Platte River	Approximately 130 feet downstream from East 168th Avenue.	+4956	Adams County (Unincorporated Areas), City of Brighton, City of Commerce City, City of Thornton.
	At Franklin Street	+5138	

Depth in feet above ground
*National Geodetic Vertical Datum
+North American Vertical Datum

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

ADDRESSES

City of Brighton:

Maps are available for inspection at 22 South 4th Avenue, Brighton, Colorado 80601.
Send comments to the Honorable Jan Pawlowski, Mayor, City of Brighton, 22 South 4th Avenue, Brighton, Colorado 80601.

City of Commerce City:

Maps are available for inspection at 5291 East 60th Avenue, Commerce City, Colorado 80022.
Send comments to the Honorable Sean Ford, Mayor, City of Commerce City, 5291 East 60th Avenue, Commerce City, Colorado 80022.

City of Thornton:

Maps are available for inspection at Infrastructure Maintenance Center, 12450 Washington Street, Thornton, Colorado 80229.
Send comments to the Honorable Noel Busck, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, Colorado 80229.

Unincorporated Areas of Adams County:

Maps are available for inspection at 12200 North Pecos Street, Third Floor, Westminster, Colorado 80234.
Send comments to Commissioner Larry W. Pace, Chairman, Board of County Commissioners, 450 South 4th Avenue, Brighton, Colorado 80601.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: September 26, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–16660 Filed 10–6–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2005–20278]

Final Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of final theft data.

SUMMARY: This document publishes the final data on thefts of model year (MY) 2004 passenger motor vehicles that occurred in calendar year (CY) 2004. The final 2004 theft data indicate a decrease in the vehicle theft rate experienced in CY/MY 2004. The final theft rate for MY 2004 passenger vehicles stolen in calendar year 2004 (1.83 thefts per thousand vehicles) decreased by 0.54 percent from the theft rate for CY/MY 2003 (1.84 thefts per thousand vehicles) when compared to the theft rate experienced in CY/MY 2003. Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually beginning with MYs 1983/84. Continuing to fulfill the § 33104(b)(4) mandate, this document reports the final theft data for CY 2004, the most recent calendar year for which data are available.

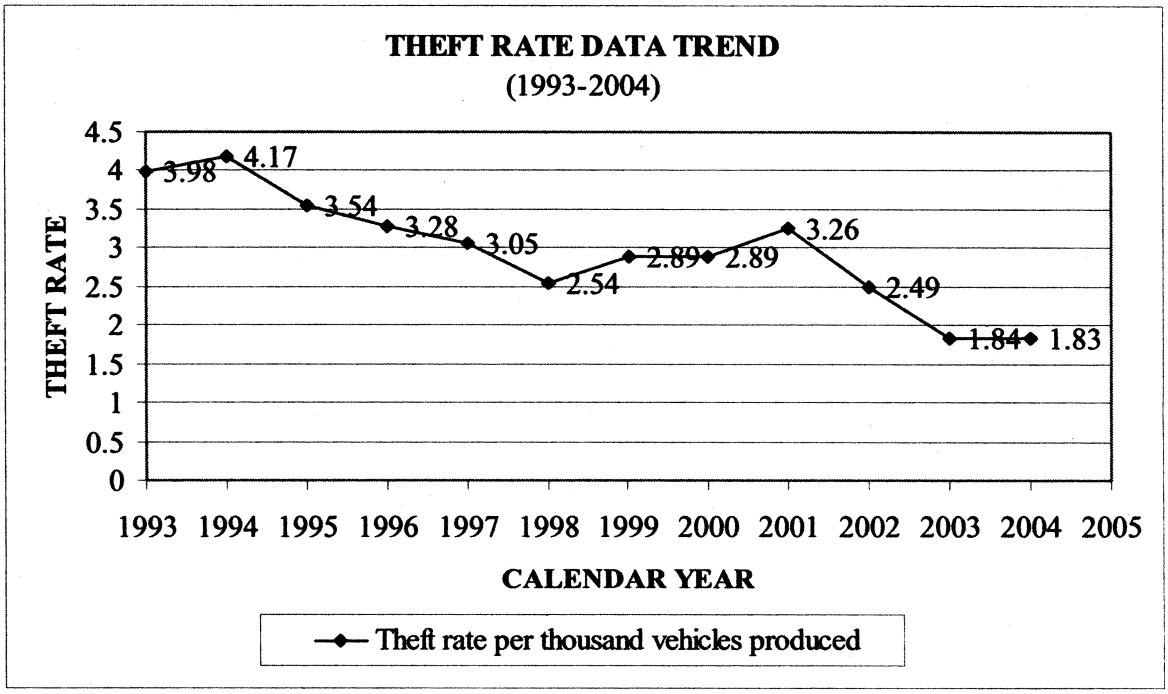
In calculating the 2004 theft rates, NHTSA followed the same procedures it used in calculating the MY 2003 theft rates. (For 2003 theft data calculations, see 70 FR 46092, August 9, 2005). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 2004 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2004 vehicles of that line stolen during calendar year 2004 by the total number of vehicles in that line manufactured for MY 2004, as reported to the Environmental Protection Agency (EPA).

The final 2004 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2003. The final theft rate for MY 2004 passenger vehicles stolen in calendar year 2004 decreased to 1.83 thefts per thousand vehicles produced, a decrease of 0.54 percent from the rate of 1.84 thefts per thousand vehicles experienced by MY 2003 vehicles in CY 2003. For MY 2004 vehicles, out of a total of 230 vehicle lines, 22 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 22 vehicle lines with a theft rate higher than 3.5826, 20 are passenger car lines, one is a multipurpose passenger vehicle line, and one is a light-duty truck line.

The MY 2004 theft rate reduction is consistent with the general decreasing trend of theft rates over the past eleven years as indicated by Figure 1.

Figure 1.



The agency believes that the theft rate reduction could be the result of several factors including the increased use of standard antitheft devices (*i.e.*, immobilizers), vehicle partsmarking, increased and improved prosecution efforts by law enforcement organizations and, increased public awareness measures.

On Tuesday, May 2, 2006, NHTSA published the preliminary theft rates for CY 2004 passenger motor vehicles in the **Federal Register** (71 FR 25803). The agency tentatively ranked each of the MY 2004 vehicle lines in descending order of theft rate. The public was requested to comment on the accuracy of the data and to provide final production figures for individual vehicle lines. The agency used written comments to make the necessary adjustments to its data.

The agency received a written comment from Volkswagen of America, Inc. (VW). In its comments, VW informed the agency that the Lamborghini Gallardo and the Lamborghini L–140/141 are the same vehicle. The vehicles had been erroneously listed as two entries. The correct production volume and number of thefts were correctly reported under the Gallardo entry. Therefore, the L–140/141 entry has been deleted. Additionally, VW commented that the Lamborghini L–147/148 entry should be correctly listed as the Lamborghini Murcielago. The final theft data have been revised to reflect these changes. Volkswagen also informed the agency that Rolls Royce was incorrectly listed as the manufacturer for the Arnage and Continental entries. The final theft data have been revised to reflect that Bentley is the manufacturer for the Arnage and the Continental vehicles.

The following list represents NHTSA's final calculation of theft rates for all 2004 passenger motor vehicle lines. This list is intended to inform the public of calendar year 2004 motor vehicle thefts of model year 2004 vehicles and does not have any effect on the obligations of regulated parties under 49 U.S.C. Chapter 331, Theft Prevention.

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004

Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 Theft rate (per 1,000 vehicles produced)
1. DAIMLERCHRYSLER	DODGE INTREPID	662	67,289	9.8382
2. TOYOTA	TUNDRA PICKUP	135	14,660	9.2087
3. DAIMLERCHRYSLER	DODGE STRATUS	1,047	140,248	7.4653
4. DAIMLERCHRYSLER	CHRYSLER SEBRING	525	90,897	5.7758
5. HONDA	ACURA NSX	1	198	5.0505
6. GENERAL MOTORS	OLDSMOBILE ALERO	346	69,534	4.9760
7. GENERAL MOTORS	CHEVROLET MALIBU CLASSIC	464	98,025	4.7335
8. DAIMLERCHRYSLER	CHRYSLER CONCORDE	108	2,879	4.7205
9. MITSUBISHI	DIAMANTE	19	4,135	4.5949
10 SUBARU	IMPREZA	177	8,806	4.5612
11. MITSUBISHI	MONTERO SPORT	24	5,414	4.4330
12. GENERAL MOTORS	CHEVROLET MONTE CARLO	268	62,391	4.2955

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004—Continued

Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 Theft rate (per 1,000 vehicles produced)
13. DAIMLERCHRYSLER	DODGE NEON	498	117,601	4.2347
14. MITSUBISHI	ECLIPSE	74	17,682	4.1850
15. NISSAN	SENTRA	504	122,208	4.1241
16. FORD MOTOR CO.	FORD MUSTANG	541	135,734	3.9857
17. NISSAN	INFINITI Q45	4	1,006	3.9761
18. KIA	RIO	145	37,599	3.8565
19. DAIMLERCHRYSLER	CHRYSLER SEBRING CONVERTIBLE	248	64,442	3.8484
20. MITSUBISHI	GALANT	165	42,902	3.8460
21. GENERAL MOTORS	PONTIAC GRAND AM	639	171,925	3.7167
22. HYUNDAI	ACCENT	155	2,863	3.6162
23. MITSUBISHI	LANCER	140	42,776	3.2729
24. MITSUBISHI	ENDEAVOR	177	56,030	3.1590
25. GENERAL MOTORS	PONTIAC SUNFIRE	114	36,176	3.1513
26. NISSAN	ALTIMA	273	88,348	3.0901
27. GENERAL MOTORS	CHEVROLET CAVALIER	658	215,275	3.0566
28. TOYOTA	SCION XB	73	25,098	2.9086
29. KIA	OPTIMA	186	66,397	2.8013
30. FORD MOTOR CO.	FORD FOCUS	302	109,050	2.7694
31. GENERAL MOTORS	CHEVROLET IMPALA	743	269,733	2.7546
32. SUZUKI	VERONA	44	16,478	2.6702
33. BMW	7	43	16,245	2.6470
34. GENERAL MOTORS	CADILLAC SEVILLE	16	6,222	2.5715
35. ISUZU	RODEO	43	16,863	2.5500
36. NISSAN	MAXIMA	301	119,146	2.5263
37. TOYOTA	CELICA	21	8,483	2.4755
38. DAIMLERCHRYSLER	CHRYSLER PT CRUISER	255	104,558	2.4388
39. BMW	M3	21	8,632	2.4328
40. KIA	AMANTI	46	9,363	2.3757
41. GENERAL MOTORS	PONTIAC AZTEK	49	20,854	2.3497
42. FORD MOTOR CO.	FORD TAURUS	477	203,126	2.3483
43. MAZDA	6	176	75,843	2.3206
44. GENERAL MOTORS	CHEVROLET BLAZER S10/T10	116	50,855	2.2810
45. SUZUKI	FORENZA	57	25,032	2.2771
46. GENERAL MOTORS	PONTIAC GRAND PRIX	408	179,556	2.2723
47. FORD MOTOR CO.	LINCOLN TOWN CAR	125	55,227	2.2634
48. FORD MOTOR CO.	LINCOLN LS	66	29,344	2.2492
49. SUZUKI	AERIO	37	16,459	2.2480
50. MITSUBISHI	OUTLANDER	50	22,336	2.2385
51. TOYOTA	COROLLA	602	272,301	2.2108
52. GENERAL MOTORS	CHEVROLET CORVETTE	74	33,501	2.2089
53. KIA	SPECTRA	96	44,322	2.1660
54. NISSAN	350Z	87	40,255	2.1612
55. TOYOTA	LEXUS GS	21	9,756	2.1525
56. FORD MOTOR CO.	MERCURY SABLE	90	42,236	2.1309
57. TOYOTA	LEXUS IS	24	11,308	2.1224
58. FERRARI	360	2	950	2.1053
59. MERCEDES-BENZ	170 (SLK-CLASS)	8	3,836	2.0855
60. DAIMLERCHRYSLER	CHRYSLER PACIFICA	192	98,340	1.9524
61. DAIMLERCHRYSLER	JEEP GRAND CHEROKEE	617	317,381	1.9440
62. HONDA	ACURA RSX	39	20,280	1.9231
63. DAIMLERCHRYSLER	DODGE DAKOTA PICKUP	62	32,355	1.9162
64. FORD MOTOR CO.	FORD CROWN VICTORIA	63	32,977	1.9104
65. DAIMLERCHRYSLER	DODGE CARAVAN/GRAND CARAVAN	162	84,965	1.9067
66. GENERAL MOTORS	PONTIAC BONNEVILLE	40	21,163	1.8901
67. HYUNDAI	ELANTRA	196	103,787	1.8885
68. BMW	6	11	5,870	1.8739
69. JAGUAR	XJR	4	2,179	1.8357
70. GENERAL MOTORS	GMC CANYON PICKUP	39	21,402	1.8223
71. MAZDA	RX–8	64	35,147	1.8209
72. GENERAL MOTORS	BUICK RENDEZVOUS	123	68,043	1.8077
73. JAGUAR	XKR	1	557	1.7953
74. DAIMLERCHRYSLER	JEEP LIBERTY	305	173,128	1.7617
75. FORD MOTOR CO.	FORD EXPLORER	515	294,622	1.7480
76. VOLKSWAGEN	PHAETON	4	2,326	1.7197
77. MERCEDES-BENZ	129 (SL-CLASS)	20	11,928	1.6767
78. NISSAN	INFINITI FX35	44	26,531	1.6584
79. DAIMLERCHRYSLER	CHRYSLER 300M	34	20,836	1.6318
80. TOYOTA	TACOMA PICKUP	259	159,348	1.6254

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004—Continued

Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 Theft rate (per 1,000 vehicles produced)
81. VOLKSWAGEN	R32	8	5,017	1.5946
82. NISSAN	INFINITI G35	139	87,780	1.5835
83. HYUNDAI	TIBURON	33	20,977	1.5732
84. GENERAL MOTORS	CHEVROLET TRACKER	24	15,276	1.5711
85. HYUNDAI	SONATA	158	101,774	1.5525
86. MERCEDES-BENZ	208 (CLK-CLASS)	31	20,013	1.5490
87. GENERAL MOTORS	BUICK CENTURY	84	54,706	1.5355
88. GENERAL MOTORS	CADILLAC DEVILLE	111	73,274	1.5149
89. FORD MOTOR CO.	FORD THUNDERBIRD	19	12,577	1.5107
90. TOYOTA	MATRIX	91	60,311	1.5088
91. VOLVO	S40	34	22,616	1.5034
92. GENERAL MOTORS	CHEVROLET TRAILBLAZER	308	209,348	1.4712
93. HONDA	S2000	11	7,511	1.4645
94. DAIMLERCHRYSLER	DODGE VIPER	3	2,065	1.4528
95. DAIMLERCHRYSLER	JEEP WRANGLER	132	91,631	1.4406
96. LAMBORGHINI	GALLARDO	1	697	1.4347
97. TOYOTA	CAMRY/SOLARA	532	373,268	1.4252
98. TOYOTA	LEXUS SC	14	9,905	1.4134
99. MAZDA	MX–5 MIATA	12	8,620	1.3921
100. GENERAL MOTORS	GMC ENVOY	114	83,013	1.3733
101. MAZDA	3	104	75,915	1.3700
102. JAGUAR	XJ8	15	11,048	1.3577
103. GENERAL MOTORS	GMC SAFARI VAN	6	4,428	1.3550
104. VOLVO	V40	4	2,963	1.3500
105. HONDA	CIVIC	390	289,347	1.3479
106. GENERAL MOTORS	CHEVROLET ASTRO VAN	28	20,892	1.3402
107. JAGUAR	S-TYPE	10	7,469	1.3389
108. GENERAL MOTORS	CHEVROLET AVEO	92	68,741	1.3384
109. KIA	SORENTO	63	47,404	1.3290
110. GENERAL MOTORS	CHEVROLET MALIBU	127	96,605	1.3146
111. FORD MOTOR CO.	FORD EXPLORER SPORT TRAC	79	60,166	1.3130
112. NISSAN	FRONTIER PICKUP	100	77,079	1.2974
113. GENERAL MOTORS	BUICK PARK AVENUE	22	16,985	1.2953
114. SUZUKI	VITARA/GRAND VITARA	44	34,227	1.2855
115. DAIMLERCHRYSLER	CHRYSLER CROSSFIRE	22	17,345	1.2684
116. AUDI	A4/A4 QUATTRO/S4/S4 AVANT	59	46,660	1.2645
117. GENERAL MOTORS	BUICK REGAL	24	18,983	1.2643
118. FORD MOTOR CO.	FORD ESCAPE	133	106,309	1.2511
119. MERCEDES-BENZ	203 (C-CLASS)	64	51,630	1.2396
120. TOYOTA	SCION XA	18	14,753	1.2201
121. NISSAN	INFINITI QX56	15	12,296	1.2199
122. JAGUAR	X-TYPE	30	24,693	1.2149
123. VOLVO	S60	50	41,804	1.1961
124. ISUZU	AXIOM	4	3,347	1.1951
125. HONDA	ACCORD	448	376,680	1.1893
126. NISSAN	INFINITI M45	2	1,687	1.1855
127. VOLKSWAGEN	JETTA	109	92,979	1.1723
128. GENERAL MOTORS	CHEVROLET COLORADO	109	93,411	1.1669
129. FORD MOTOR CO.	MERCURY GRAND MARQUIS	104	89,130	1.1668
130. GENERAL MOTORS	SATURN ION	141	121,109	1.1642
131. MAZDA	MPV VAN	26	22,346	1.1635
132. VOLVO	S80	23	19,802	1.1615
133. GENERAL MOTORS	PONTIAC MONTANA VAN	35	30,277	1.1560
134. HYUNDAI	XG300	27	24,262	1.1129
135. TOYOTA	4RUNNER	135	122,034	1.1062
136. MERCEDES-BENZ	220 (S-CLASS)	18	16,416	1.0965
137. GENERAL MOTORS	PONTIAC GTO	13	12,044	1.0794
138. HONDA	ACURA TSX	50	46,494	1.0754
139. ISUZU	ASCENDER	8	7,455	1.0731
140. NISSAN	XTERRA	90	84,478	1.0654
141. PORSCHE	911	10	9,546	1.0476
142. AUDI	A8	8	7,654	1.0452
143. LAND ROVER	FREELANDER	5	4,795	1.0428
144. GENERAL MOTORS	PONTIAC VIBE	65	62,365	1.0423
145. BMW	3	106	103,092	1.0282
146. FORD MOTOR CO.	MERCURY MOUNTAINEER	52	50,580	1.0281
147. VOLKSWAGEN	GOLF/GTI	20	20,043	0.9979
148. FORD MOTOR CO.	FORD FREESTAR	104	105,280	0.9878

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004—Continued

Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 Theft rate (per 1,000 vehicles produced)
149. TOYOTA	MR2 SPYDER	1	1,023	0.9775
150. GENERAL MOTORS	BUICK LESABRE	117	119,742	0.9771
151. MERCEDES-BENZ	215 (CL-CLASS)	2	2,125	0.9412
152. KIA	SEDONA VAN	50	53,140	0.9409
153. BMW	5	45	48,009	0.9373
154. PORSCHE	BOXSTER	4	4,417	0.9056
155. HONDA	ACURA 3.2 TL	67	75,026	0.8930
156. TOYOTA	LEXUS LS	28	31,881	0.8783
157. DAIMLERCHRYSLER	CHRYSLER TOWN & COUNTRY (MPV)	49	56,361	0.8694
158. GENERAL MOTORS	CHEVROLET VENTURE VAN	66	76,777	0.8596
159. NISSAN	MURANO	55	64,280	0.8556
160. MERCEDES-BENZ	210 (E-CLASS)	39	45,602	0.8552
161. HONDA	ACURA 3.5 RL	7	8,341	0.8392
162. BMW	Z4	11	13,171	0.8352
163. MAZDA	TRIBUTE	25	30,524	0.8190
164. NISSAN	PATHFINDER	23	28,387	0.8102
165. TOYOTA	RAV4	62	77,643	0.7985
166. FORD MOTOR CO.	FORD RANGER PICKUP	136	172,566	0.7881
167. GENERAL MOTORS	CADILLAC SRX	24	30,811	0.7789
168. GENERAL MOTORS	CADILLAC XLR	3	3,857	0.7778
169. GENERAL MOTORS	CADILLAC CTS	43	55,984	0.7681
170. GENERAL MOTORS	CHEVROLET S10/T10 PICKUP	9	12,111	0.7431
171. GENERAL MOTORS	OLDSMOBILE SILHOUETTE VAN	7	9,420	0.7431
172. HONDA	ACURA MDX	45	62,397	0.7212
173. GENERAL MOTORS	SATURN LS	13	18,185	0.7149
174. AUDI	ALLROAD QUATTRO	4	5,675	0.7048
175. TOYOTA	ECHO	4	5,697	0.7021
176. TOYOTA	LEXUS RX	101	146,431	0.6897
177. VOLKSWAGEN	PASSAT	48	70,878	0.6772
178. VOLKSWAGEN	NEW BEETLE	30	44,896	0.6682
179. TOYOTA	HIGHLANDER	82	123,726	0.6628
180. HYUNDAI	SANTA FE	86	130,385	0.6596
181. VOLVO	C70	5	7,731	0.6467
182. TOYOTA	LEXUS ES	45	70,774	0.6358
183. AUDI	A6/A6 QUATTRO/S6/S6 AVANT	10	15,885	0.6295
184. GENERAL MOTORS	GMC SONOMA PICKUP	2	3,190	0.6270
185. NISSAN	QUEST VAN	40	63,930	0.6257
186. MAZDA	B SERIES PICKUP	6	9,766	0.6144
187. HONDA	ELEMENT	34	56,002	0.6071
188. BMW	X3	20	33,586	0.5955
189. VOLVO	XC90	31	53,323	0.5814
190. TOYOTA	LEXUS GX	25	43,789	0.5709
191. JAGUAR	VANDEN PLAS/SUPER V8	2	3,712	0.5388
192. NISSAN	INFINITI FX45	2	3,762	0.5316
193. HONDA	ODYSSEY VAN	66	132,919	0.4965
194. TOYOTA	AVALON	25	50,663	0.4935
195. TOYOTA	SIENNA VAN	106	220,314	0.4811
196. NISSAN	INFINITI I35	6	12,840	0.4673
197. SUBARU	LEGACY/OUTBACK	28	61,160	0.4578
198. VOLVO	V70	7	15,335	0.4565
199. GENERAL MOTORS	SATURN VUE	42	92,536	0.4539
200. SUBARU	BAJA	1	2,208	0.4529
201. GENERAL MOTORS	SATURN LW	1	2,226	0.4492
202. GENERAL MOTORS	CHEVROLET MALIBU MAXX	16	35,760	0.4474
203. HONDA	CR–V	65	153,562	0.4233
204. TOYOTA	PRIUS	20	47,970	0.4169
205. HONDA	PILOT	50	135,591	0.3688
206. VOLVO	XC70	9	24,528	0.3669
207. BMW	MINI COOPER	11	31,126	0.3534
208. SUBARU	FORESTER	22	62,733	0.3507
209. AUDI	TT	2	5,889	0.3396
210. SAAB	9–3	10	29,534	0.3386
211. GENERAL MOTORS	OLDSMOBILE BRAVADA	1	3,475	0.2878
212. SAAB	9–5	2	10,101	0.1980
213. GENERAL MOTORS	BUICK RAINIER	4	28,987	0.1380
214. FORD MOTOR CO.	MERCURY MONTEREY	2	20,632	0.0969
215. ASTON MARTIN	VANQUISH	0	79	0.0000
216. FERRARI	575M	0	127	0.0000

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2004 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2004—Continued

Manufacturer	Make/model (line)	Thefts 2004	Production (Mfr's) 2004	2004 Theft rate (per 1,000 vehicles produced)
217. FERRARI	CHALLENGE	0	328	0.0000
218. FORD MOTOR CO.	MERCURY MARAUDER	0	3,177	0.0000
219. GENERAL MOTORS	CADILLAC FUNERAL COACH/HEARSE	0	973	0.0000
220. GENERAL MOTORS	CADILLAC LIMOUSINE	0	778	0.0000
221. HONDA	INSIGHT	0	543	0.0000
222. JAGUAR	XK8	0	981	0.0000
223. LAMBORGHINI	MURCIELAGO	0	121	0.0000
224. LOTUS	ESPRIT	0	39	0.0000
225. MASERATI	COUPE/SPYDER	0	793	0.0000
226. QUANTUM TECH.	CHEVROLET CAVALIER	0	391	0.0000
227. BENTLEY	ARNAGE	0	165	0.0000
228. BENTLEY	CONTINENTAL	0	737	0.0000
229. ROLLS ROYCE	PHANTOM	0	489	0.0000
230. SAAB	9–7X	0	1,998	0.0000

Issued on: September 29, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–16687 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051014263–6028–03; I.D. 100206A]

Fisheries off West Coast States; Pacific Coast Groundfish Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Mothership Sector

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces the end of the 2006 Pacific Whiting (whiting) Primary Season for the mothership sector at 9 p.m. local time (l.t.) September 29, 2006, because the allocation for the mothership sector is projected to be reached by that time. This action is intended to keep the harvest of whiting within the 2006 allocation levels.

DATES: Effective from 9 p.m. l.t. September 29, 2006, until the start of the 2007 primary season for the mothership sector, unless modified, superseded or rescinded. Comments will be accepted through October 25, 2006.

ADDRESSES: You may submit comments, identified by 051014263–6028–03, by any of the following methods:

- E-mail: *WhitingMPclosure06.nwr@noaa.gov* Include 051014263–6028–03 in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 206–526–6736, Attn: Becky Renko.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Becky Renko.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California.

The regulations at 50 CFR 660.323(a) establish separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. For 2006, the 232,069–mt commercial harvest guideline for whiting is divided with the catcher/processor sector receiving 78,903 mt (34 percent); the mothership sector receiving 55,696 mt (24 percent); and the shore-based sector receiving 97,469 mt (42 percent).

Regulations at 50 CFR 660.373(b) describe the primary season for each sector. For mothership processors, the primary season is the period when at-sea processing is allowed and the fishery is open for catcher vessels that harvest whiting for the mothership sector. When each sector's allocation is reached, the primary season for that sector is ended.

NMFS Action

This action announces achievement of the allocation for the mothership sector only. The best available information on September 29, 2006, indicated that the mothership allocation would be reached by 9 p.m. l.t. September 29, 2006, at which time the primary season for the mothership sector ends.

For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(b), NMFS herein announces that, effective 9 p.m. l.t. September 29, 2006, further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited, and whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The Assistant Administrator for Fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on this action pursuant to 5 U.S.C. 553 (3)(b)(B), because providing prior notice and comment opportunity would be impracticable. It would be impracticable because if this closure were delayed in order to provide notice and comment, the fishery would be expected to greatly exceed the mothership sector allocation.

A delay to provide a cooling off period also would be expected to cause the fishery to exceed its allocation. Therefore, good cause also exists to waive the 30–day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3). The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323 (b) and is exempt from review under Executive Order 12866.

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

Dated: October 3, 2006.

James P. Burgess,

Acting Director, Office Of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–16676 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 100406B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule; prohibition of retention.

SUMMARY: NMFS is prohibiting retention of Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands (BSAI). NMFS is requiring that catch of Pacific ocean perch in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2006 total allowable catch (TAC) of Pacific ocean perch in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 4, 2006, until 2400 hrs, A.l.t., December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

The 2006 TAC of Pacific ocean perch in the Western Aleutian District of the BSAI is 4,703 metric tons as established by the 2006 and 2007 harvest specifications for groundfish of the BSAI (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 2006 TAC of Pacific ocean perch in the Western Aleutian District of the BSAI has been reached. Therefore, NMFS is requiring that further catches of Pacific ocean perch in the Western Aleutian District of the BSAI be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of Pacific ocean perch in the Western Aleutian District of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 3, 2006.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 4, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–8570 Filed 10–4–06; 2:22 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 100306E]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using trawl and jig gear to catcher processor vessels using hook-and-line gear and vessels using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). These actions are necessary to allow the 2006 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective October 6, 2006, until 2400 hours, A.l.t., December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2006 Pacific cod TAC in the BSAI is 189,768 metric tons (mt) as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006) and adjustments (71 FR 13777, March 17, 2006 and 71 FR 55347, September 22, 2006). Pursuant to § 679,29(a)(7)(i), the allocations of the Pacific cod TAC are 267 mt to catcher vessels using hook-and-line gear, 71,218 mt to catcher processor vessels using hook-and-line gear, 2,938 mt to catcher processor vessels using pot gear, 13,354 mt to catcher vessels using pot gear, 41,251 mt to catcher processors using trawl gear, and 41,251 mt to catcher vessels using trawl gear. The allocation to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear is 3,232

mt and to vessels using jig gear is 1,514 mt after three reallocations (71 FR 14825, March 24, 2006, 71 FR 25508 May 1, 2006, and 71 FR 44230, August 4, 2006).

As of October 02, 2006, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that catcher processors using trawl gear will not be able to harvest 5,406 mt and catcher vessels using trawl gear will not be able to harvest 7,427 mt of Pacific cod allocated to those vessels under § 679.20(a)(7)(i)(B). Therefore, in accordance with § 679.20(a)(7)(ii)(C)(2), NMFS apportions 12,833 mt of Pacific cod from trawl gear to catcher processor vessels using hook-and-line gear and vessels using pot gear.

The Regional Administrator has also determined that vessels using jig gear will not harvest 1,300 mt of their Pacific cod allocation by the end of the year. Also, catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear will not be able to harvest any additional Pacific cod. Therefore, in accordance with § 679.20(a)(7)(ii)(C)(1) and § 679.20(a)(7)(ii)(B), NMFS is reallocating the unused amount of 1,300 mt of Pacific cod allocated to vessels using jig gear to catcher processor vessels using hook-and-line gear and vessels using pot gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006) and adjustments (71 FR 13777, March 17, 2006 and 71 FR 55347, September 22, 2006) are revised as follows: 214 mt to vessels using jig gear, 84,709 mt to catcher processor vessels using hook-and-line gear, 13,880 mt to catcher vessels using pot gear, 3,053 mt to catcher processor vessels using pot gear, 35,845 mt to catcher processor vessels using trawl gear, and 33,824 mt to catcher vessels using trawl gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of projected unused amounts of Pacific cod in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 2, 2006.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 03, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–16675 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 100306D]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of the Aleut Corporation's pollock directed fishing allowance (DFA) and the Aleutian Islands pollock incidental catch allowance (ICA) from the Aleutian Islands subarea to the Bering Sea subarea directed fisheries. These actions are necessary to provide opportunity for harvest of the 2006 total allowable catch (TAC) of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP).

DATES: Effective October 6, 2006, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands Management Area (BSAI) according to the FMP prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In the Aleutian Islands subarea, the portion of the 2006 pollock TAC allocated to the Aleut Corporation's DFA is 5,500 metric tons (mt) and the ICA is 1,800 mt as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006) and the reallocation on March 3, 2006 (71 FR 11541, March 8, 2006) and on August 16, 2006 (71 FR 48483, August 21, 2006).

As of October 2, 2006, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 4,603 mt of Aleut Corporation's DFA and 700 mt of ICA pollock in the Aleutian Islands subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(4), NMFS proportionally reallocates 4,603 mt of Aleut Corporation's DFA and 700 mt of ICA pollock from the Aleutian Islands subarea to the 2006 Bering Sea subarea B season allocations.

As a result, the harvest specifications for pollock in the Aleutian Islands subarea included in the harvest specifications for groundfish in the BSAI (71 FR 48483, August 21, 2006) are revised as follows: 897 mt to Aleut Corporation's DFA and 1,100 mt to ICA pollock. Furthermore, pursuant to § 679.20(a)(5), Tables 3 and 10 of the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 48483, August 21, 2006) are revised for 2006 pollock allocations consistent with this reallocation. This reallocation results in proportional adjustments to the 2006 B season Aleut Corporation and ICA pollock allocations established at § 679.20(a)(5).

TABLE 3 – 2006 AND 2007 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)[1]

[Amounts are in metric tons]

Area and sector	2006 Allocations	2006 A season[1]		2006 B season[1]
		A season DFA	SCA harvest limit[2]	B season DFA
Bering Sea subarea	1,502,003	n/a	n/a	n/a
CDQ DFA	150,400	60,160	41,793	90,240
ICA	30,967	n/a	n/a	n/a
AFA Inshore	660,318	261,148	181,626	399,170
AFA Catcher/Processors[3]	528,254	208,918	145,301	319,336
Catch by C/Ps	483,353	191,160	n/a	292,193
Catch by CVs[3]	44,902	17,758	n/a	27,144
Unlisted C/P Limit[4]	2,641	1,045	n/a	1,597
AFA Motherships	132,064	52,230	36,325	79,834
Excessive Harvesting Limit[5]	231,111	n/a	n/a	n/a
Excessive Processing Limit[6]	396,191	n/a	n/a	n/a
Total Bering Sea DFA	1,471,636	582,456	405,045	888,580
Aleutian Islands subarea[1]	1,997	n/a	n/a	n/a
CDQ DFA	0	n/a	n/a	0
ICA	1,100	400	n/a	600
Aleut Corporation	897	359	n/a	538
Bogoslof District ICA[7]	10	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA - 10 percent and the ICA - 3.35 percent, is allocated as a DFA as follows: inshore component - 50 percent, catcher/processor component - 40 percent, and mothership component - 10 percent. In the Bering Sea subarea, the A season, January 20 - June 10, is allocated 40 percent of the DFA and the B season, June 10 - November 1, is allocated 60 percent of the DFA. Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance - 10 percent and second the ICA - 1,800 mt, is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

[2] In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(6) NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(7) NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the pollock DFAs.

[7] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only, and are not apportioned by season or sector.

TABLE 10 – 2006 AND 2007 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

[Amounts are in metric tons]

Cooperative name and member vessels	Sum of member vessel's official catch histories [1](mt)	Percentage of inshore sector allocation	2006 Annual cooperative allocation (mt)	2007 Annual cooperative allocation (mt)
Akutan Catcher Vessel Association	31,145	31.145	205,656	203,186
Arctic Enterprise Association	1,146	1.146	7,566	7,476
Northern Victor Fleet Cooperative	8,412	8.412	55,548	54,879
Peter Pan Fleet Cooperative	2,876	2.876	18,992	18,763
Unalaska Cooperative	12,191	12.191	80,497	79,533
UniSea Fleet Cooperative	25,324	25.324	167,220	165,211
Westward Fleet Cooperative	18,906	18.906	124,838	123,340
Open access AFA vessels	0	0	0	0
Total inshore allocation	875,572	100	660,318	652,388

[1]According to regulations at § 679.62(e)(1), the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of BSAI pollock. Since the pollock fishery is currently open, it is important to immediately inform the industry as to the final Bering Sea subarea pollock allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased B season pollock allocations while value is optimum.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 3, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–16674 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 71, No. 195

Tuesday, October 10, 2006

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 ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM/TP–02–002]

RIN 1904–AB55

Energy Conservation Program for Consumer Products: Test Procedure for Residential Central Air Conditioners and Heat Pumps; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed Rule; technical correction and reopening of comment period.

SUMMARY: A notice of proposed rulemaking (NOPR), to amend the Department of Energy (DOE) test procedures for residential central air conditioners and heat pumps, was published in the **Federal Register** on July 20, 2006. The Department has identified two errors in that proposed rulemaking and this notice corrects those errors and reopens the comment period.

DATES: DOE will accept comments until November 9, 2006.

FOR FURTHER INFORMATION CONTACT: Michael Raymond, Project Manager, Test Procedures for Residential Central Air Conditioners and Heat Pumps, Docket No. EE–RM/TP–02–002, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, Telephone Number: (202) 586–9611, e-mail: *Michael.Raymond@ee.doe.gov*;

Francine Pinto, Esq., U.S. Department of Energy, Office of the General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9507, e-mail: *Francine.Pinto@hq.doe.gov*

SUPPLEMENTARY INFORMATION:

Background

A notice of proposed rulemaking (NOPR), to amend the DOE test procedures for residential central air conditioners and heat pumps, was published in the **Federal Register** on July 20, 2006. (71 FR 41320) DOE has become aware that two corrections need to be made:

(1) An amendment to section 3.1.4.1.1 of the regulatory language of the test procedure, which was omitted in the NOPR. The NOPR amendments to section 3.1.4.1.1 of the test procedure in Appendix M include only a change to the title and to Table 2. In addition, the introductory text and paragraph (a) of section 3.1.4.1.1 are revised, as set forth below; and

(2) An amendment to section 3.1.4.4.3 of the regulatory language of the test procedure, which was omitted in the NOPR. Discussion of these changes was included in the preamble to the July 20, 2006, NOPR.

The comment period originally was scheduled to end on September 18, 2006. The Department will accept comments for 30 days following publication of this notice. The extension was announced at the August 23, 2006, public meeting.

Corrections: In FR Doc. 06–6320 appearing on page 41319 in the **Federal Register** dated July 20, 2006, the following corrections are made:

1. On page 41338, first column, in Part 430, Energy Conservation Program for Consumer Products, Appendix M, amendatory instruction 5.c.2 is corrected to read as follows:

''Section 3.1.4.1.1 title, introductory text, paragraph (a) and Table 2 to paragraph (c) is revised to read as set forth below.''

2. On page 41338, first column, in Part 430, Energy Conservation Program for Consumer Products, Appendix M, a new amendatory instruction 5.c.3 is added and the remaining amendatory instructions for 5.c are renumbered accordingly. The new instruction reads as follows:

''Section 3.1.4.4.3 is revised to read as set forth below.''

The revisions and additions read as follows:

Appendix M [Corrected]

3. Testing Procedures

* * * * *

3.1.4.1.1 Cooling Full-Load Air Volume Rate for Ducted Units.

The manufacturer must specify the Cooling Full-load Air Volume Rate. Use this value as long as the following two requirements are satisfied. First, when conducting the A or A_2 Test (exclusively), the measured air volume rate, when divided by the measured indoor air-side total cooling capacity must not exceed 37.5 cubic feet per minute of standard air (scfm) per 1000 Btu/h. If this ratio is exceeded, reduce the air volume rate until this ratio is equaled. Use this reduced air volume rate for all tests that call for using the Cooling Full-load Air Volume Rate. The second requirement is as follows:

a. For ducted units that are tested with a fixed-speed, multi-speed, or variable-speed variable-air-volume-rate indoor fan installed. The second requirement applies exclusively to the A or A_2 Test and is met as follows.

1. Achieve the Cooling Full-load Air Volume Rate, determined in accordance with the previous paragraph;

2. Measure the external static pressure;

3. If this pressure is equal to or greater than the applicable minimum external static pressure cited in Table 2, the second requirement is satisfied. Use the current air volume rate for all tests that require the Cooling Full-load Air Volume Rate.

4. If the Table 2 minimum is not equaled or exceeded,

4a. Reduce the air volume rate until the applicable Table 2 minimum is equaled or

4b. Until the measured air volume rate equals 95 percent of the air volume rate from step #1, whichever occurs first.

5. If the conditions of step #4a occur first, the second requirement is satisfied. Use the step #4a reduced air volume rate for all tests that require the Cooling Full-load Air Volume Rate.

6. If the conditions of step #4b occur first, make an incremental change to the set-up of the indoor fan (e.g., next highest fan motor pin setting, next highest fan motor speed) and repeat the evaluation process beginning at above step #1. If the indoor fan set-up cannot be further changed, reduce the air volume rate until the applicable Table 2 minimum is equaled. Use the reduced air volume rate for all tests that require the Cooling Full-load Air Volume Rate.

* * * * *

c. * * *

Table 2. * * *

* * * * *

3.1.4.4.3 Ducted heating-only heat pumps. The manufacturer must specify the Heating Full-load Air Volume Rate. Use this value when the following two requirements are satisfied. First, when conducting the H1 and $H1_2$ Test (exclusively), the measured air volume rate, when divided by the measured indoor air-side total heating capacity, must not exceed 37.5 cubic feet per minute of standard air (scfm) per 1000 Btu/h. If this ratio is exceeded, reduce the air volume rate until this ratio is equaled. Use this reduced air volume rate for all tests of heating-only heat pumps that call for the Heating Full-load Air Volume Rate. The second requirement is as follows:

a. For heating-only heat pumps that are tested with a fixed-speed, multi-speed, or variable-speed variable-air-volume-rate indoor fan installed. The second requirement applies exclusively to the H1 or $H1_2$ Test and is met as follows.

1. Achieve the Heating Full-load Air Volume Rate, determined in accordance with the paragraph a. of this section;

2. Measure the external static pressure;

3. If this pressure is equal to or greater than the Table 2 minimum external static pressure that applies given the heating-only heat pump's rated heating capacity, the second requirement is satisfied. Use the current air volume rate for all tests that require the Heating Full-load Air Volume Rate.

4. If the Table 2 minimum is not equaled or exceeded,

4a. Reduce the air volume rate until the applicable Table 2 minimum is equaled or

4b. Until the measured air volume rate equals 95 percent of the air volume rate from step #1, whichever occurs first.

5. If the conditions of step #4a occurs first, the second requirement is satisfied. Use the step #4a reduced air volume rate for all tests that require the Heating Full-load Air Volume Rate.

6. If the conditions of step #4b occur first, make an incremental change to the set-up of the indoor fan (e.g., next highest fan motor pin setting, next highest fan motor speed) and repeat the evaluation process beginning at above step #1. If the indoor fan set-up cannot be further changed, reduce the air volume rate until the applicable Table 2 minimum is equaled. Use the reduced air volume rate for all tests that require the Heating Full-load Air Volume Rate.

* * * * *

Issued in Washington, DC, on September 29, 2006.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E6–16648 Filed 10–6–06; 8:45 am]

BILLING CODE 6450–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AF49

Business Loan Program; Lender Examination and Review Fees

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Proposed rule, notice of reopening of comment period and correction.

SUMMARY: On September 5, 2006, SBA published in the **Federal Register** a proposed rule on Business Loan Program; Lender Examination and Review Fees (71 FR 52296). This proposed rule implements a recent amendment to the Small Business Act authorizing SBA to assess fees to lenders participating in SBA's 7(a) loan guarantee program to cover the costs of examinations, reviews, and other Lender Oversight activities. The original comment period was from September 5, 2006, through October 5, 2006. SBA is reopening the comment period until November 9, 2006. Given the significant level of interest the proposed rule has generated, SBA believes the affected parties would find it beneficial to have more time to review the proposal and prepare their comments.

In addition SBA is correcting the Addresses section of the proposed rule by eliminating the Agency Web Site address and amending the E-mail address to *Proposedfeerule@sba.gov.*

DATES: Comments on the proposed rule on Business Loan Program, Lender Examination and Review Fees, 71 FR 52296, must be received on or before November 9, 2006.

ADDRESSES: You may submit comments, identified by RIN number 3245-AF49, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail:* Proposedfeerule@sba.gov.
- *Fax:* (202) 205–6831.
- *Mail/ Hand Delivery/Courier:* Bryan Hooper, Associate Administrator for Lender Oversight, Small Business Administration, 409 3rd Street, SW., 8th floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John M. White, Deputy Associate Administrator, Office of Lender Oversight at (202) 205–3049, *john.white@sba.gov;* or Paul Bishop, Financial Analyst, Office of Lender Oversight, (202) 205–7516; *paul.bishop@sba.gov.*

(Authority: 15 U.S.C. 363)

Dated: October 4, 2006.

Michael W. Hager,

Associate Deputy Administrator for the Office of Capital Access.

[FR Doc. E6–16750 Filed 10–6–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 144

[DOD–2006–OS–0204]

RIN 0790–AI07

Service by Members of the Armed Forces on State and Local Juries

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This part implements 10 U.S.C 982 to establish uniform DoD policies for jury service by members of the Armed Forces on active duty. The provisions of this part impact active-duty members of the Armed Forces. This updated rule contains editorial changes only as required for internal Department of Defense mandated reconsideration every 5 years.

DATES: Comments must be received by December 11, 2006.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public

is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Colonel C. Garcia, Office of the Deputy Under Secretary of Defense for Program Integration, 4000 Defense Pentagon, Washington, DC 20301–4000. Telephone # (703) 697–3387.

SUPPLEMENTARY INFORMATION:

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

It has been determined that 32 CFR part 144 is not a significant regulatory action. The rule does not:

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

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

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

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

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

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

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. By it's terms, this rule applies to state and local governments. It has no impact on ''small entities''.

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

It has been certified that this rule does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The reporting and recordkeeping requirements have been submitted to OMB for review.

Executive Order 13132, ''Federalism''

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on the States, the relationship between the National Government and the States; or the distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 144

Courts, Intergovernmental relations, Military personnel.

Accordingly, 32 CFR Part 144 is proposed to be revised to read as follows:

PART 144—SERVICE BY MEMBERS OF THE ARMED FORCES ON STATE AND LOCAL JURIES

Sec.

144.1 Purpose.
144.2 Applicability.
144.3 Definitions.
144.4 Policy.
144.4 Responsibilities.
144.5 Procedures.

Authority: 10 U.S.C. 982

§ 144.1 Purpose.

This part implements 10 U.S.C 982 to establish uniform DoD policies for jury service by members of the Armed Forces on active duty.

§ 144.2 Applicability.

The provisions of this part apply to active-duty members of the Armed Forces.

§ 144.3 Definitions.

(a) *Armed Forces.* The Army, the Navy, the Air Force, the Marine Corps.

(b) *State.* Includes the 50 United States, U.S. Territories, District of Columbia, and the Commonwealth of Puerto Rico.

(c) *Active Duty.* Full-time duty in the active Military Service of the United States; Includes full-time training duty, annual training duty, active duty for training, and attendance, while in the active Military Service, at a school designated as a Service school by law or by the Secretary of the Military Department concerned.

(d) *Operating Forces.* Those forces whose primary missions are to participate in combat and the integral supporting elements thereof.

§ 144.4 Policy.

It is DoD policy to permit members of the Armed Forces to maximally fulfill their civic responsibilities consistent with their military duties. For Service members stationed in the United States, serving on a State or local jury is one such civic obligation. Service members are exempt from jury duty, when it unreasonably would interfere with performance of their military duties or adversely affect the readiness of a unit, command, or activity.

§ 144.5 Responsibilities.

The Secretaries of the Military Departments, or designees, in accordance with regulations prescribed by the Secretary concerned, shall determine whether Service members shall be exempt from jury duty. This authority may be delegated no lower than to commanders authorized to convene special courts-martial.

§ 144.6 Procedures.

The Secretaries of the Military Departments shall publish procedures that provide the following:

(a) When a Service member on active duty is summoned to perform State or local jury duty, the Secretary concerned, or the official to whom such authority has been delegated, shall decide if such jury duty would:

(1) Interfere unreasonably with the performance of the Service members military duties.

(2) Affect adversely the readiness of the unit, command, or activity to which the member is assigned.

(b) If such jury service would interfere with the Service member's military duties or adversely affect readiness, the Service member shall be exempted from jury duty. The decision of the Secretary concerned, or the official to whom such authority has been delegated, shall be conclusive.

(c) All general and flag officers, commanding officers, and all personnel assigned to the operating forces, in a training status, or stationed outside the United States are exempt from serving on a State or local jury. Such jury service necessarily would interfere unreasonably with the performance of military duties by these members and adversely affect the readiness of the unit, command, or activity to which they are assigned.

(d) Service members who serve on State or local juries shall not be charged leave or lose any pay or entitlements during the period of service. All fees accrued to members for jury service are payable to the U.S. Treasury. Members are entitled to any reimbursement from the State or local jury authority for expenses incurred in the performance of jury duty, such as for transportation costs or parking fees.

(e) Written notice of each exemption determination shall be provided to the responsible State or local official who

summoned an exempt member for jury duty.

Dated: October 3, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E6–16643 Filed 10–6–06; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0638; FRL–8229–6]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compounds From Medical Device Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan revision submitted by the Maryland Department of the Environment. This revision pertains to the control of volatile organic compounds from medical device manufacturing. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before November 9, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0638 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. E-mail: *morris.makeba@epa.gov*.

C. Mail: EPA–R03–OAR–2006–0638, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0638. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Helene Drago, (215) 814–5796, or by e-mail at *drago.helene@epa.gov*.

SUPPLEMENTARY INFORMATION: On May 31, 2006 and July 5, 2006, the Maryland Department of the Environment (MDE) submitted a revision (#06–04) to its State Implementation Plan (SIP) to establish Reasonably Available Control Technology (RACT) requirements for the manufacturing of hypodermic products, syringes, catheters, blood handling and other medical devices. The revision applies to any medical device manufacturing installation that emits, or has the potential to emit, 100 pounds or more per day of volatile organic carbon (VOC). The revisions add Regulation .31 under the Code of Maryland Regulations (COMAR) 26.11.19, Volatile Organic Compounds from Specific Processes.

I. Background

Medical device manufacturing includes production of hypodermic products, catheters, syringes, blood collection, processing, storage and transfusion products. Although the products are small in size, the large volume of pieces manufactured generates significant VOC emissions. The majority of VOC emissions from manufacturing of medical devices comes from bonding of components, coating and cleaning operations. First and foremost, medical device manufacturers are required to comply with the requirements of Food, Drug and Cosmetics Act and the regulations promulgated by Food and Drug Administration (FDA). Medical device manufacturing operations are not covered under any specific Federal environmental regulations.

Under Maryland's regulations found at COMAR 26.11.19, Control of Volatile Organic Compounds from Specific Processes, a facility that has the potential to emit more than 25 tons a year of VOC emissions is subject to the RACT requirements under COMAR 26.11.19.02. The purpose of this regulation is to establish a RACT requirement specific to the medical device manufacturers engaged in the production of hypodermic products, syringes, catheters, blood handling and other medical devices.

II. Summary of SIP Revision

The regulation applies to a person who owns or operates a medical device manufacturing installation that emits or has the potential to emit, 100 pounds or more per day of VOC emissions. Medical device manufacturing operations are also subject to the compliance, recordkeeping and general requirements under COMAR 26.11.19.02 and equipment leak requirements under COMAR 26.11.19.16. The regulations establish control requirements for three main VOC emitting operations: (1) Solvent bonding, (2) biopassive coating, and (3) steel cannula coating. For solvent bonding operations, appropriately designed VOC impermeable covers on dip pots are required. Due to the evolving nature of the process, the State may, if necessary, require participation in an evaluation of new or innovative designs or VOC material substitutions. Biopassive coating operation is required

to be carried out using an enclosed system for fully assembled medical devices. Individual components can only be coated if an approval is granted based on technical and economic justification. Solvents used in steel cannula coating must be chilled to 50 °F or less using a solvent chiller system to minimize VOC emissions. The regulations provide flexibility for companies to achieve an equivalent level of control through an alternative method.

At this time, there is only one affected source located in Cecil County, Maryland. The company manufactures syringes and a range of cardiovascular products and devices such as catheters, filters, pumps and heat exchangers. It is estimated that as a result of this regulation, approximately 1.2 to 1.7 tons of VOC emissions per year will be reduced.

III. Proposed Action

EPA has reviewed the material submitted by Maryland on May 31, 2006 and July 5, 2006. EPA is proposing to approve the Maryland SIP revision for RACT requirements for the manufacturing of hypodermic products, syringes, catheters, blood handling and other medical devices. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule for RACT requirements for the manufacturing of hypodermic products, syringes, catheters, blood handling and other medical devices does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 28, 2006.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E6–16653 Filed 10–6–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0353; FRL–8229–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Redesignation of the Kent and Queen Anne's 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request and a State Implementation Plan (SIP) revision for the Kent and Queen Anne's, MD (herein referred to as the ''Kent and Queen Anne's area'') area from nonattainment to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Maryland Department of the Environment (MDE) is requesting that Kent and Queen Anne's County, Maryland (herein known as ''Kent and Queen Anne's area'') be redesignated as attainment for the 8-hour ozone NAAQS. The Kent and Queen Anne's-8-hour ozone nonattainment area is comprised of two counties (Kent and Queen Anne's Counties, Maryland). EPA is proposing to approve the ozone redesignation request for the Kent and Queen Anne's area. In conjunction with its redesignation request, the MDE submitted a SIP revision consisting of a maintenance plan for Kent and Queen Anne's that provides for continued attainment of the 8-hour ozone NAAQS for the next 12 years. EPA is proposing to make a determination that Kent and Queen Anne's has attained the 8-hour ozone NAAQS based upon three years of complete, quality-assured ambient air quality ozone monitoring data for 2003–2005. EPA's proposed approval of the 8-hour ozone redesignation request is based on its determination that Kent and Queen Anne's has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA). EPA is

providing information on the status of its adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Kent and Queen Anne's maintenance plan for purposes of transportation conformity, and is also proposing to approve those MVEBs. EPA is proposing approval of the redesignation request and of the maintenance plan revision to the Maryland SIP in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before November 9, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0353 by one of the following methods:

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

B. E-mail: morris.makeba@epa.gov.

C. *Mail:* EPA–R03–OAR–2006–0353, Makeba Morris, Chief, Air Quality Planning Branch,

D. Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0353. 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* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of Environment, 1800 Washington Boulevard, Maryland, 21230.

FOR FURTHER INFORMATION CONTACT: Helene Drago, (215) 814–2156, or by e-mail at *drago.helene@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'', ''us'', or ''our'' is used, we mean EPA.

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I. What Actions are EPA Proposing to Take?

On May 2 and 19, 2006, MDE formally submitted a request to redesignate Kent and Queen Anne's from nonattainment to attainment of the 8-hour NAAQS for ozone. On May 2, 2006, Maryland submitted a maintenance plan for Kent and Queen Anne's as a SIP revision, to ensure continued attainment over the next 12 years. Kent and Queen Anne's is currently designated as a marginal 8-hour ozone nonattainment area. EPA is proposing to determine that Kent and Queen Anne's has attained the 8-hour ozone NAAQS and that it has met the requirements for redesignation pursuant to section 107(d)(3)(E) of the CAA. EPA is, therefore, proposing to approve the redesignation request to change the designation of Kent and Queen Anne's from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve the maintenance plan SIP revision for Kent and Queen Anne's, such approval being one of the CAA requirements for approval of a redesignation request. The maintenance plan is designed to ensure continued attainment throughout the Kent and Queen Anne's area for the next 12 years. Additionally, EPA is announcing its action on the adequacy process for the MVEBs identified in the Kent and Queen Anne's maintenance plan, and proposing to approve the MVEBs identified for volatile organic compounds (VOC) and nitrogen oxides (NO_X) for transportation conformity purposes. These MVEBs are State MVEBs for the Kent and Queen Anne's 8-hour ozone area. Concurrently, the State is requesting that EPA approve the maintenance plan as meeting the requirements of CAA 175A(b) with respect to the 1-hour ozone maintenance plan update.

II. What is the Background for These Proposed Actions?

A. General

Ground-level ozone is not emitted directly by sources. Rather, emissions of NO_X and VOC react in the presence of sunlight to form ground-level ozone. The air pollutants NO_X and VOC are referred to as precursors of ozone. The CAA establishes a process for air quality management through the attainment and maintenance of the NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour ozone standard. EPA designated, as nonattainment, any area violating the 8-hour ozone NAAQS based on the air quality data for the three years of 2001–2003. These were the most recent three years of data at the time EPA designated 8-hour areas. The Kent and Queen Anne's area was designated as marginal 8-hour ozone nonattainment status in a **Federal Register** notice signed on September 15, 2004 and published on September 22, 2004 (69 FR 56697). On October 21, 2004 (69 FR 61766), EPA approved a redesignation request and maintanence plan for Kent and Queen Anne's for the 1-hour ozone NAAQS. On June 15, 2005

(69 FR 23951, 23996), the 1-hour ozone NAAQS was revoked in the Kent and Queen Anne's area (as well as most other areas of the country). See 40 CFR 50.9(b); 69 FR 23996 (April 30, 2004); and see 70 FR 44470 (August 3, 2005).

The CAA, Title I, Part D, contains two sets of provisions—subpart 1 and subpart 2-that address planning and control requirements for nonattainment areas. Subpart 1 (which EPA refers to as ''basic'' nonattainment) contains general, less prescriptive requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which EPA refers to as ''classified'' nonattainment) provides more specific requirements for ozone nonattainment areas. Some 8-hour ozone nonattainment areas are subject only to the provisions of subpart 1. Other areas are also subject to the provisions of subpart 2. Under EPA's 8-hour ozone implementation rule, signed on April 15, 2004, an area was classified under subpart 2 based on its 8-hour ozone design value (i.e., the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration), if it had a 1-hour design value at or above 0.121 ppm (the lowest 1-hour design value in the CAA for subpart 2 requirements). All other areas are covered under subpart 1, based upon their 8-hour design values. In 2004, the Kent and Queen Anne's area was classifed a marginal 8-hour ozone nonattainment area based upon air quality monitoring data from 2001–2003, and is subject to the requirements of subpart 2.

Under 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). See 69 FR 23857 (April 30, 2004) for further information. Ambient air quality monitoring data for the 3-year period must meet data completeness requirements. The data completeness requirements are met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of 40 CFR part 50. The ozone monitoring data indicates that the Kent and Queen Anne's area has a design value of 0.082 ppm for the 3-year period of 2003–2005, using complete, quality assured data. Therefore, the ambient ozone data for the Kent and Queen Anne's area indicates no violations of the 8-hour ozone standard. Final monitoring data for 2005 indicates continued attainment of the 8-hour ozone standard in the Kent and Queen Anne's area.

B. The Kent and Queen Anne's Area

The Kent and Queen Anne's area consists of Kent and Queen Anne's Counties, Maryland. Prior to its designation as an 8-hour ozone nonattainment area, the Kent and Queen Anne's area was a maintenance area for the 1-hour ozone nonattainment NAAQS.

On May 2 and 19, 2006, the MDE requested that the Kent and Queen Anne's area be redesignated to attainment for the 8-hour ozone standard. The redesignation request referenced 3 years of complete, quality-assured data for the period of 2003–2005, indicating that the 8-hour NAAQS for ozone had been achieved in Kent and Queen Anne's. The data satisfies the CAA requirements when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration (commonly referred to as the area's design value) is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). Under the CAA, a nonattainment area may be redesignated if sufficient complete, quality-assured data is available to determine that the area has attained the standard and the area meets the other CAA redesignation requirements set forth in section 107(d)(3)(E).

III. What are the Criteria for Redesignation to Attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA, allows for redesignation, providing that:

(1) EPA determines that the area has attained the applicable NAAQS;

(2) EPA has fully approved the applicable implementation plan for the area under section 110(k);

(3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

(5) The State containing such area has met all requirements applicable to the area under section 110 and Part D.

EPA provided guidance on redesignation in the *General Preamble for the Implementation of Title I of the CAA Amendments* of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

- ''Ozone and Carbon Monoxide Design Value Calculations'', Memorandum from Bill Laxton, June 18, 1990;
- ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
- ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
- ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;
- ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines,'' Memorandum from John Calcagni Director, Air Quality Management Division, October 28, 1992;
- ''Technical Support Documents (TSD's) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
- ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
- Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, to Air Division Directors, Regions 1–10, ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' dated November 30, 1993;
- ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
- ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz,

Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why is EPA Taking These Actions?

On May 2 and 19, 2006, the MDE requested redesignation of the Kent and Queen Anne's area to attainment for the 8-hour ozone standard. On May 2, 2006, the MDE submitted a maintenance plan for the Kent and Queen Anne's area as a SIP revision, to assure continued attainment of the 8-hour ozone NAAQS over the next 12 years, until 2018. Concurrently, Maryland is requesting that EPA approve a revision to the 1-hour ozone maintenance plan as required under CAA 175A(b). EPA is proposing to approve the maintenance plan to fulfill the requirement of section 175A(b) for submission of a maintenance plan update eight years after Kent and Queen Anne's was redesignated to attainment of the 1-hour ozone NAAQS. EPA believes that such an update must ensure that the maintenance plan in the SIP provides maintenance of the NAAQS for a period of 20 years after an area is initially redesignated to attainment. EPA can propose approval because the maintenance plan, which demonstrates maintenance of the 8-hour ozone NAAQS through 2018, also demonstrates maintenance of the 1-hour ozone NAAQS through 2018, even though the latter standard is no longer in effect. Kent and Queen Anne's was redesignated to attainment of the 1-hour ozone NAAQS on October 21, 2004 (69 FR 61766), and, the initial 1-hour ozone maintenance plan provided for maintenance through the end of the maintanence period. Section 51.905(e) of the ''Final Rule To Implement the 8-Hour Requirements—Phase 1'' April 30, 2004 (69 FR 23999) specifies the conditions that must be satisfied before EPA may approve a modification to a 1-hour maintenance plan which: (1) Removes the obligation to submit a maintenance plan for the 1-hour ozone NAAQS eight years after approval of the initial 1-hour maintenance plan and/or (2) removes the obligation to implement contingency measures upon a violation of the 1-hour NAAQS. EPA believes that section 51.905(e) of the final rule allows a State to make either one or both of these modifications to a 1-hour maintenance plan SIP once EPA approves a maintenance plan for the 8-hour NAAQS. The maintenance plan will not trigger the contingency plan upon a violation of the 1-hour ozone NAAQS, but upon a violation of the 8-hour ozone NAAQS. EPA believes that the 8-hour standard is now the proper standard which should trigger the contingency plan now that the 1-hour NAAQS has been revoked and now that approval of the maintenance plan would allow the State to remove a violation of the 1-hour NAAQS obligation from the SIP. EPA has determined that the Kent and Queen Anne's area has attained the standard and has met the requirements for redesignation set forth in section 107(d)(3)(E).

V. What Would be the Effect of These Actions?

Approval of the redesignation request would change the designation of Kent and Queen Anne's from nonattainment to attainment for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Maryland SIP a maintenance plan ensuring continued attainment of the 8-hour ozone NAAQS in Kent and Queen Anne's for the next 12 years, until 2018. The maintenance plan includes contingency measures to remedy any future violations of the 8-hour NAAQS (should they occur), and identifies the MVEBs for NO_X and VOC for transportation conformity purposes for the years 2009 and 2018. These MVEBs are displayed in the following table:

TABLE 1.—MOTOR VEHICLE EMISSIONS BUDGETS IN TONS PER DAY (TPD)

Year	NO_X	VOC
2009	5.11	2.72
2018	2.38	1.62

VI. What is EPA's Analysis of the State's Request?

EPA is proposing to determine that the Kent and Queen Anne's area has attained the 8-hour ozone standard and that all other redesignation criteria have been met. The following is a description of how the MDE's May 2 and 19, 2006 submittals satisfy the requirements of section 107(d)(3)(E) of the CAA.

A. The Kent and Queen Anne's Area Has Attained the 8-Hour Ozone NAAQS

EPA is proposing to determine that the Kent and Queen Anne's area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor, within the area, over each year must not exceed the ozone standard of 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Air Quality Subsystem (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In the Kent and Queen Anne's area there is one ozone monitor, located in Kent County, that measures air quality with respect to ozone. As part of its redesignation request, Maryland referenced ozone monitoring data for the years 2003–2005 for the Kent and Queen Anne's area. This data has been quality assured and is recorded in AIRS. The fourth high 8-hour daily maximum concentrations, along with the three-year averages, are summarized in Table 2.

TABLE 2.—KENT AND QUEEN ANNE'S COUNTIES NONATTAINMENT AREA FOURTH HIGHEST 8-HOUR AVERAGE VALUES; MILLINGTON MONITOR

Year	Annual 4th high reading (ppm)
2003	0.086
2004	0.078
2005	0.084

The average for the 3-year period 2003 through 2005 is 0.082 ppm.

The air quality data for 2003–2005 show that the entire Kent and Queen Anne's area has attained the standard with a design value of 0.082 ppm. The data collected at the Kent and Queen Anne's area monitors satisfy the CAA requirement that the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. The MDE's request for redesignation for Kent and Queen Anne's indicates that the data is complete and was quality assured in accordance with 40 CFR part 58. The MDE uses AQS as the permanent database to maintain its data and quality assures the data transfers and content for accuracy. In addition, as discussed below with respect to the maintenance plan, MDE has committed to continue monitoring in accordance with 40 CFR part 58. In summary, EPA has determined that the data referenced by Maryland and data taken from AQS indicates that the Kent and Queen Anne's area has attained the 8-hour ozone NAAQS.

B. The Kent and Queen Anne's Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has a Fully Approved SIP Under Section 110(k) of the CAA

EPA has determined that the Kent and Queen Anne's area has met all SIP requirements applicable for purposes of this redesignation under section 110 of the CAA (General SIP Requirements) and that it meets all applicable SIP requirements under Part D of Title I of the CAA, in accordance with section 107(d)(3)(E)(v). In addition, EPA has determined that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained what requirements are applicable to the Kent and Queen Anne's area, and determined that the applicable portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to applicable requirements.

The September 4, 1992 Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, States requesting redesignation to attainment must meet only the relevant CAA requirements that came due prior to the submittal of a complete redesignation request. See also Michael Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA. *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR at 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

1. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to, the following:

- Submittal of a SIP that has been adopted by the State after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a source permit program; provisions for the implementation of Part C requirement (Prevention of Significant Deterioration (PSD);
- Provisions for the implementation of Part D requirements for New Source Review (NSR) permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a State from significantly contributing to air quality problems in another State. To implement this provision, EPA has required certain States to establish programs to address transport of air pollutants in accordance with the NO_X SIP Call, October 27, 1998 (63 FR 57356), amendments to the NO_X SIP Call, May 14, 1999 (64 FR 26298) and March 2, 2000 (65 FR 11222), and the Clean Air Interstate Rule (CAIR), May 12, 2005 (70 FR 25162). However, the section 110(a)(2)(D) requirements for a State are not linked with a particular nonattainment area's designation and classification in that State. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a State regardless of the designation of any one particular area in the State.

Thus, we do not believe that these requirements should be construed to be applicable requirements for purposes of redesignation. In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. Maryland will still be subject to these requirements after the Kent and Queen Anne's area is redesignated. The section 110 and Part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. See Reading, Pennsylvania, proposed and final rulemakings 61 FR 53174–53176 (October 10, 1996), 62 FR 24826 (May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking 61 FR 20458 (May 7, 1996); and Tampa, Florida, final rulemaking 60 FR 62748 (December 7, 1995). See also the discussion on this issue in the Cincinnati redesignation 65 FR 37890 (June 19, 2000), and in the Pittsburgh redesignation 66 FR 53099 (October 19, 2001). Similarly, with respect to the NO_X SIP Call rules, EPA noted in its Phase 1 Final Rule to Implement the 8-hour Ozone NAAQS, that the NO_X SIP Call rules are not ''an 'applicable requirement' for purposes of section 110(l) because the NO_X rules apply regardless of an area's attainment or nonattainment status for the 8-hour (or the 1-hour) NAAQS.'' 69 FR 23951, 23983 (April 30, 2004).

EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Any section 110 requirements that are linked to the Part D requirements for 8-hour ozone nonattainment areas are not yet due, because, as we explain later in this notice, no Part D requirements applicable for purposes of redesignation under the 8-hour standard became due prior to submission of the redesignation request.

Because the Maryland SIP satisfy all of the applicable general SIP elements and requirements set forth in section 110(a)(2), EPA concludes that Maryland has satisfied the criterion of section 107(d)(3)(E) regarding section 110 of the Act.

2. Part D Nonattainment Area Requirements Under the 8-Hour Standard

The Kent and Queen Anne's area was designated a marginal nonattainment area for the 8-hour ozone standard. Sections 172–176 of the CAA, found in subpart 1 of Part D, set forth the basic nonattainment requirements for all nonattainment areas. As discussed previously, there are no outstanding Part D submittals under the 1-hour standard for this area.

Section 182 of the CAA, found in subpart 2 of Part D, establishes additional specific requirements depending on the area's nonattainment classification. The Kent and Queen Anne's area is classified as a subpart 2 marginal nonattainment area

With respect to the 8-hour standard, EPA proposes to determine that the Maryland SIP meets all applicable SIP requirements under Part D of the CAA, because no 8-hour ozone standard Part D requirements applicable for purposes of redesignation became due prior to submission of the area's redesignation request. Because the State submitted a complete redesignation request for Kent and Queen Anne's prior to the deadline for any submissions required under the 8-hour standard, we have determined that the Part D requirements do not apply to Kent and Queen Anne's for the purposes of redesignation.

In addition to the fact that Part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, EPA believes it is reasonable to interpret the general conformity and NSR requirements as not requiring approval prior to redesignation.

With respect to section 176, Conformity Requirements, section 176(c) of the CAA requires States to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act (''transportation conformity'') as well as to all other federally supported or funded projects (''general conformity''). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required the EPA to promulgate.

EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) since State conformity rules are still required after redesignation and Federal conformity rules apply where State rules have not been approved. See *Wall* v. *EPA*, 265 F. 3d 426, 438–440 (6th Cir. 2001), upholding this interpretation. See also 60 FR 62748 (Dec. 7, 1995).

EPA has also interpreted the section 184 Ozone Transport Region requirements, including the NSR program, as not being applicable for purposes of redesignation. The rationale for this is based on two factors. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore the State remains obligated to have NSR, as well as RACT and Vehicle Inspection and Maintenance programs even after redesignation. Second, the section 184 control measures are region-wide requirements and do not apply to the area by virtue of its designation and classification. See 61 FR 53174, 53175–53176 (October 10, 1996) and 62 FR 24826, 24830–32 (May 7, 1997).

EPA has also determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without Part D NSR in effect, because PSD requirements will apply after redesignation. The rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D NSR Requirements or Areas Requesting Redesignation to Attainment.'' Maryland has demonstrated that the area will be able to maintain the standard without Part D NSR in effect in Kent and Queen Anne's, and therefore, Maryland need not have a fully approved Part D NSR program prior to approval of the redesignation request. Maryland's SIP-approved PSD program will become effective in Kent and Queen Anne's upon redesignation to attainment. See rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorrain, Ohio (61 FR 20458, 20469–70, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

3. Kent and Queen Anne's Has a Fully Approved SIP for the Purposes of Redesignation

EPA has fully approved the Maryland SIP for the purposes of this redesignation. EPA may rely on prior SIP approvals in approving a redesignation request. Calcagni Memo, p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 144 F. 3d 984, 989–90 (6th Cir. 1998), Wall v. EPA, 265 F.3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25425 (May 12, 2003) and citations therein. The Kent and Queen Anne's area was a 1-hour maintenance area at the time of its designation as a marginal 8-hour ozone nonattainment area on September 22, 2004. Because Kent and Queen Anne's was a 1-hour maintenance area, all previous Part D SIP submittal requirements were fulfilled at the time the area was redesignated to attainment of the 1-hour ozone NAAQS (69 FR 61766, October 21, 2004) or have been fulfilled with the submittal of the 8-hour maintenance plan for the area. Because there are no outstanding SIP submission requirements applicable for the purposes of redesignation of Kent and Queen Anne's, the applicable implementation plan satisfies all pertinent SIP requirements. As indicated previously, EPA believes that the section 110 elements not connected with Part D nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of redesignation. EPA also believes that no 8-hour Part D requirements applicable for purposes of redesignation have yet become due for the Kent and Queen Anne's area, and therefore they need not be approved into the SIP prior to redesignation.

4. The Air Quality Improvement in the Kent and Queen Anne's Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting from Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

EPA believes that the State has demonstrated that the observed air quality improvement in the Kent and Queen Anne's area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures. Emissions reductions attributable to these rules in Kent and Queen Anne's are shown in Table 3.

TABLE 3.—TOTAL VOC AND NO_X EMISSIONS FOR 2002 AND 2005 (TPD)

Year	Point	Area *	Nonroad	Mobile	Total
Volatile Organic Compounds (VOC)					
Year 2002	0.12	5.12	11.0	4.18	20.4
Year 2005	0.12	5.31	10.0	3.15	18.6

TABLE 3.—TOTAL VOC AND NO_X EMISSIONS FOR 2002 AND 2005 (TPD)—Continued

Year	Point	Area *	Nonroad	Mobile	Total
Diff. (02–05)	0.0	+0.19	−1.00	−1.03	−1.84
Nitrogen Oxides (NO_X)					
Year 2002	0.07	0.23	3.74	7.96	12.0
Year 2005	0.07	0.25	3.77	6.57	10.7
Diff. (02–05)	0.0	+0.02	+0.03	−1.39	−1.34

Between 2002 and 2005, VOC emissions were reduced by 1.84 tpd, and NO_X emissions were reduced by 1.34 tpd, due to the following permanent and enforceable measures implemented or in the process of being implemented in the Kent and Queen Anne's area.

Nearly all of the reductions in VOC are attributable to mobile onroad and nonroad source emission controls and all of the reductions in NO_X are attributable to the implementation of mobile source programs. Maryland noted a major portion of the decrease in ozone precursors was due to the Federal Motor Vehicle Control Program. Over a period of time, older, poorer performing on-road vehicles have been gradually replaced with newer vehicles that must meet increasingly stringent tailpipe standards.

Other regulations, such as the non-road diesel, 69 FR 38958 (June 29, 2004), the heavy duty engine and vehicle standards, 66 FR 5002 (January 18, 2001) and the new Tier 2 tailpipe standards for automobiles, 65 FR 6698 (February 10, 2000), are also expected to greatly reduce emissions throughout the country and thereby reduce emissions impacting the Kent and Queen Anne's area monitor. The Tier 2 standards came into effect in 2004, and by 2030, EPA expects that the new Tier 2 standards will reduce NO_X emissions by about 74 percent nationally. EPA believes that permanent and enforceable emissions reductions are the cause of the long-term improvement in ozone levels and are the cause of the area achieving attainment of the 8-hour ozone standard.

There is very little major point source activity in the Kent and Queen Anne's Counties area and thus point source emissions are very low. Growth in point sources will be controlled through the offset requirements under the PSD permitting program. Any major source that wishes to locate in Kent or Queen Anne's Counties will need to procure emissions offsets at a ratio of 1.15 to 1 for NO_X and VOC. In addition to emission reductions in the Kent and Queen Anne's Counties, background concentrations of ozone in the area will decrease as a result of the many ozone precursor reduction strategies implemented in the Baltimore and Washington DC severe 8-hour ozone nonattainment areas. Long range transport of NO_X will also be reduced the NO_X SIP Call Rule and Clean Air Interstate Rule.

5. Kent and Queen Anne's has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with its request to redesignate the Kent and Queen Anne's area to attainment status, Maryland submitted a SIP revision to provide for maintenance of the 8-hour ozone NAAQS in Kent and Queen Anne's for at least 12 years after redesignation. Maryland is requesting that EPA approve this SIP revision as meeting the requirement of CAA 175A(b) and replace the 1-hour ozone maintenance plan update requirement.

Under 40 CFR 51.905(e), the EPA may approve a SIP revision requesting the removal of the obligation to implement contingency measures upon a violation of the 1-hour ozone NAAQS when the State submits and EPA approves an attainment demonstration for the 8-hour ozone NAAQS for an area initially designated nonattainment for the 8-hour NAAQS or a maintenance SIP for the 8-hour NAAQS for an area initially designated attainment for the 8-hour NAAQS. The rationale behind 40 CFR 51.905(e) is to ensure that the Kent and Queen Anne's area maintains the applicable ozone standard (the 8-hour standard in areas where the 1-hour standard has been revoked). EPA believes this rationale analogously applies to areas that were not initially designated, but are redesignated as attainment with the 8-hour ozone NAAQS. Therefore, EPA intends to treat redesignated areas as though they had been initially designated attainment of the 8-hour ozone NAAQS, and accordingly proposes to relieve the Kent and Queen Anne's area of its maintenance plan obligations with respect to the 1-hour standard. Once approved, the maintenance plan for the 8-hour ozone NAAQS will ensure that the SIP for the Kent and Queen Anne's area meets the requirements of the CAA regarding maintenance of the applicable 8-hour ozone standard.

What is required In a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the next 10-year period following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni memorandum dated September 4, 1992, provides additional guidance on the content of a maintenance plan. An ozone maintenance plan should address the following provisions:

(a) An attainment emissions inventory;

(b) A maintenance demonstration;

(c) A monitoring network;

(d) Verification of continued attainment; and

(e) A contingency plan.

Analysis of the Kent and Queen Anne's Area Maintenance Plan

(a) Attainment Inventory—the attainment inventory includes the emissions during the time period associated with the monitoring data showing attainment. MDE determined that the appropriate attainment inventory year is 2005. That year establishes a reasonable year within the three-year block of 2003–2005 as a baseline and accounts for reductions

attributable to implementation of the CAA requirements to date. The 2005 inventory is consistent with EPA guidance, is based on actual ''typical summer day'' emissions of VOC, NO_X, and Carbon Monoxide (CO) during 2004, and consists of a list of sources and their associated emissions. To develop the NO_X and VOC base year emissions inventories, MDE used the approaches outlined in the document titled ''Inventory Preparation Plan/Quality Assurance Plan for Maryland.'' The 2005 point source data was ''grown'' using the 2002 base year inventory. MDE projected the 2002 base year inventory using EPA's EGAS Model (version 5.0) for all inventory years. EGAS (version 5.0) generates emission growth factors by sector. The 2005 area source data was projected using a variety of methods including the EGAS model (version 5.0) and forecasts prepared by the Baltimore Metropolitan Council. The nonroad inventory was developed using NONROAD model (version 2004). The on road mobile source inventory was generated using the HPMS module of the PPSuite software. MDE used MOBILE model (version 6.2) to assess the mobile source emission levels in the counties and estimate the benefits gained from mobile control measures. This estimate assumes the following emissions control programs, which are or will be permanent and enforceable: Federal Motor Vehicle Control Program, the 1992 Reid Vapor Pressure Program, Tier 1 and 2 controls on new vehicles, Evaporative Emissions Control Program, Federal Reformulated Gasoline Program, Enhanced I/M Program in Queen Anne's County, Stage I Vapor Recovery, On Board Controls and National Low Emissions Vehicle (NLEV) Program, Federal HDDE rule and low sulfur fuels regulations.

(b) Maintenance Demonstration—On May 2 and 19, 2006, MDE submitted a maintenance plan as required by section 175A of the CAA. The Kent and Queen Anne's plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that current and future emissions of VOC and NO_X remain at or below the attainment year 2005 emissions levels throughout Kent and Queen Anne's through the year 2018. The Kent and Queen Anne's maintenance demonstration need not be based on modeling. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001); *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25418, 25430–32 (May 12, 2003).

Tables 4 and 5 specify the Kent and Queen Anne's VOC and NO_X emissions for 2005, 2009, and 2018. The MDE chose 2009 as an interim year in the 12-year maintenance demonstration period to demonstrate that the VOC and NO_X emissions are not projected to increase above the 2005 attainment level during the time of the 12-year maintenance period.

TABLE 4.—TOTAL VOC EMISSIONS FOR 2005–2018 (TONS PER DAY)

Source category	2005 VOC emissions	2009 VOC emissions	2018 VOC emissions
Mobile	3.15	2.45	1.55
Nonroad	10.00	8.25	5.96
Area	5.31	5.54	5.17
Point	0.12	0.13	0.16
Total	18.58	16.37	12.84

2018 VOC Safety Margin: 5.74 tpd.

TABLE 5.—TOTAL NO_X EMISSIONS 2005–2018 (TONS PER DAY)

Source category	2005 NO_X emissions	2009 NO_X emissions	2018 NO_X emissions
Mobile	6.57	4.82	2.14
Nonroad	3.77	3.66	3.03
Area	0.25	0.26	0.28
Point	0.07	0.07	0.08
Total	10.66	8.81	5.53

2018 NO_X Safety Margin: 5.13 tpd.

Additionally, the following mobile programs are either effective or due to become effective and will further contribute to the maintenance demonstration of the 8-hour ozone NAAQS:

- Heavy duty diesel on-road (2004/2007) and low-sulfur on-road (2006); 66 FR 5002 (January 18, 2001); and
- Non-road emissions standards (2008) and off-road diesel fuel (2007/2010); 69 FR 39858 (June 29, 2004).

Based upon the comparison of the projected emissions and the attainment year emissions along with the additional measures, EPA concludes that MDE has successfully demonstrated that the 8-hour ozone standard should be maintained in the Kent and Queen Anne's area.

(c) Monitoring Network—There is currently one monitor, the Millington monitor, measuring ozone in the Kent and Queen Anne's area, which is located in Kent County. Maryland will continue to operate its current air quality monitor in accordance with 40 CFR part 58.

(d) Verification of Continued Attainment—The State of Maryland has the legal authority to implement and enforce specified measures necessary to attain and maintain the NAAQS. Additionally, Federal programs such as Tier 2/Low Sulfur Gasoline Rule, 2007 On-Road Diesel Engine Rule, and Federal Non-road Engine/Equipment Rules will continue to be implemented on a national level. These programs help provide the reductions necessary for the Kent and Queen Anne's area to maintain attainment.

In addition to maintaining the key elements of its regulatory program, Maryland requires ambient and source emissions data to track attainment and maintenance. The MDE proposes to fully update its point, area, and mobile emission inventories at 3-year intervals as required by the Consolidated Emissions Reporting Rule (CERR) and Section 187(a)(5) of the CAA. MDE will compare actual inventories to projected inventories, to determine if emission

levels exceed the attainment year levels. If there is an attainment year inventory excursion, MDE will assess the need to trigger contingency measures implementation procedures. In addition, MDE shall also continue to operate the existing ozone monitoring station in the area pursuant to 40 CFR part 58 throughout the maintenance period and submit quality-assured ozone data to EPA through the AIRS system.

(e) The Maintenance Plan's Contingency Measures—The contingency plan provisions are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the Act requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that the State will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the State would adopt and implement the measure(s).

The ability of the Kent and Queen Anne's area to stay in compliance with the 8-hour ozone standard after redesignation depends upon VOC and NO_X emissions in the area remaining at or below 2005 levels. The State's maintenance plan projects VOC and NO_X emissions to decrease and stay below 2005 levels through the year 2018. The State's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur. They are as follows:

After the 4th exceedance of the 8-hour ozone NAAQS (0.08ppm) occurs within any given calendar year, the MDE will consider that fourth exceedance and any subsequent exceedance as the trigger by which an immediate recalculation of the design value for the Millington Monitor would be required. If the recalculated design value is shown to be above the 8-hour NAAQS (0.08ppm) then Maryland would initiate the following schedule:

(1) Within 2 weeks of the ''trigger''—MDE will notify Kent and Queen Anne's Counties and other stakeholders of the violations and will schedule an initial work group meeting concerning contingency measures.

(2) Within 6 weeks of the ''trigger''—MDE will convene a stakeholder group to evaluate the selection and implementation of the contingency measures. The stakeholder group will be composed of interested State and local government agencies; business, environmental and health representatives; citizens and other interested parties

(3) Within 12 weeks of the ''trigger''—A public meeting will be held on the proposed contingency measures

(4) Within 18 weeks of the ''trigger''—MDE/ Stakeholders will meet to consider public comments and finalize a list of planned contingency measures

(5) After the list of planning of measures is finalized as identified above in step 4 it will take approximately 12 months from that date to go through any required rulemaking processes.

(6) Within 24 months of the ''trigger''—Agreed-upon contingency measures will be implemented in the impacted counties

The following measures may be considered contingency measures:

- Industrial Commercial Institutional (ICI) Boiler RACT.
- Commuter/traffic measures such as Potential expansion of park and ride lots, expanded transit services, enhance opportunities for telecommuting/ flexible hours/ compressed work schedules.
- Expand Air Quality Action Day activities such as put off any painting until later; don't use aerosol consumer products; avoid mowing lawns with gasoline-powered mowers; start charcoal with an electric or chimney-type fire starter instead of lighter fluid; take public transportation; try telecommuting.
- Clean Air Partners public education outreach.
- Expansion of E-government services at State and county level.
- Bicycle and pedestrian enhancements such as additional trails and bike lanes.
- Emissions testing for truck transport.
- Land use/transportation policies.
- Promote non-motorized transport.
- Promote tree planting standards that favor trees with low VOC biogenic emissions.
- Promote energy saving plan for county government.
- Gas can and lawnmower replacement.

The maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. EPA believes that the maintenance plan SIP revision submitted by Maryland for Kent and Queen Anne's meets the requirements of section 175A of the Act.

VII. Are the Motor Vehicle Emissions Budgets Established and Identified in the Kent and Queen Anne's Maintenance Plan Adequate and Approvable?

A. What Are the Motor Vehicle Emissions Budgets (MVEBs)?

Under the CAA, States are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (i.e., RFP SIPs and attainment demonstration SIPs) and maintenance plans identify and establish MVEBs for certain criteria pollutants and/or their precursors to address pollution from on-road mobile sources. In the maintenance plan the MVEBs are termed ''on-road mobile source emissions budgets.'' Pursuant to 40 CFR part 93 and 51.112, MVEBs must be established in an ozone maintenance plan. A MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. A MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish and revise the MVEBs in control strategy SIPs and maintenance plans.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the State's air quality plan that addresses pollution from cars and trucks. ''Conformity'' to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of or reasonable progress towards the national ambient air quality standards. If a transportation plan does not ''conform,'' most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB budget contained therein ''adequate'' for use in determining transportation conformity. After EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB can be used by State and Federal agencies in determining whether proposed transportation projects ''conform'' to the State implementation plan as required by section 176(c) of the

CAA. EPA's substantive criteria for determining ''adequacy'' of a MVEB are set out in 40 CFR 93.118(e)(4).

EPA's process for determining ''adequacy'' consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change'' on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

The MVEBs for Kent and Queen Anne's are listed in Table 1 of this document for the 2009, and 2018 years and are the projected emissions for the on-road mobile sources plus any portion of the safety margin allocated to the MVEBs (safety margin allocation for 2009 and 2018 only). These emission budgets, when approved by EPA, must be used for transportation conformity determinations.

B. What Is a Safety Margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. The following example is for the 2018 safety margin: Kent and Queen Anne's first attained the 8-hour ozone NAAQS during the 2003 to 2005 time period. The State used 2005 as the year to determine attainment levels of emissions for the Kent and Queen Anne's area. The total emissions from point, area, mobile on-road, and mobile non-road sources in 2005 equaled 18.58 tpd of VOC and 10.66 tpd of NO_X. The MDE projected emissions out to the year 2018 and projected a total of 12.84 tpd of VOC and 5.53 tpd of NO_X from all sources in Kent and Queen Anne's. The safety margin for 2018 would be the difference between these amounts, or 5.74 tpd of VOC and 5.13 tpd of NO_X. The emissions up to the level of the attainment year including the safety margins are projected to maintain the area's air quality consistent with the 8-hour ozone NAAQS. The safety margin is the extra emissions reduction below the attainment levels that can be allocated for emissions by various sources as long as the total emission levels are maintained at or below the attainment levels. Table 6 shows the safety margins for the 2009 and 2018 years.

TABLE 6.—2009 AND 2018 SAFETY MARGINS FOR KENT AND QUEEN ANNE'S

Inventory year	VOC Emissions (tpd)	NO_X Emissions (tpd)
2005 Attainment	18.58	10.66
2009 Interim	16.37	8.81
2009 Safety Margin	2.21	1.85
2004 Attainment	18.58	10.66
2018 Final	12.84	5.53
2018 Safety Margin	5.74	5.13

TABLE 7.—2009 AND 2018 FINAL MVEBS FOR KENT AND QUEEN ANNE'S

Inventory year	VOC Emissions (tpd)	NO_X Emissions (tpd)
2009 projected on-road mobile source projected emissions	2.45	4.82
2009 Safety Margin Allocated to MVEBs	0.27	0.29
2009 MVEBs	2.72	5.11
2018 projected on-road mobile source projected emissions	1.55	2.14
2018 Safety Margin Allocated to MVEBs	0.07	0.24
2018 MVEBs	1.62	2.38

The MDE allocated 0.29 tpd NO_X and 0.27 tpd VOC to the 2009 interim VOC projected on-road mobile source emissions projection and the 2009 interim NO_X projected on-road mobile source emissions projection to arrive at the 2009 MVEBs. For the 2018 MVEBs the MDE allocated 0.24 tpd NO_X and 0.07 tpd VOC from the 2018 safety margins to arrive at the 2018 MVEBs. Once allocated to the mobile source budgets these portions of the safety margins are no longer available, and may no longer be allocated to any other source category. Table 7 shows the final 2009 and 2018 MVEBS for the Kent and Queen Anne's area.

C. Why Are the MVEBs Approvable?

The 2009 and 2018 MVEBs for Kent and Queen Anne's are approvable because the MVEBs for NO_X and VOC, including the allocated safety margins, continue to maintain the total emissions at or below the attainment year inventory levels as required by the transportation conformity regulations.

D. What Is the Adequacy and Approval Process for the MVEBs in the Kent and Queen Anne's Maintenance Plan?

The MVEBs for the Kent and Queen Anne's area maintenance plan are being posted to EPA's conformity Web site concurrent with this proposal. The public comment period will end at the same time as the public comment period for this proposed rule. In this case, EPA is concurrently processing the action on the maintenance plan and the adequacy process for the MVEBs contained therein. In this proposed rule, EPA is proposing to find the MVEBs adequate and also proposing to approve the MVEBs as part of the maintenance plan. The MVEBs cannot be used for transportation conformity until the maintenance plan update and associated MVEBs are approved in a final **Federal Register** notice, or EPA otherwise finds the budgets adequate in a separate action following the comment period.

If EPA receives adverse written comments with respect to the proposed approval of the Kent and Queen Anne's area MVEBs, or any other aspect of our proposed approval of this updated maintenance plan, we will respond to the comments on the MVEBs in our final action or proceed with the adequacy process as a separate action. Our action on the Kent and Queen Anne's MVEBs will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/index.html* (once there, click on ''Transportation Conformity'', then look for ''Adequacy Review of SIP Submissions'').

VIII. Proposed Actions

EPA is proposing to determine that the Kent and Queen Anne's area has attained the 8-hour ozone NAAQS. EPA is also proposing to approve the redesignation of the Kent and Queen Anne's area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA has evaluated Maryland's redesignation request and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Kent and Queen Anne's area has attained the 8-hour ozone standard. The final approval of this redesignation request would change the designation of Kent and Queen Anne's from nonattainment to attainment for the 8-hour ozone standard. EPA is also proposing to approve the associated maintenance plan for the Kent and Queen Anne's area, submitted on May 2 and 19, 2006, as a revision to the Maryland SIP. EPA is proposing to approve the maintenance plan for the Kent and Queen Anne's area because it meets the requirements of section 175A as described previously in this notice. EPA is also proposing to approve the MVEBs submitted by the Maryland for Kent and Queen Anne's area in conjunction with its redesignation request. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IX. Statutory and Executive Order Reviews

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

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule proposing to approve the redesignation of the Kent and Queen Anne's area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, and the MVEBs identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

This rule proposing to approve the redesignation of Kent and Queen Anne's to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, and the MVEBs identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National Parks, Wilderness Areas.

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

Dated: September 28, 2006.

William T. Wisniewski,

Acting, Regional Administrator, Region III.

[FR Doc. E6–16654 Filed 10–6–06; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 71, No. 195

Tuesday, October 10, 2006

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Wednesday, October 25, 2006 (9 a.m. to 3 p.m.).

Location: J.W. Marriott Hotel Ballroom, 1331 Pennsylvania Avenue, NW., Washington, DC 20004.

Please note that this is the anticipated agenda and is subject to change.

Transformational Diplomacy and U.S. Foreign Assistance: USAID's Acting Deputy Administrator James Kunder and Dirk Dijkerman, Chief Operating Officer for the Office of the Director of U.S. Foreign Assistance in the U.S. Department of State have been invited to present updates on the foreign assistance reforms.

Humanitarian Relief and Reconstruction After Natural Disasters: Mark Ward, Senior Deputy Assistant Administrator for USAID's Bureau for Asia and the Near East, and William Garvelink, Senior Deputy Assistant Administrator for USAID's Bureau for Democracy, Conflict and Humanitarian Assistance, have been invited to give a presentation on lessons learned from humanitarian relief and reconstruction projects. Particular attention will be paid to the current efforts underway in Northern Pakistan as a result of the October 8, 2005 earthquake and in Indonesia and Sri Lanka as a result of the December 26, 2004 tsunami. Following the presentation, a panel of USAID, PVO and private sector experts will discuss the role of private-public partnerships and how these collaborations may be applied to other regions, particularly after natural disasters.

President's Malaria Initiative: Rear Admiral Tim Ziemer, the President's Malaria Initiative coordinator, has been invited to provide an overview of the initiative including the progress made to date in the target countries and the multi-faceted approach to the prevention and treatment of malaria.

The meeting is free and open to the public. Persons wishing to attend the meeting can register online at *http://www.usaid.gov/about_usaid/acvfa* or contact Kristin Holland at *kristin@websterconsulting.com* or 202–237–0090 extension 10 or Jocelyn Rowe at *jrowe@usaid.gov* or 202–712–4002.

Dated: October 2, 2006.

Jocelyn M. Rowe,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA), U.S. Agency for International Development.

[FR Doc. E6–16629 Filed 10–6–06; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 3, 2006.

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

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

Rural Business-Cooperative Service

Title: Small Minority Producer Grant Program.

OMB Control Number: 0570–0052.

Summary of Collection: The Small Minority Grant Program was authorized by section 2744 of the Federal Agriculture Improvement and Reform Act of 2006, Public Law 109–97. The Act provides for the Secretary of Agriculture to make grants to cooperatives or associations of cooperative whose primary focus is to provide assistance to small minority producers and whose governing board and/or membership are comprised of at least 75 percent minority.

Need and Use of the Information: Rural Business Service needs to receive the information contained in this collection of information to make prudent decisions regarding eligibility of applicants and selection priority among competing applicants, to ensure compliance with applicable laws and regulations and to evaluate the projects it believes will provide the most long-term economic benefit to rural areas.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 43.

Frequency of Responses: Reporting: Semi-Annually.

Total Burden Hours: 231.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–16637 Filed 10–6–06; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV06–930–3NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin, Marketing Order No. 930.

DATES: Comments on this notice must be received by December 11, 2006.

Additional Information or Comments: Contact John Heffernan, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone number (202) 720–8139, fax number (202) 720–8938, or e-mail address: *moab.docketclerk@usda.gov*.

Small business may request information on this notice by contacting Jay Guerber, Regulatory Fairness Representative, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone number (202) 720–2491, fax number (202) 720–8938, or e-mail address: *jay.guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin, Marketing Order No. 930.

OMB Number: 0581–0177.

Expiration Date of Approval: May 31, 2007.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674) industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, and to administer the program, which has operated since 1996.

The tart cherry marketing order (7 CFR part 930) regulates the handling of tart cherries in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order''. The order authorizes volume regulations that provide for a reserve pool in times of heavy cherry supplies. Other major marketing order provisions not currently in use include minimum grade and size regulations and authorization for market research and development projects, including paid advertising.

The order, and rules and regulations issued thereunder, authorize the Cherry Industry Administrative Board (Board), the agency responsible for local administration of the order, to require handlers and growers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in carrying out marketing decisions.

The Board has developed forms as a means for persons to file required information with the Board relating to tart cherry inventories, shipments, diversions, and other information needed to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA. This order regulates tart cherries that are frozen or processed in another form, therefore, reporting requirements will be in effect all year. A USDA form is used to allow growers to vote on amendments or continuance of the marketing order. In addition, tart cherry growers and handlers who are nominated by their peers to serve as representatives on the Board must file nomination forms with the Secretary. Formal rulemaking amendments to the order must be approved in grower referenda conducted by the Secretary. In addition, USDA may conduct a referendum to determine industry support for continuation of the order. Finally, handlers are asked to sign an agreement to indicate their willingness to comply with the provisions of the order if the order is amended. These forms are included in this request.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized employees of the Board. Authorized Board employees and the industry are the primary users of the information, and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .182 hours per response.

Respondents: Tart cherry growers and for-profit businesses handling fresh and processed tart cherries produced in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

Estimated Number of Respondents: 943.

Estimated Number of Responses per Respondent: 4.96.

Estimated Total Annual Burden on Respondents: 853 hours.

Comments: Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0177 and the Tart Cherry Marketing Order No. 930, and be mailed to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Washington, DC 20250–0237; telephone number (202) 720–8139, fax number (202) 720–8938, or e-mail address: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business

hours at 1400 Independence Avenue, SW., Washington, DC.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 3, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–16634 Filed 10–6–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Plantation Fuel Reduction, Eldorado National Forest, El Dorado County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, Eldorado National Forest will prepare an environmental impact statement (EIS) for a proposal to treat approximately 4,637 acres of selected plantations on the Georgetown and Pacific Ranger Districts. The proposal will involve mechanical precommercial thinning and control of competitive vegetation using mechanical and chemical treatments.

DATES: Comments concerning the scope of the analysis must be received by November 3, 2006. The draft environmental impact statement is expected in January 2007 and the final environmental impact statement is expected May 2007.

ADDRESSES: Send written comments to Tim Dabney, District Ranger, Georgetown Ranger District, 7600 Wentworth Springs Road, Georgetown, CA 95634, Attention: Plantation Fuel Reduction Project.

FOR FURTHER INFORMATION CONTACT: Tim Howard, Project Leader, Georgetown Ranger Station, 7600 Wentworth Springs Road, Georgetown, CA 95634, or by telephone at 530–333–4312 or by e-mail at *thoward@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

It is the purpose of the Plantation Fuel Reduction Project to begin the process of enhancing forest health, vigor, growth, resilience to fire, and sustainability of the desired vegetation of the plantations, and thereby improve, maintain, and perpetuate the other dependent resources as directed in the Eldorado Forest Land and Resource Management Plan (LRMP) as amended by the Sierra Nevada Forest Plan Amendment, 2004 (SNFPA).

The specific purpose and need of the Proposed Action is to: Reduce present and future fuel loads; alter the vegetative structure in plantations to reduce the risk of loss to wildland fire by maintaining flame lengths below six feet (four feet in defense and threat zones); reduce rate of spread and increase the fire line production rates; maintain the effectiveness of fuel treatments for more than five years; improve forest health, and, maintain valuable wildlife habitat and to create conditions that accelerate the development of old forest characteristics.

Proposed Action

The Georgetown and Pacific Ranger Districts propose precommercial thinning and control of competitive vegetation using mechanical and chemical treatments of vegetation on approximately 4,637 acres of selected conifer plantations about 20 air miles north and east of Placerville, California on the Eldorado National Forest in El Dorado County. The legal description is: T.11N., R.11E.; T.11N., R.13E; T.11N.; R.14E; T.11N., R.15E; T.12N., R.11E.; T12N., R.13E.; T.12N., R14E.; T.12N., R.15E.; T13N., R.11E.; T.13N., R.12E.; T.13N., R.13E.; T.13N., R.14E.; T.13N., R.15E.; T.14N., R.12E.; T.14N., R.13E.; and, T.14N., R.14E. The project proposal would involve the following timber stand improvement activities: (1) Mechanical mastication treatment of approximately 3,039 acres using low ground pressure equipment to flail or ''masticate'' undesirable vegetation and conifers. Follow-up chemical treatment with ground-based application of herbicides (2,738 acres of foliar treatment using a 3% glyphosate solution and 301 acres of foliar treatment using a 1.5% triclopyr solution) within one year following the completion of mechanical mastication activities. (2) Hand cut treatment of approximately 136 acres using hand tools. Follow-up chemical treatment with ground-based application of herbicides (136 acres of foliar treatment using a 3% glyphosate solution) within one year following the completion of hand cutting activities. (3) Chemical treatment of approximately 1,462 acres (1,193 acres of foliar treatment using a 3% glyphosate solution and 269 acres of foliar treatment using a 1.5% triclopyr solution). Follow-up chemical treatment (1,193 acres of foliar treatment using a 3% glyphosate solution and 269 acres of foliar treatment using a 1.5% triclopyr solution), if necessary, three to five years after the initial treatment.

The proposed project activities would begin in 2007 and with the goal of being completed by 2015, dependent upon funding.

Lead and Cooperating Agencies

The lead agency will be the U.S.D.A. Forest Service.

Responsible Official

Tim Dabney, Georgetown District Ranger is the responsible Official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR Part 215).

Nature of Decision To Be Made

The decision to be made is whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to conduct fuel reduction and timber stand improvement treatments in plantations.

Scoping Process

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. To facilitate public participation, information about the proposed action will be mailed to all who express interest in the proposed action and notification of the public scoping period will be published in the Mountain Democrat, Placerville, CA.

Comments submitted during the scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The scoping process includes: (1) Identifying the potential issues; (2) Identifying issues to be analyzed in depth; (3) Eliminating nonsignificant issues or those previously covered by a relevant previous environmental analysis; (4) Exploring additional alternatives; and, (5) Identifying potential environmental effects of the proposed action and alternatives.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 comment period so that comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: September 29, 2006.

Timothy A. Dabney,

Georgetown District Ranger.

[FR Doc. 06–8557 Filed 10–6–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No.: 060615168–6243–02]

Privacy Act of 1974: System of Records

AGENCY: Department of Commerce.

ACTION: Final Notice to amend a Privacy Act System of Records: COMMERCE/DEPARTMENT–18, ''Employees Personnel Files Not Covered by Notices of Other Agencies.''

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the amendment of a Privacy Act System of Records notice entitled COMMERCE/DEPARTMENT–18, ''Employees Personnel Files Not Covered by Notices of Other Agencies.''

DATES: The system of records becomes effective on October 10, 2006.

ADDRESSES: For a copy of the system of records please mail requests to Brenda Dolan, Department of Commerce Freedom of Information and Privacy Act Officer, Room 5327, 1401 Constitution Avenue, NW., Washington, DC 20230, 202–482–3258.

FOR FURTHER INFORMATION CONTACT: Brenda Dolan, Department of Commerce Freedom of Information and Privacy Act Officer, Room 5327, 1401 Constitution Avenue, NW., Washington, DC 20230, 202–482–3258.

SUPPLEMENTARY INFORMATION: On July 6, 2006, the Commerce published and requested comments on a proposed amended Privacy Act System of Records notice entitled COMMERCE/DEPARTMENT–18, ''Employees Personnel Files Not Covered by Notices of Other Agencies.'' No comments were received in response to the request for comments. By this notice, the Department is adopting the proposed system as final without changes effective October 10, 2006.

Dated: October 2, 2006.

Brenda Dolan,

Department of Commerce, Freedom of Information and Privacy Act Officer.

[FR Doc. E6–16693 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–BW–P

DEPARTMENT OF COMMERCE

Census Bureau

Census Coverage Measurement Independent Listing and Relisting Operations

ACTION: Proposed collection; comment request.

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: Written comments must be submitted on or before December 11, 2006.

ADDRESSES: Direct all 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 Magdalena Ramos, U.S. Census Bureau, 4600 Silver Hill Rd., Room 4H265, Washington, DC 20233, 301–763–4295 (or via the Internet at *Magdalena.Ramos@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

In preparation for the 2010 Census, the U.S. Census Bureau will conduct a Census Coverage Measurement (CCM) test as part of the 2008 Census Dress Rehearsal. The 2008 Census Dress Rehearsal will be conducted in two sites, one urban, and the other one, a mix of urban and suburban. San Joaquin County, California is the urban site. South Central North Carolina has been selected as the urban/suburban mix test site. This area consists of Fayetteville and nine counties surrounding Fayetteville (Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, and Scotland). As is typical, the CCM operations and activities will be conducted separate from and independent of the census operations. The CCM program for the dress rehearsal is designed to test that all planned coverage measurement operations are working as expected, that they are integrated internally, and that

they are coordinated with the appropriate census operations. This is particularly important because the dress rehearsal is the first time in the 2010 census cycle that CCM operations for housing units will be conducted. The CCM operations planned for the dress rehearsal, to the extent possible, will mirror those that will be conducted for the 2010 Census 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). 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 2008 Census Dress Rehearsal enumeration commences. In both dress rehearsal sites, enumerators will canvass every street, road, or other place where people might live in their assigned block clusters and constructs 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 identify the location of each housing unit by assigning map spots on block cluster maps provided with their assignment materials. If an enumerator is uncertain whether a particular living quarters is a housing unit, it will be listed and flagged for followup (this will be a part of the Initial Housing Unit Followup). 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 Quality Control (QC) wherein QC 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 QC, then the QC 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. As the result of the matching an additional relisting operation can occur for block clusters suspected of high levels of geocoding errors in the original independent listing. The methods and procedures for relisting will be the same as those for the listing operation. There will be one Independent Listing Form, DX–1302, that will be used for listing, QC, and relisting.

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 will also be sent to resolve potential duplicates and unresolved housing unit/group quarter status. The forms and procedures to be used in the Initial Housing Unit Followup phase of the CCM in the 2008 Census Dress Rehearsal and all subsequent CCM phases will be submitted separately.

II. Method of Collection

The independent listing and relisting operations 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 2000 Coverage Measurement Program, please visit the following page of the Census Bureau's Web site: *http://www.census.gov/dmd/www/refroom.html*.

III. Data

OMB Number: Not available.

Form Number: DX–1302.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 40,000 Housing units (HUs) for Independent Listing, 4,000 HUs for Independent Listing QC, 400 HUs for Relisting, and 40 HUs for Relisting QC.

Estimated Times per Response: 2 minutes.

Estimated Total Annual Burden Hours: 1,480.

Estimated Total Annual Cost to the Public: No cost to the respondent except for their time to respond.

Respondent Obligation: Mandatory.

Legal Authority: Title 13, U.S. Code, Sections 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; (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 the information collection; they also will become a matter of public record.

Dated: October 3, 2007.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–16618 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–549–813)

Initiation of Antidumping Duty Administrative Review: Canned Pineapple Fruit from Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 30, 2006, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 51573 (August 30, 2006) (*Initiation Notice*). In that notice, the Department did not initiate a review of Tropical Food Industries Co. Ltd. (TROFCO) because the company's request for review was untimely filed. After considering the facts on the record, the Department is now initiating a review of TROFCO.

EFFECTIVE DATE: October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4162 and (202) 482–5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2006, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on CPF from Thailand. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 37890 (July 3, 2006). The Department received a request for review from one producer/exporter, Vita Food Factory (1989) Ltd. (Vita), by the July 31, 2006 deadline, and initiated a review of Vita on August 30, 2006 (*see Initiation Notice*, 71 FR 51573).

On August 9, 2006, the Department received an untimely request for a review from the exporter/producer TROFCO. On September 5, 2006, we notified TROFCO that its review request was untimely filed, and thus we did not initiate a review of TROFCO. On September 18, 2006, the Department received a letter from DHL Express, the company used by TROFCO to transmit its review request, explaining that TROFCO sent its review request on July 22, 2006, and it should have been delivered to the Department, at the latest, by July 26, 2006; however, due to a delivery error by DHL, the request was not delivered to the Department until August 9, 2006. On September 20, 2006, TROFCO submitted a letter to the Department with a copy of the shipment/airwaybill and DHL tracking information showing that the request for review was correctly addressed but was initially delivered to the wrong address by DHL.[1] On September 26, 2006, petitioners[2] submitted a letter to the Department contending that the Department may not now initiate an administrative review of TROFCO because neither statutorily-required condition precedent to conducting an administrative review was satisfied; namely, the Department did not receive a timely review request from TROFCO, and did not publish a notice initiating a review of TROFCO.[3] *See* section 751 (a)(1) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR § 351.103(b).

Initiation of Review

Although TROFCO's review request was not received by the Department until after the deadline for requesting an administrative review, the record of this proceeding indicates that if not for an error by DHL, TROFCO's review request would have been received by the Department on or before the deadline. Specifically, in DHL's September 18, 2006 letter to the Department a DHL official certified that TROFCO's review request was sent to the Department via DHL on July 22, 2006 and, under normal circumstances, should have been delivered to the Department by July 26, 2006 (five days before the July 31, 2006 deadline). Moreover, the tracking information supplied to the Department by TROFCO shows that the review request was received at a location near Washington D.C. on July 25, 2006 (*i.e.* Arlington Virginia), six days before the deadline for requesting a review.[4] Lastly, we note that TROFCO sent its review request to the petitioners' counsel via DHL on the same day that it sent the request to the Department via DHL, and the request was delivered to the petitioners' counsel in the Washington D.C. area on July 25, 2006, six days before the review request was to be filed with the Department. While TROFCO's service of its review request on petitioners' counsel does not constitute an official filing, and the Department is not initiating a review of TROFCO based upon that service, delivery of that request before the July 31, 2006 deadline provides further support to conclude that TROFCO's request would have been delivered to the Department in a timely fashion but for the delivery error acknowledged by DHL. Although the Department's practice is to reject untimely requests for review, it nonetheless retains some flexibility to, where appropriate, relax its procedural rules. *See Ferro Union, Inc. and Asoma Corporation v. United States*, 44 F. Supp. 2d 1310, 1316 (CIT 1999) citing *American Farm Lines v. Black Ball Freight Service*, 397 U.S. 532, (1970)(''{i}t is always within the discretion of a court or an administrative agency to relax or modify its procedural rules adopted for the orderly transaction of business before it when in a given case the ends of justice require it.''). *See also Notice of Initiation of Expedited Reviews of the Countervailing Duty Order: Certain Softwood Lumber Products from Canada*, 67 FR 59252 (September 20, 2002) (accepting untimely filed requests for expedited reviews because the respondents made a good faith effort to properly file the requests and the requests were untimely for reasons beyond their control). Given the facts in this case, we have determined that it is appropriate to initiate an administrative review of the antidumping duty order on canned pineapple fruit from Thailand, for the period July 1, 2005 through June 30, 2006, with respect to TROFCO. We intend to issue the final results of this administrative review no later than July 31, 2007.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping order under 19 CFR § 351.211 or a determination under 19 CFR § 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia v. United States*, 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR § 351.305.

This initiation and this notice are in accordance with section 751(a) of the Act and 19 CFR § 351.221(c)(1)(i).

[1] The Department rejected TROFCO's earlier attempt to file this submission because it was improperly filed. *See* the memorandum to the file from Magd Zalok dated concurrently with this notice.

[2] The petitioners are Maui Pineapple Company Ltd. and the International Longshoreman's and Warehouseman's Union.

[3] In support of their argument, the petitioners cite, among other cases, *Cosco Home and Office Products v. United States*, 350 F. Supp. 2d 1294 (Dec. 7, 2004), in which the Court of International Trade affirmed the Department's decision not to initiate an administrative review where there was no evidence that an exporter had filed a review request with the Department's Docket Center. Petitioners also cite to *Pure Magnesium and Alloy Magnesium from Canada; Preliminary Results of Countervailing Duty Administrative Review*, 70 FR 24530 (May 10, 2005), in which the Department rejected an exporter's review request filed one day late but continued the review based on petitioner's timely review request.

[4] DHL apparently initially delivered the review request to the wrong address, despite the fact that the shipment/airway bill lists ''Import Administration Central Records Unit, Room B-099, U.S. Department of Commerce Pennsylvania Avenue and 14th Street, N.W. Washington D.C. 20230'' as the delivery address.

Dated: October 4, 2006.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4, Import Administration.

[FR Doc. E6–16815 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–848)

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative and New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is currently conducting the 2004/2005 administrative and new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (''PRC''). We preliminarily determine that sales have been made below normal value (''NV'') with respect to certain exporters who participated fully and are entitled to a separate rate in the administrative and new shipper reviews. If these preliminary results are adopted in our final results of these reviews, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the period of review (''POR'') for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or Erin Begnal, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1386 or (202) 482–1442, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1997, the Department published an amended final determination and antidumping duty order on freshwater crawfish tail meat from the PRC. *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat from the People's Republic of China*, 62 FR 48218 (September 15, 1997).

On September 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 52072 (September 1, 2005).

Based on timely requests from various interested parties, the Department initiated an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC with respect to the following companies: China Kingdom Import & Export Co., Ltd. (aka China Kingdoma Import & Export Co., Ltd. and Zhongda Import & Export Co., Ltd.) (''China Kingdom''), Jiangsu Hilong International Trading Company, Ltd. (''Jiangsu Hilong''), Jiangsu Jiushoutang Organisms–Manufactures Co., Ltd. (''Jiangsu JOM''), Shanghai Sunbeauty Trading Co., Ltd. (''Shanghai Sunbeauty''), Ningbo Nanlian Frozen Foods Company, Ltd. (''Ningbo Nanlian''), Qingdao Jinyongxiang Aquatic Foods Co., Ltd. (''Qingdao JYX''), Qingdao Wentai Trading Co., Ltd. (''Qingdao Wentai''), Qingdao Zhengri Seafood Co., Ltd. (''Qingdao Zhengri''), Weishan Zhenyu Foodstuff Co., Ltd. (''Weishan Zhenyu''), Xuzhou Jinjiang Foodstuffs Co., Ltd. (''Xuzhou Jinjiang''), Yancheng Haiteng Aquatic Products & Foods Co., Ltd. (''Yancheng Haiteng''), Yancheng Hi–King Agriculture Developing Co., Ltd. (''Yancheng Hi–King''), and Yancheng Yaou Seafood Co., Ltd. (''Yancheng Yaou''). *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005) (''*Initiation Notice*''). The period of review (''POR'') for all respondents subject to this administrative review is September 1, 2004, through August 31, 2005.[1]

Additionally, on September 21, 2005, and September 30, 2005, Xiping Opeck Food Co., Ltd. (''Xiping Opeck'') and Xuzhou Jinjiang, respectively, requested new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC, in accordance with 19 CFR 351.214(c). On November 4, 2005, the Department initiated new shipper reviews of Xuzhou Jinjiang and Xiping Opeck covering the period September 1, 2004, through August 31, 2005. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 70 FR 67138 (November 4, 2005). The POR for the new shipper review of Xiping Opeck is September 1, 2004, through August 31, 2005. The POR for Xuzhou Jinjiang's new shipper review is September 1, 2004, through October 5, 2005. *See* Memorandum to the File, though Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Scot T. Fullerton, International Trade Analyst, AD/CVD Operations, Office 9, regarding *Expansion of the Period of Review in the New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Xuzhou Jinjiang Foodstuffs Co. Ltd.* (September 22, 2006) expanding the POR to include an entry related to Xuzhou Jinjiang's sale(s) to the United States made during the normal POR.

On February 15, 2006, the administrative review was rescinded for China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng, Yancheng Yaou, and Ningbo Nanlian, because the requesting parties, the Crawfish Processors Alliance (''Petitioners''), the Louisiana Department of Agriculture and Forestry, and Bob Odom, Commissioner (collectively, the Domestic Interested Parties) and Ningbo Nanlian withdrew their requests for administrative review pursuant to section 351.213(d)(1) of the Department's regulations. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 7915 (February 15, 2006) (''*Partial Rescission of Administrative Review*''). Jiangsu JOM, Shanghai Sunbeauty, Qingdao JYX, Qingdao Wentai, Xuzhou Jinjiang, and Yancheng Hi–King remain subject to the administrative review.

On February 16, 2006, and February 21, 2006, Xuzhou Jinjiang and Xiping Opeck, respectively, in accordance with section 351.214(j)(3) of the Department's regulations, agreed to waive the

[1] On July 3, 2006, the Department issued its notice of rescission of antidumping duty new shipper reviews of Jiangsu JOM, Shanghai Sunbeauty and Qingdao Wentai, for the period September 1, 2004, and February 28, 2005. *See Notice of Rescission of Antidumping Duty New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China*, 71 FR 37902 (July 3, 2006) (''*Rescission of New Shipper Review*''). Accordingly, this administrative review only covers these companies' entries not already covered by the above-referenced new shipper reviews. Therefore, this administrative review, for Jiangsu JOM, Shanghai Sunbeauty and Qingdao Wentai, covers entries from March 1, 2005, through August 31, 2005.

applicable time limits for their new shipper reviews so that the Department could conduct the new shipper reviews concurrently with the 2004/2005 administrative review of freshwater crawfish tail meat from the PRC. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Postponement of Time Limits for New Shipper Antidumping Duty Reviews in Conjunction With Administrative Review*, 71 FR 13963 (March 20, 2006).

On May 19, 2006, the Department extended the deadline for the preliminary results of the administrative and new shipper reviews until October 2, 2006. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review*, 71 FR 29121 (May 19, 2006).

Scope of Order

The product covered by this antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by U.S. Customs and Border Protection (''CBP'') in 2000, and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of this order is dispositive.

Respondents

On November 10, 2005, the Department issued a quantity and value questionnaire to all respondents for which an administrative review was initiated. The Department received timely responses from: Yancheng Hi–King (November 16, 2005), Yancheng Haiteng (November 22, 2005), Qingdao JYX (November 25, 2005), Xuzhou Jinjiang (November 25, 2005), Weishan Zhenyu (November 25, 2005), Qingdao Wentai (November 25, 2006), Jiangsu JOM (November 26, 2005), Shanghai Sunbeauty (November 26, 2005), and Ningbo Nanlian (November 29, 2005). Both Yancheng Hi–King and Yancheng Haiteng responded to the Department's request for sales quantity and value information indicating they had no sales, entries or exports of subject merchandise during the POR. Qingdao Wentai indicated that it did not export freshwater crawfish tail meat to the United States between March 1, 2005, and August 31, 2005 (*i.e.*, the period not covered by its semi-annual new shipper review).

On November 28, 2005, we issued antidumping duty questionnaires to the two new shippers: Xuzhou Jinjiang and Xiping Opeck. *See* letters to Xuzhou Jinjiang and Xiping Opeck from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China, New Shipper Review (9/1/04 - 8/31/05)*, (November 28, 2005).

On December 5, 2005, we issued antidumping duty questionnaires to Jiangsu JOM, Ningbo Nanlian, Qingdao JYX, Shanghai Sunbeauty, and Weishan Zhenyu. *See* letters to Jiangsu JOM, Ningbo Nanlian, Qingdao JYX, Shanghai Sunbeauty, and Weishan Zhenyu from Christopher D. Riker, Program Manager, China/NME Group, Office 9, Import Administration, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China, Administrative Review (9/1/04–8/31/05)*, (December 5, 2005).

On December 27, 2005, Weishan Zhenyu responded to section A of the Department's questionnaire. On December 29, 2005, Xuzhou Jinjiang and Xiping Opeck submitted their responses to section A of the Department's questionnaire. Additionally, on January 4, 2006, Jiangsu JOM, Shanghai Sunbeauty, Ningbo Nanlian responded to section A of the Department's questionnaire. On January 4, 2006, Qingdao JYX submitted its response to section A of the questionnaire.

The Department received responses to sections C & D of its questionnaire from Wieshan Zhenyu (January 10, 2006); Xiping Opeck (January 17, 2006); Xuzhou Jinjiang (January 18, 2006); Qingdao JYX (January 19, 2006); Jiangsu JOM (January 20, 2006); and Shanghai Sunbeauty (January 24, 2006). On January 12, 2006, the Department issued a supplemental section A questionnaire to Jiangsu JOM.

On January 23, 2006, the petitioners filed a letter timely withdrawing their request for review of China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng, Yancheng Yaou, and Ningbo Nanlian. In addition, Ningbo Nanlian filed a letter, on January 23, 2006, withdrawing its own request for an administrative review. Therefore, the Department rescinded the administrative review for these companies. *See Partial Rescission of Administrative Review*.

On January 25, 2006, Jiangsu JOM submitted its supplemental section A response. On February 2, 2006, the Department issued supplemental questionnaires to Xiping Opeck and Shanghai Sunbeauty, who replied on February 16, 2006.

On February 17, 2006, the Department issued a supplemental questionnaire to Shanghai Sunbeauty and Xiping Opeck. On March 2, 2006, the Department issued a supplemental questionnaire to Xuzhou Jinjiang, and on March 3, 2006, the Department issued a supplemental questionnaire to Jiangsu JOM.

On March 16, 2006, Shanghai Sunbeauty withdrew from the administrative review and indicated it would not respond to the Department's February 17, 2006, sections C & D supplemental questionnaire. On March 20, 2006, and March 21, 2006, Xiping Opeck responded to the Department's February 17, 2006, questionnaire. On March 30, 2006, Qingdao JYX submitted its reply to the importer–specific portion of the Department's questionnaire. On April 3, 2006, Jiangsu JOM submitted its response to the Department's March 3, 2006, supplemental questionnaire. On April 5, 2006, Xuzhou Jinjiang submitted its response to the Department's March 2, 2006, supplemental questionnaire.

On May 9, 2006, the Department issues a supplemental questionnaire to Jiangsu JOM, and on May 22, 2006, Jiangsu JOM submitted its response. On May 25, 2006, Xiping Opeck responded to the Department's May 11, 2006, questionnaire. On June 15, 2006, Qingdao JYX submitted its reply to the Department's June 1, 2006, supplemental questionnaire. Finally, on July 21, 2006, Xuzhou Jinjiang submitted its response to the Department's July 7, 2006, supplemental questionnaire.

On August 7, 2006, and August 14, 2006, the Department issued verification outlines to Xuzhou Jinjiang and Xiping Opeck, respectively. The Department conducted verification of the responses of Xuzhou Jinjiang from August 14 through August 17, 2006, and Xiping Opeck from August 21 through 24, 2006. Jiangsu JOM did not allow the Department to conduct verification during production season. *See Verification* section below. On August 21, 2006, Xiping Opeck submitted

minor corrections presented at verification.

On September 27, 2006, the Department released the verification reports for Xuzhou Jinjiang and Xiping Opeck. *See Verification of the Sales and Factors Response of Xuzhou Jinjiang Foodstuffs Co., Ltd. in the Antidumping New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China* (September 27, 2006) (''Xuzhou Jinjiang Verification Report''); *Verification of the Sales and Factors Response of Xiping Opeck Food Co., Ltd. in the Antidumping New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China* (September 27, 2006) (''Xiping Opeck Verification Report'');

Surrogate Country and Factors

On December 16, 2005, the Department provided parties with an opportunity to submit publicly available information (''PAI'') on surrogate countries and values for consideration in these preliminary results. The Department received surrogate value proposals from Xuzhou Jinjiang and Qingdao Wentai on February 16, 2006.

Verification

On November 22, 2005, and November 29, 2005, domestic interested parties requested that the Department conduct verification of the data submitted by all of the firms for which the Department initiated an administrative or new shipper review, respectively. However, due to the Department's resource constraints in conducting these reviews, we only selected Xuzhou Jinjiang, Xiping Opeck and Jiangsu JOM for verification pursuant to section 782(i)(2) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.307. As noted above, Jiangsu JOM did not allow the Department to conduct verification of the information it placed on the record of the administrative review during production season. *See* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Application of Adverse Facts Available to Jiangsu Jiushoutang Organisms–Manufacturers Co., Ltd.* (October 2, 2006) (''Jiangsu JOM AFA Memo'').

For the companies we did verify, we used standard verification procedures, including on–site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company. For a further discussion, see Xuzhou Jinjiang Verification Report and Xiping Opeck Verification Report.

Preliminary Partial Rescission of 2004/2005 Administrative Review

With respect to Yancheng Hi–King, the firm informed the Department that it did not export the subject merchandise to the United States during the POR. In order to corroborate its submissions, we reviewed PRC freshwater crawfish tail meat shipment data maintained by CBP, and noted no discrepancies with the statements made by this firm.

Qingdao Wentai indicated that its semi-annual new shipper review covered all of its exports of freshwater crawfish tail meat which would be subject to the administrative review. Moreover, the Department has determined that Qingdao Wentai's single sale was not *bona fide* and could not serve as the basis for the calculation of a dumping margin. *See Rescission of Antidumping Duty New Shipper Review*.

Therefore, for the reasons mentioned above, we are preliminarily rescinding the administrative review with respect to Yancheng Hi–King and Qingdao Wentai. *See* 19 CFR 351.213(d)(3).

Bona Fide Sale Analysis – Xiping Opeck & Xuzhou Jinjiang

For the reasons stated below, we preliminarily find that Xiping Opeck's and Xuzhou Jinjiang's reported U.S. sales during the POR appear to be *bona fide* based on the totality of the facts on the record. Specifically, we find that: (1) The prices of Xiping Opeck's and Xuzhou Jinjiang's sales were within the range of the prices of other entries of subject merchandise from the PRC into the United States during the POR; (2) Xiping Opeck's and Xuzhou Jinjiang's sales were made to unaffiliated parties at arm's length; and (3) there is no record evidence that indicates that Xiping Opeck's and Xuzhou Jinjiang's sales were not made based on commercial principles. While the quantity of Xiping Opeck's and Xuzhou Jinjiang's sales were low compared to other entries of subject merchandise from the PRC into the United States during the POR, absent other factors, single sales of low quantities are not inherently commercially unreasonable. *See* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from P. Lee Smith, International Trade Analyst, AD/CVD Operations, Office 9, regarding *2004/2005 Antidumping Duty New Shipper Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China: Bona Fide Analysis of the Sale(s) Reported by Xuzhou Jinjiang Foodstuffs Co., Ltd.* (October 2, 2006); *see also* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from P. Lee Smith, International Trade Analyst, AD/CVD Operations, Office 9, regarding *2004/2005 Antidumping Duty New Shipper Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China: Bona Fide Analysis of the Sale(s) Reported by Xiping Opeck Food Co., Ltd.* (October 2, 2006).

Non–Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (''NME'') country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market-economy countries that (A) are at a level of economic development comparable to that of the NME country, and (B) are significant producers of comparable merchandise. Of the five countries identified by the Office of Policy as economically comparable to the PRC, none are significant producers of crawfish tail meat. *See* Letter to ''All Interested Parties'' from Christopher D. Riker, Program Manager, AD/CVD Operations 9, regarding *Administrative and New Shipper Reviews of Freshwater Crawfish Tail Meat from the People's Republic of China (''PRC'')* at Attachment I (December 16, 2005).

However, India does have a seafood processing industry that is a comparable industry with respect to factory overhead, SG&A and profit. Therefore, we used India as the primary surrogate country to value all inputs with the exception of the raw material (whole live crawfish) and the by-product

(crawfish scrap shell). Because we have determined that other forms of seafood are not sufficiently comparable to serve as surrogate values for the primary input and India does not have a crawfish industry, we have considered other countries in which to value the crawfish input. As done in prior segments of this proceeding, we have decided to use Spain as the surrogate country for the valuation of whole live crawfish because we have found that Spain is a significant producer of comparable merchandise, *i.e.*, whole crawfish, and has publicly available import statistics that are contemporaneous to the POR. *See* Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael Quigley, International Trade Analyst, AD/CVD Operations, Office 9, regarding Administrative and New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Factor Valuation (October 2, 2006) (''Factor Valuation Memo''); and *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Revew, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002) (''*1999–2000 Final Results*'').

In addition, we have decided to use Indonesia as the surrogate country for the valuation of the crawfish by-product scrap because Indonesia is at a level of economic development comparable to the PRC, has significant production of merchandise comparable to the by-product scrap, and has publicly available data (*i.e.*, a public price quote from an Indonesian company) that has been used in prior segments of this proceeding. *See Memorandum to Barbara E. Tillman from Christian Hughes and Adina Teodorescu through Maureen Flannery re: Surrogate Valuation of Shell Scrap: Freshwater Crawfish Tail Meat from the People's Republic of China, Administrative Review 9/1/00–8/31/01 and New Shipper Reviews 9/1/00–8/31/01 and 9/1/00–10/15/01* (August 5, 2002), which was placed on the record of this review in the *Factor Valuation Memo*, Attachment 3. We have not received comments from interested parties suggesting other possible surrogate values for these factors and have found no other data. We note that Xuzhou Jinjiang and Qingdao Wentai also suggested the use of Spanish import data to value whole live crawfish. For further discussion of our surrogate country selection, *see* Memorandum to the File, through James C. Doyle, Director, AD/CVD Operations, Office 9 and Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael Quigley, International Trade Analyst, AD/CVD Operations, Office 9, regarding *2004/2005 Administrative and New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of a Surrogate Country* (October 2, 2006) (''*Surrogate Country Memorandum*'').

Facts Available – Jiangsu JOM & Shanghai Sunbeauty

For the reasons outlined below, we have applied total adverse facts available to Jiangsu JOM and Shanghai Sunbeauty. Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

The Department expressed a need to conduct verification during production season in order to witness first–hand the production process and the consumption of the reported factors of production during production operations. However, despite several attempts by the Department to find a date which would be acceptable for Jiangsu JOM, the company would not permit the Department to conduct verification during the production season. *See Jiangsu JOM AFA Memo*.

Because Jiangsu JOM would not permit the Department to verify the information it placed on the record of the administrative review, we find that Jiangsu JOM did not provide the Department with verifiable information. Therefore, pursuant to section 776(a)(2)(D) of the Act, the use of facts otherwise available is appropriate in reaching the applicable determination for Jiangsu JOM.

Additionally, as noted above, Shanghai Sunbeauty submitted a letter to the Department withdrawing from the administrative review on March 16, 2005, in lieu of responding to a request for information. By not responding to the Department's request for information, Shanghai Sunbeauty failed to provide critical information to be used for the Department's margin calculation, significantly impeded the review, and provided unverifiable information. *See* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, Import Administration, from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Application of Adverse Facts Available to Shanghai Sunbeauty Trading Co., Ltd.* (October 2, 2006) (''Shanghai Sunbeauty AFA Memo''). Therefore, pursuant to sections 776(a)(2)(A), (C), and (D) of the Act, the Department must apply facts available.

By failing to respond to the Department's requests for information and by not allowing the Department to conduct verification, Shanghai Sunbeauty and Jiangsu JOM, respectively, have not proven they are free of government control and are therefore not eligible to receive a separate rate. In the *Initiation Notice*, the Department stated that if one of the companies on which we initiated a review does not qualify for a separate rate, all other exporters of freshwater crawfish tail meat from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC-wide entity of which the named exporter is a part. *See Initiation Notice* at n.1. For these preliminary results, both Shanghai Sunbeauty and Jiangsu JOM will be part of the PRC–wide entity, subject to the PRC–wide rate.

According to section 776(b) of the Act, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act (''URAA''), H.R. Rep. No. 103–316 at 870 (1994).

As explained above, the PRC–wide entity (including Shanghai Sunbeauty and Jiangsu JOM) would either not permit the Department to verify information placed on the record or informed the Department that it would not participate further in this review and did not respond to the Department's requests for information. Therefore, the PRC–wide entity did not cooperate to the best of its ability. Because the PRC-wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it necessary, pursuant

to sections 776(a)(2)(D) and 776(b) of the Act, to use adverse facts available (''AFA'') as the basis for these preliminary results of review for the PRC-wide entity.

Selection of AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In reviews, the Department normally selects, as AFA, the highest rate determined for any respondent in any segment of the proceeding. *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504 (April 21, 2003). The Court of International Trade (''CIT'') and the Federal Circuit have consistently upheld the Department's practice. *See Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Circ. 1990) (''*Rhone Poulenc*''); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (Ct. Int'l Trade 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); *see also Kompass Food Trading Int'l v. United States*, 24 CIT 678, 689 (2000) (upholding a 51.16% total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, Slip Op. 05–22, at 16 (CIT February 17, 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review). The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *see also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004); *D&L Supply Co. v. United States*, 113 F. 3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc*, 899 F.2d at 1190. Consistent with the statute, court precedent, and its normal practice, the Department has assigned the rate of 223.01 percent, the highest rate calculated in any segment of the proceeding, to the PRC–wide entity (including Shanghai Sunbeauty and Jiangsu JOM) as AFA. *See, e.g., Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002). As discussed further below, this rate has been corroborated.

Corroboration of Secondary Information

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The *SAA* states that ''corroborate'' means to determine that the information used has probative value. *See SAA* at 870. The Department has determined that to have probative value, information must be reliable and relevant. *See* SAA at 870; *see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan*, 61 FR 57391, 57392 (November 6, 1996). The *SAA* also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See Preliminary Determination of Sales at Less Than Fair Value: High and Ultra–High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627 (June 16, 2003); and *Final Determination of Sales at Less Than Fair Value: Live Swine from Canada*, 70 FR 12181 (March 11, 2005).

The reliability of the AFA rate was determined by the calculation of the margin based on sales and production data of a respondent in a prior review, and on the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review, as well as information gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. *See 1999–2000 Final Results*. The Department has received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. This rate has been used as AFA in every subsequent segment of this proceeding and the Department has received no comments challenging the reliability of the margin. No information has been presented in the current review. Thus, the Department finds that the margin calculated in the 1999–2000 review is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here. As there is no information on the record of this review that indicates that this rate is not relevant as AFA for the PRC–wide entity, we determine that this rate is relevant. Because the rate is both reliable and relevant it has probative value. Accordingly, we determine that the highest rate determined in any segment of this administrative proceeding (*i.e.*, 223.01 percent) is corroborated (*i.e.*, it has probative value).

Separate Rates

To establish whether a company operating in an NME is sufficiently

independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). Under the separate–rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

As discussed above, Jiangsu JOM would not permit verification, and Shanghai Sunbeauty refused to respond to the Department's requests for information and withdrew from the administrative review. *See Jiangsu JOM AFA Memo*, and *Shanghai Sunbeauty AFA Memo*. Therefore, the Department was unable to verify Jiangsu JOM's and Shanghai Sunbeauty's questionnaire responses concerning their eligibility for a separate rate. The Department therefore determines that both Shanghai Sunbeauty and Jiangsu JOM have not established that they are eligible for a separate rate. *See* ''*Facts Available – Jiangsu JOM & Shanghai Sunbeauty*'' section above.

De Jure Control

The Department considers the following criteria in determining whether an individual company is free of *de jure* absence of government control over export activities: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20588.

In their questionnaire responses, Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX stated that they are independent legal entities, and evidence placed on the record indicates that the government does not have *de jure* control over their export activities. Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX submitted evidence of their legal right to set prices independent of all governmental oversight. Furthermore, the business licenses of Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX indicate that they are permitted to engage in the exportation of freshwater crawfish tail meat. We also found no evidence of *de jure* governmental control restricting Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX's exportation of freshwater crawfish tail meat.

In their responses, Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX stated that no export quotas apply to crawfish. Prior verifications have confirmed that there are no commodity-specific export licenses required and no quotas for the seafood category ''Other,'' which includes crawfish, in *China's Tariff and Non-Tariff Handbook* for 1996. In addition, we have previously confirmed that freshwater crawfish tail meat is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled *Temporary Provisions for Administration of Export Commodities*. *See Freshwater Crawfish Tail Meat From the People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR 8543 (February 22, 1999), and *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review*, 64 FR 27961 (May 24, 1999) (*Ningbo New Shipper Review*).

The following laws, which have been placed on the record of this review, indicate a lack of *de jure* government control. The *Company Law of the People's Republic of China*, made effective on July 1, 1994, with the amended version promulgated on August 28, 2004, states that a company is an enterprise legal person, that shareholders shall assume liability towards the company to the extent of their shareholdings and that the company shall be liable for its debts to the extent of all its assets. Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX also provided copies of the *Foreign Trade Law of the PRC*, promulgated on May 12, 1994, which identifies the rights and responsibilities of organizations engaged in foreign trade, grants autonomy to foreign–trade operators in management decisions and establishes the foreign trade operator's accountability for profits and losses. Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX also provided copies of their business licenses stating their right to conduct business within the scope of their licenses. The Department, therefore, preliminarily determines that there is an absence of de jure control over the export activities of Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX.

De Facto Control

The Department typically considers four factors in evaluating whether a respondent is subject to *de facto* government control over its exports: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management. *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX have each asserted the following: (1) Each establishes its own export prices; (2) each negotiates contracts without guidance from any governmental entities or organizations; (3) each makes its own personnel decisions; and (4) each retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Moreover, the Department verified that Xiping Opeck and Xuzhou Jinjiang are free of *de facto* government control. Based upon information on the record, there is a sufficient basis to preliminarily determine that Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX have all demonstrated absence of *de facto* governmental control of their export functions. Therefore, because Xiping Opeck, Xuzhou Jinjiang and Qingdao HYX operate free of *de jure* and *de facto* government control, the Department has preliminarily determined that Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX have satisfied the criteria for separate rates based on the documentation each has submitted on the record.

Normal-Value Comparisons

To determine whether Xiping Opeck's, Xuzhou Jinjiang's and Qingdao JYX's sales of the subject merchandise to the United States were made at prices below NV, their United States prices were compared to NV, as described in the ''United States Price'' and ''Normal Value'' sections of this notice.

United States Price

For Xiping Opeck, Xuzhou Jinjiang and Qingdao JYX, the Department based U.S. price on export price (''EP'') in accordance with section 772(a) of the Act, because the first sales to unaffiliated purchasers were made prior to importation, and constructed export price (''CEP'') was not otherwise warranted by the facts on the record. We calculated EP based on packed prices

from the exporter to the first unaffiliated purchaser in the United States. Where applicable, foreign inland freight, foreign brokerage and handling expenses, and ocean freight were deducted from the starting price (gross unit price) in accordance with section 772(c) of the Act.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production (''FOP'') methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act and 19 CFR 351.408. The Department will base NV on the factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 29744, 39754 (July 11, 2005) (unchanged in final results).

For purposes of calculating NV, we selected surrogate values for the PRC factors of production in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital costs, including depreciation. *See* section 773(c)(3) of the Act. In choosing surrogate values, we selected, where possible, a publicly available value which was an average country-wide, non-export value, representative of a range of prices within the POR or most contemporaneous with the POR, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004) (''*Chlorinated Isocyanurates*''). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. *See Manganese Metal from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12442 (March 13, 1998).

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on the FOPs reported by Xiping Opeck, Xuzhou Jinjiang and Qingdao JYX for the POR. To calculate NV, the reported per–unit factor quantities was multiplied by publicly available surrogate values. As appropriate, we adjusted input prices by including freight costs to reflect delivered prices. For a detailed explanation of all surrogate values used for respondents, *see Factor Valuation Memo*.

Except where discussed below, we valued raw material inputs using September 2004–August 2005 weighted–average Indian import values derived from the *World Trade Atlas* online (''*WTA*'') (*see Factor Valuation Memo*). The Indian import statistics we obtained from the *WTA* were published by the DGCI&S, Ministry of Commerce of India and are contemporaneous with the POR. As the Indian surrogate values were denominated in rupees, they were converted to U.S. dollars using the exchange rate for India on the date of the applicable sale. The daily exchange rate was the exchange rate data from the Department's website, which are taken from publicly available data from the Federal Reserve and Dow Jones. *See* http://www.ia.ita.doc.gov/exchange/index.html. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the publicly available information for inflation using Indian wholesale price indices (''WPIs'') as published in the International Monetary Fund's *International Financial Statistics* (''*IFS*''). *See Factor Valuation Memo*.

In instances where we relied on Indian import data to value inputs, in accordance with the Department's practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1. *See, also, Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66808 (November 28, 2003), unchanged in the Department's final determination at 69 FR 20594 (April 16, 2004). Additionally, imports that were labeled as originating from an ''unspecified'' country were excluded from the average value, because the Department could not be certain that they were not from either an NME or a country with generally available export subsidies.

Surrogate Valuations

To value the input of whole live crawfish we used publicly available data for Spanish imports of whole live crawfish from Portugal. The Department obtained the data from ''aduanas e I.especiales,'' the Spanish Customs database for foreign trade statistics (Estadisticas Comercio Exterior). *See Factor Valuation Memo*, Attachment 2.

The Department derived a price for polyethylene bags during the POR from Indian import statistics for HTS subheading 3923.21 from the *WTA*. *See Factor Valuation Memo*, at Attachment 4.

To value a by-product, crawfish shell scrap, the Department used a price quote from Indonesia for wet crab and shrimp shells. *See Factor Valuation Memo*, at Attachment 3; *see also Surrogate Country Memorandum*.

Section 351.408(c)(3) of the Department's regulations requires the use of a regression–based wage rate. Therefore, to value the labor input, the Department used the regression-based wage rate for China published by Import Administration on its website. *See http://www.ia.ita.doc.gov/wages/index.html*.

To calculate the cost of coal, the Department used Indian import data for steam coal (HTS subheading 2710.19.04) for calendar year 2005 obtained from the *WTA*. *See Factor Valuation Memo*, at Attachment 7.

We valued diesel using the rates provided by the OECD's International Energy Agency's publication: Key World Energy Statistics from the first quarter of 2005. *See Factor Valuation Memo*, at Attachment 9.

To value water, the Department used the industrial water rates within the Maharashtra Province of India from June 2003. To achieve comparability of water prices to the factors reported for the POR, we adjusted this factor value to reflect inflation to the POR using the WPI for India, as published in the 2005 *IFS*. *See Factor Valuation Memo*, at Attachment 8.

To value SG&A, factory overhead and profit, the Department used the 2002–2003 financial statements from Nekkanti

Sea Foods Ltd. (''Nekkanti''), an Indian seafood processor. *See Factor Valuation Memo*, at Attachment 11.

For foreign inland freight, respondents reported that all raw materials were delivered by truck. Respondents reported the distance of the material inputs in kilometers, from the supplier of the material input to the factory. In calculating the freight rate, the Department used the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). To value the cost of truck freight, we used an average truck freight cost based on Indian market truck freight rates obtained from the web site http://www.infreight.com., and inflated the value to be contemporaneous to the POR. To derive the freight cost for each material input, the Department multiplied the surrogate freight value by the freight distance and subsequently multiplied this value by the reported quantity of the input consumed in the production of one unit of the subject merchandise during the POR. The Department added the freight expense to the cost of the material input to determine gross material costs (*see Factor Valuation Memo*, at Attachment 12).

To value the inland freight expense for packaged crawfish tail meat from the producer to the port of export, the Department used an Indian refrigerated truck freight rate based on price quotations from CTC Freight Carriers of Delhi, India, placed on the record of the antidumping investigation of Certain Frozen Warmwater Shrimp from the PRC and inflated the value to be contemporaneous with the POR. The Department has placed this information on the record of this proceeding (*see Factor Valuation Memo*, at Attachment 13).

To value brokerage and handling, the Department used a simple average of the publicly summarized versions of the average value for brokerage and handling expenses reported in the: (1) U.S. sales listings of the February 28, 2005, submission from Essar Steel Ltd. (''Essar Steel'') taken from the administrative review of Certain Hot-Rolled Carbon Steel Flat Products from India, for which the POR was December 1, 2003, through November 30, 2004, and (2) U.S. sales listings of the March 2, 2006, submission from Agro Dutch Industries Ltd. (''Agro Dutch''), taken from the administrative review of certain preserved mushrooms from India, for which the POR was February 1, 2004 through January 31, 2005. *See Certain Hot–Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006); *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006); *see also* Public version of section C questionnaire response from Essar Steel Limited; and public version of section C questionnaire response from Agro Dutch. The reported rates of Essar Steel and Agro Dutch were contemporaneous with the POR. The Department has placed this information on the record of this proceeding (*see Factor Valuation Memo*, Attachment 15).

Where respondent used an NME shipper, we valued international freight expenses using freight quotes from Maersk Sealand, a market-economy shipper. These quotes have been used in prior reviews of this case. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, and Final Partial Rescission of Administrative Review*, 66 FR 20634 (April 24, 2001). We obtained quotes for each month from September 2003 through August 2004, from the PRC to the West Coast of the United States, took a simple average, and inflated the value as necessary. *See Factor Valuation Memo*, Attachment 14.

Finally, we note that Xiping Opeck erred in reporting its electrical consumption and the distance from the factory to port of export. For a more detailed explanation, *see* Xiping Opeck Verification Report. Therefore, for purposes of these preliminary results, we are amending the reported consumption of electricity, and the reported distance from factory to port of export. *See* Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China— Analysis Memorandum for the Preliminary Results of New Shipper Review of Xiping Opeck Food Co., Ltd.* (October 2, 2006).

Currency Conversions

We made currency conversions using exchange rates obtained from the website of Import Administration at *http://ia.ita.doc.gov/exchange/index.html*.

Preliminary Results of Reviews

We preliminarily determine that the following margins exist for Xiping Opeck and Qingdao JYX during the period September 1, 2004, through August 31, 2005; and for Xuzhou Jinjiang during the period September 1, 2004, through October 5, 2005:

Company	Weighted–Average Margin (Percent)
Xiping Opeck Food Co., Ltd.	35.66
Xuzhou Jinjiang Foodstuffs Co., Ltd.	0.00
Qingdao Jinyongxiang Aquatic Foods Co., Ltd.	51.60

PRC–Wide Rate	Margin (Percent)
PRC–Wide Rate[2]	223.01

[2] The PRC-wide entity includes Shanghai Sunbeauty and Jiangsu JOM.

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice.

Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Any interested party may request a hearing within 30 days of publication of this notice. Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the briefs.

The Department will issue the final results of these reviews, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on

all appropriate entries. The Department will issue appropriate appraisement instructions for the companies subject to these reviews directly to CBP within 15 days of publication of the final results of these reviews. For assessment purposes for companies with a calculated rate, where possible, the Department calculated importer-specific assessment rates for freshwater crawfish tail meat from the PRC on a per–unit basis. Specifically, the Department divided the total dumping margins (calculated as the difference between normal value and export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. The Department will direct CBP to assess importer–specific assessment rates based on the resulting per-unit (*i.e.*, per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. However, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or de minimis, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed review; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 223.01 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative, new shipper reviews, and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: October 2, 2006.

Joseph A. Spetrini,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. E6–16677 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–844]

Steel Concrete Reinforcing Bar From The Republic of Korea: Notice of Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests by Dongkuk Steel Mill Co. Ltd. (DSM), a producer/exporter of the subject merchandise, and petitioners,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on steel concrete reinforcing bar (rebar) from the Republic of Korea (Korea). This review covers seven producers/exporters of the subject merchandise. The period of review (POR) is September 1, 2004, through August 31, 2005.

As discussed below, the Department has preliminarily determined to collapse DSM, Korea Iron and Steel Co., Ltd. (KISCO), and Hwanyoung Steel Industries Co. (HSI), into a single entity for purposes of this administrative review. We preliminarily determine that DSM/KISCO/HSI made sales at less than normal value (NV) during the POR. Further, as a result of our review, we preliminarily determine that three respondents had no sales or shipments of subject merchandise to the United States during the POR. Therefore, we are preliminarily rescinding the review with respect to these respondents. One remaining respondent, Dongil Industries Co. Ltd. (Dongil), failed to respond to our questionnaire. As a result, we are basing our preliminary results for Dongil on total adverse facts available (AFA). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. Unless we extend the deadline, we will issue the final results of review no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5253, or (202) 482–4406, respectively.

Background

On September 7, 2001, the Department published an antidumping duty order on rebar from Korea. *See Antidumping Duty Orders: Steel Concrete Reinforcing Bars From Belarus, Indonesia, Latvia, Moldova, People's Republic of China, Poland, Republic of Korea and Ukraine,* 66 FR 46777 (September 7, 2001). On September 1, 2005, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on rebar from Korea. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 70 FR 52072 (September 1, 2005). On September 21, 2005, in accordance with 19 CFR 351.213(b)(2), DSM requested that the Department conduct an administrative review of its sales and entries of subject merchandise into the United States during the POR. Additionally, in accordance with 19 CFR 351.213(b)(1), on September 30, 2005, petitioners requested that the Department conduct a review of DSM, Dongil, Hanbo Iron & Steel Co., Ltd. (Hanbo), INI Steel (INI), Kosteel Co., Ltd (Kosteel), and KISCO. On October 25, 2005, the Department initiated an

[1] The petitioners are the Rebar Trade Action Coalition and its individual members-Gerdau Ameristeel, CMC Steel Group, Nucor Corporation, and TAMCO.

administrative review of Dongil, DSM, Hanbo, INI, Kosteel Co., and KISCO. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 70 FR 61601 (October 25, 2005).

On October 19, 2005, the Department issued its antidumping questionnaire to Dongil, DSM, Hanbo, INI, Kosteel, and KISCO. In December 2005, DSM and KISCO responded to the Department's antidumping questionnaire.[2] Additionally, KISCO's affiliate, HSI, responded to the Department's antidumping questionnaire in December 2005. Thereafter, the Department issued supplemental questionnaires to DSM, KISCO, and HSI, and received timely responses. The petitioners submitted comments regarding the respondents' supplemental questionnaire responses on May 26, 2006, and September 13, 2006.

On October 21, 2005, Hanbo and INI notified the Department that neither they nor any of their affiliates had any sales or exports of subject merchandise during the POR. On August 2, 2006, the Department sent a letter to Kosteel and Dongil informing these companies that we did not receive a response from them to the antidumping questionnaire. In the letter, the Department stated that, if they did not respond to the antidumping questionnaire because they had no shipments of subject merchandise to the United States during the POR, they should inform the Department of this fact; otherwise, the Department may conclude that these companies decided not to cooperate with the Department's review. In response, on August 8, 2006, Kosteel reported that it had no sales or shipments of subject merchandise to the United States during the POR. Dongil did not respond to the Department's August 2, 2006, letter.

Because it was not practicable to issue the preliminary results of this review within the normal time frame, on May 30, 2006, the Department published in the **Federal Register** a notice of the extension of time limits for these preliminary results. *See Steel Concrete Reinforcing Bars from the Republic of Korea: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review,* 71 FR 30658 (May 30, 2006). This extension established the deadline for these preliminary results as September 30, 2006. The first business day after this deadline is October 2, 2006.

Period of Review

The POR is September 1, 2004, through August 31, 2005.

Scope of the Order

The product covered by this order is all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating. The HTSUS subheading is provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Partial Rescission of Review

As noted above, Hanbo, INI, and Kosteel informed the Department that they had no shipments of subject merchandise to the United States during the POR. We obtained entry data from CBP and found that these data support the statements made by these respondents, that they had no shipments of subject merchandise during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding our review with respect to Hanbo, INI, and Kosteel. (*See, e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review,* 63 FR 35190, 35191 (June 29, 1998); and *Certain Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 62 FR 53287, 53288 (October 14, 1997)).

Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (the Act), provides that if any interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information by the deadlines for submission of the information or in the form or manner requested; (C) significantly impedes a proceeding; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in making its determination.

If the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information submitted by an interested party and is necessary to the determination, but does not meet all of the Department's applicable requirements, if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department, in reaching the applicable determination under this title, ''may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994).

Application of Facts Available

The evidence on the record of this review establishes that, pursuant to section 776(a)(2)(A) of the Act, the use of total facts available (FA) is warranted in determining the dumping margin for U.S. sales of rebar made by Dongil because it failed to provide any requested information to the Department. As stated above, on October 19, 2005, the Department issued the antidumping questionnaire to six manufacturers/exporters of the subject merchandise. Five companies responded to the questionnaire, with three of the five companies ultimately advising the Department that they did not have shipments or sales of subject merchandise to the United States during the POR. The remaining company, Dongil, failed to respond to the Department's antidumping questionnaire. On August 2, 2005, we

[2] KISCO and its affiliate, HSI, reported that they had no sales or shipments of subject merchandise to the United States during the POR. However, because DSM and KISCO were found to be affiliated and were collapsed in a prior review, the Department reviewed KISCO and HSI's submissions regarding, *inter alia,* their corporate structure and affiliations, home market sales, and cost of production.26, 2006, and September 13, 2006.

informed Dongil that, because it failed to respond to the Department's antidumping questionnaire, and had not informed the Department as to whether it had sales or shipments of subject merchandise to the United States during the POR, we may use AFA to determine its dumping margin. Dongil did not respond to the Department's August 2, 2005, letter.

Because Dongil failed to provide the necessary information requested by the Department, pursuant to section 776(a)(2)(A) of the Act, we must establish the margins for this company based on the facts otherwise available.

Use of Adverse Inferences

In selecting from among the facts otherwise available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a respondent has ''failed to cooperate by not acting to the best of its ability to comply with a request for information.'' Section 776(b) of the Act goes on to state that an adverse inference may include reliance on information derived from (1) The petition; (2) a final determination in the investigation under this title; (3) any previous review under section 751 or determination under section 753, or (4) any other information on the record.

Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *Timken Co. V, United States, 354 F.3d 1334, 1345 (Fed. Cir. 2004); Mannesmannrohren-Werke AG* v. *United States,* 77 F. Supp. 2d 1302 n.7 (CIT 1999). The Court of Appeals for the Federal Circuit (CAFC), in *Nippon Steel Corporation* v. *United States,* 337 F. 3d 1373, 1381 (Fed. Cir. 2003), provided an explanation of the ''failure to act to the best of its ability'' standard, holding that the Department need not show intentional conduct existed on the part of the respondent, but merely that a ''failure to cooperate to the best of a respondent's ability'' existed, *i.e.*, information was not provided ''under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.'' *Id.* at 1383. The CAFC did acknowledge, however, that ''deliberate concealment or inaccurate reporting'' would certainly be a reason to apply AFA, although it indicated that inadequate responses to agency inquiries ''would suffice'' as well. *Id.*

To examine whether the respondent ''cooperated'' by ''acting to the best of its ability'' under section 776(b) of the Act, the Department considers, *inter alia,* the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. *See Mannesmannrohren-Werke AG* v. *United States,* 120 F.Supp. 2d 1075,1096 (CIT 2000).

The record shows that Dongil failed to cooperate to the best of its ability, within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that Dongil failed to provide requested information. Moreover, Dongil failed to offer any explanation for its failure to respond to our antidumping questionnaire or August 2, 2005, letter. As a general matter, it is reasonable for the Department to assume that Dongil possessed the records necessary to participate in this review; however, by not supplying the information the Department requested, Dongil failed to cooperate to the best of its ability. As Dongil has failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA for Dongil, we have used a rate of 102.28 percent, which is the highest margin from any segment of the proceeding. Specifically, this rate was the highest margin alleged for any Korean company in the petition and is the rate used as AFA for Hanbo in the final determination of the less-than-fair-value (LTFV) investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the Republic of Korea,* 66 FR 33526 (June 22, 2001). This rate was also used as AFA for both Hanbo and Dongil in the last completed administrative review of this order. *See Steel Concrete Reinforcing Bars From the Republic of Korea: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 69 FR 54642 (September 9, 2004).

Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870 and 19 CFR 351.308(d).

The SAA further provides that the term ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. During the LTFV investigation, we examined the reliability of the 102.28 percent rate selected as AFA for Hanbo and found it to be reliable. *See* Memorandum to Troy H. Cribb, Assistant Secretary for Import Administration, from Holly A. Kuga, Acting Deputy Assistant Secretary for AD/CVD Enforcement, Group II, ''The Use of Facts Available for Hanbo Iron & Steel Co. Ltd., and Corroboration of Secondary Information,'' dated January 16, 2001, and placed on the record of this review concurrently with these preliminary results. There is no information on the record of this review to demonstrate that this rate is no longer reliable.

As to the relevance of the AFA rate, the CAFC has stated that Congress ''intended for an adverse facts available rate to be a reasonably accurate estimate of the respondent's actual rate, albeit with some built-in increase intended as a deterrent to non-compliance.'' *F.Lli De Cecco Di Filippo Fara S. Martino S.p.A.*, v. *U.S.*, 216 F.3d 1027, 1032 (Fed. Cir. 2000). The Department considers information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the selected margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996).

With respect to the rate selected for Dongil, we note that in determining the relevant AFA rate, the Department assumes that if an uncooperative respondent could have demonstrated that its dumping margin is lower than the highest prior margin, it would have provided information showing the margin to be less. *See Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185, 1190–91 (Fed. Cir. 1990) (*Rhone Poulenc*). In *Rhone Poulenc*, the CAFC found that the presumption that, ''the highest prior margin was the best information of current margins'' was a permissible interpretation of 19 U.S.C. 1677e(c). *See Rhone Poulenc*, 899 F.2d at 1190. In upholding this presumption, the CAFC cited the rationale underlying the adverse inference rule, that the presumption ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *Id.* In other proceedings, the

Department has used the highest margin in the proceeding as AFA.

See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, 68 FR 19504, 19508 (April 21, 2003). In fact, the Department used the 102.28 percent rate as AFA in the final determination of the LTFV investigation with respect to Hanbo and, subsequently, applied it to both Dongil and Hanbo in the last completed administrative review. Therefore, Dongil had notice that the 102.28 percent rate may be used as the AFA rate that would be applied for its failure to cooperate. Consequently, in keeping with *Rhone Poulenc*, we consider the 102.28 percent rate to be the most probative evidence of current margin for Dongil because, if it were not so, Dongil, knowing 102.28 percent rate may be assigned as AFA, would have produced current information showing the margin to be less. Further, since Dongil's current margin is 102.28 percent, assigning a rate less than this amount as AFA would allow Dongil to benefit from its non-cooperation. Therefore, we consider the 102.28 percent rate to be relevant.

Accordingly, we have determined, to the extent practicable, that the rate selected as AFA are both reliable and relevant. Therefore, we have corroborated this rate in accordance with section 776(c) of the Act.

Affiliation

We preliminarily find that DSM, KISCO, HSI, and Dongkuk Industries Co., Ltd. (DKI) [3] are affiliated through to sections 771(33)(A) and 771(33)(F) of the Act. Pursuant to section 771(33)(A) of the Act, the following persons, among others, are affiliated: ''Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants. * * * '' *See* section 771(33)(A) of the Act. The record shows that certain senior executives of DSM, KISCO, HSI, and DKI are descendants of a common progenitor, the late Kyung-Ho Chang. These members of the Chang family are related as uncles, nephews, and first cousins. Since the details of these relationships are business proprietary information, please see the Memorandum from Thomas F. Futtner, Acting Office Director, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Whether to Collapse Dongkuk Steel Mill Co., Ltd., Korea Iron and Steel Co., Ltd., and Hwanyoung Steel Ind. Co. Ltd. Into a Single Entity,'' dated October 2, 2006 (Collapsing Memorandum). Accordingly, consistent with the definition of ''family'' under section 771(33)(A) of the Act, the Department's prior practice, the controlling precedent (*see Ferro Union Inc.* v. *Wheatland Tube Co.*, 44 F. Supp. 2d 1310, 1325–1326 (CIT 1999) (*Ferro Union Inc.*)), our findings in the LTFV investigation (*see Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the Republic of Korea*, 66 FR 33526 (June 22, 2001) (*LTFV Final Determination*)), and the most recently completed review in which the Department calculated a dumping margin for DSM/KISCO (*see Steel Concrete Reinforcing Bar From The Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 69 FR 19399 (April 13, 2004)), the Department preliminarily determines that certain senior executives of DSM, KISCO, DKI, and HSI are members of the Chang family, and thus are affiliated. *See* Collapsing Memorandum.

Section 771(33)(F) of the Act states that, ''two or more persons directly or indirectly controlling, controlled by, or under common control with, any person,'' shall be considered to be affiliated. A person includes any interested party as well as any other individual, enterprise, or entity. *See* 19 CFR 351.102. The courts have agreed that a family group is an entity and thus is a ''person,'' for purposes of section 771(33)(F) of the Act. *See Ferro Union Inc.*, 44 F. Supp. 2d at 1326; *Dongkuk Steel Mill Co.*, v. *United States*, Slip Op. 05–75 at 13 (CIT June 22, 2005) (*Dongkuk*). As further defined by section 771(33) of the Act, ''a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.'' *See* section 771(33) of the Act. The record shows that certain members of the Chang family are senior executives of these companies. *See* Collapsing Memorandum. Additionally, these same members of the Chang family are the largest shareholders of DSM, KISCO, and DKI. *Id.* Further, KISCO is the largest shareholder of HSI. Accordingly, the Chang family's leadership positions within these companies, as well as the fact that they control the largest blocks of outstanding shares in DSM, KISCO, and DKI (and KISCO is the largest shareholder in HSI), puts the Chang family in a position to legally and/or operationally control DSM, KISCO, DKI, and HSI, thus satisfying the requirements of affiliation under section 771(33)(F) of the Act. The Court of International Trade (CIT) upheld the Department's similar finding of affiliation in the *2001–2002 Final Results. See Dongkuk*, Slip. Op 05–75 at 4.

In addition, section 771(33)(E) of the Act states that two or more persons shall be considered to be affiliated if any person directly or indirectly owns 5 percent or more of the outstanding voting shares of an organization. In this case, record evidence demonstrates that KISCO directly owns over 5 percent of HSI's outstanding shares. Therefore, we find that KISCO is affiliated with HSI pursuant to section 771(33)(E) of the Act. *See* Collapsing Memorandum.

Collapsing

Section 351.401(f)(1) of the Department's regulations states that in an antidumping proceeding the Department ''will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.'' *See* 19 CFR 351.401(f)(1).

Section 351.401(f)(2) of the Department's regulations identifies factors to be considered to determine whether there is a significant potential for manipulation. These include: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

As discussed above, and in the accompanying Collapsing Memorandum, based on the evidence on the record in this review, we have preliminarily determined that DSM is affiliated with KISCO and HSI by virtue of common control by the Chang family. *See* sections 771(33)(A) and (F) of the Act. Accordingly, the Department preliminarily determines that the first of the three requirements for collapsing the companies has been met. The CIT upheld the Department's decision to collapse DSM and KISCO in the *2001–2002 Final Results. See Dongkuk,* Slip. Op 05–75 at 16–17.

[3] DKI is a manufacturer of cold-rolled steel, pickled and oiled coils, and hot-dip galvanized coil. DKI is also a trading company that exports various steel products. DKI does not produce subject merchandise.

Having determined that DSM, KISCO, and HSI are affiliated, the Department examines whether the producers have production facilities for similar or identical products that would not require ''substantial retooling * * * in order to restructure manufacturing priorities.'' *Cf. Notice of Preliminary Results of New Shipper Review of the Antidumping Duty Order on Certain Pasta From Italy*, 69 FR 319, 321 (January 5, 2004). Based on the questionnaire responses submitted by DSM, KISCO, and HSI, the Department has preliminarily determined that the three companies' production facilities would not require substantial retooling to restructure manufacturing priorities. *See* Collapsing Memorandum.

Further, based on the record of this proceeding, the Department preliminarily determines that significant potential for manipulation of price or production exists. In analyzing whether there exists a potential for price or production manipulation, the Department may consider the following factors: (1) The level of common ownership; (2) the extent to which managerial employees or directors of one firm also sit on the board of the other firm; and (3) whether operations are intertwined. *See* 19 CFR 351.401(f)(2). Based on information supplied by DSM, KISCO, and HSI, the Department preliminarily determines that each of these factors has been satisfied in this segment of the proceeding. *See* Collapsing Memorandum for a full discussion of the issues. As the CIT recognized in *Dongkuk*, the agency's concern is with the potential for manipulation, which continues to exist in this case. *See Dongkuk*, Slip. Op 05–75 at 17.

Based on these reasons, we find that DSM, KISCO, and HSI are affiliated producers with similar or identical production facilities that would not require substantial retooling of either facility in order to restructure manufacturing priorities. We also find that there exists a significant potential for the manipulation of price or production. Therefore, we have collapsed DSM, KISCO, and HSI, and are treating them as a single entity for purposes of these preliminary results.

Comparison Methodology

In order to determine whether the respondents sold rebar to the United States at prices less than NV, the Department compared the constructed export price (CEP) of individual U.S. sales to the monthly weighted-average NV of sales of the foreign like product made in the ordinary course of trade. *See* section 777A(d)(2) of the Act; *see also* section 773(a)(1)(B)(i) of the Act. Section 771(16) of the Act defines foreign like product as merchandise that is identical or similar to subject merchandise and produced by the same person and in the same country as the subject merchandise. Thus, we considered all products covered by the scope of the order, that were produced by the same person and in the same country as the subject merchandise and sold by respondents in the comparison market during the POR, to be foreign like products, for the purpose of determining appropriate product comparisons to rebar sold in the United States.

The Department compared U.S. sales to sales made in the comparison market within the contemporaneous window period, which extends from three months prior to the month in which the U.S. sale was made until two months after the month in which the U.S. sale was made. In making product comparisons, the Department selected identical foreign like products based on the physical characteristics reported by the respondents in the following order of importance: type of steel, yield strength, size, and coating. The Department reclassified the yield strength designation of certain merchandise based on its preliminary finding that the merchandise was weldable. For further information, see the analysis memorandum for DSM/KISCO/HSI, dated concurrently with this notice.

Duty Drawback

Before increasing a respondent's reported U.S. sales prices by the amount of duty drawback, pursuant to section 772(c)(1)(B) of the Act, the Department's practice is to examine whether: (1) Import duties and rebates are directly linked to, and are dependent upon, one another, or, in the context of a duty exemption, the exemption is linked to the exportation of subject merchandise and (2) the company claiming the adjustment can demonstrate that there are sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product. *See Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 61 FR 55965, 55968 (October 30, 1996); *see also, Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 68 FR 6889 (February 11, 2003) and accompanying *Issues and Decision Memorandum* at Comment 5.

DSM reported that it received duty drawback pursuant to Korea's Act on Special Cases Concerning the Refundment of Customs Duties, Etc., Levied on Raw Materials for Export (Duty Refund Program). DSM reported that it received certain ''drawback'' amounts associated with duties paid on imported inputs pursuant to the Korean Government's individual application system, where the duty is rebated based upon each applicant's use of the imported input. Since the applicable criteria have been met in this case, in calculating CEP for DSM/KISCO/HSI, the Department has preliminarily added an amount for duty drawback to the reported prices. We made additions to the starting price for duty drawback in accordance with section 772(c)(1)(B) of the Act.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative expenses and profit. For CEP sales, the U.S. LOT is the level of the constructed export sale from the exporter to its affiliate. The Department adjusts CEP, pursuant to section 772(d) of the Act, prior to performing the LOT analysis, as articulated in 19 CFR 351.412. *See Micron Technology, Inc.* v. *United States,* 243 F.3d, 1301, 1315 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than the CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa,* 62 FR 61731, 61732 (November 19, 1997).

In determining whether the respondents made sales at separate LOTs, we obtained information from

DSM, HSI and KISCO regarding the marketing stages for the reported U.S. and comparison market sales, including a description of the selling activities performed by respondents for each channel of distribution. Generally, if the reported LOTs are the same, the functions and activities of the seller at each level should be similar. Conversely, if a party reports that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

In implementing these principles in this review, we asked DSM/KISCO/HSI to identify the specific differences and similarities in selling functions and support services between all phases of marketing in the home market and the United States. DSM/KISCO/HSI identified one channel of distribution in the home market: direct sales from its factory to its customers. DSM/KISCO/HSI also identified three types of home market customers: end-users, distributors or government entities. Regardless of the type of customer, DSM/KISCO/HSI performed the same type of selling functions in the home market. Because DSM/KISCO/HSI provided these services to each type of customer through one channel of distribution, we have determined that one level of trade exists for DSM/KISCO/HSI's HM sales.

For the U.S. market, DSM/KISCO/HSI reported one channel of distribution-sales to unaffiliated U.S. customers through Dongkuk International, Inc. (DKA), DSM's affiliated U.S. sales company.[4] All of DSM/KISCO/HSI's U.S. sales were CEP transactions and DSM/KISCO/HSI performed the same selling functions in each instance. Therefore, the U.S. market has one LOT.

When we compared CEP sales (after deductions made pursuant to section 772(d) of the Act) to HM sales, we determined that for CEP sales, DSM/KISCO/HSI's U.S. affiliate performed many services associated with its U.S. sales. The differences in selling functions performed for DSM/KISCO/HSI's home market and CEP transactions indicate that HM sales involved a more advanced stage of distribution than CEP sales. In the home market, DSM/KISCO/HSI provides services normally found further down the chain of distribution that are normally performed by the affiliated reseller in the U.S. market.

Based on our analysis, we determined that CEP and the starting price of HM sales represent different stages in the marketing process, and are thus at different LOTs. Therefore, when we compared CEP sales to HM sales, we examined whether a LOT adjustment may be appropriate. In this case, DSM/KISCO/HSI sold at one LOT in the home market; therefore, there is no basis upon which to determine whether there is a pattern of consistent price differences between levels of trade. Further, we do not have the information which would allow us to examine pricing patterns of DSM/KISCO/HSI's sales of other similar products, and there is no other record evidence upon which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment, but the LOT in Korea for DSM/KISCO/HSI is at a more advanced stage than the LOT of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Act, as claimed by DSM/KISCO/HSI. Therefore, we applied the CEP offset to NV. *See* Memorandum to the File from the Team, Level of Trade Analysis: DSM/KISCO/HSI, dated concurrently with this notice.

Constructed Export Price

We based the price of DSM/KISCO/HSI's U.S. sales of subject merchandise on CEP, in accordance with section 772(b) of the Act, because DSM sold subject merchandise to unaffiliated purchasers in the United States after importation through its U.S. affiliate, DKA. We calculated CEP using prices, less discounts, for packed subject merchandise delivered to the first unaffiliated purchaser in the United States. In accordance with sections 772(c)(2)(A) and 772(d)(1) and (3) of the Act, we made deductions from the starting price, where appropriate, for the following expenses: foreign and U.S. inland freight, foreign and U.S. brokerage and handling, international freight, marine insurance, U.S. duties, U.S. warehousing expense, direct and indirect selling, to the extent these expenses are associated with economic activity in the United States, and CEP profit.

Normal Value

After testing home market viability, whether comparison market sales to affiliates were at arm's-length prices, and whether comparison market sales were at below cost prices, we calculated NV for DSM/KISCO/HSI as noted in the ''Price-to-Price Comparisons'' section of this notice.

A. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared the aggregate volume of DSM/KISCO/HSI's home market sales of the foreign like product to the aggregate volume of its U.S. sales of subject merchandise. Because the aggregate volume of DSM/KISCO/HSI's home market sales of foreign like product is more than five percent of the aggregate volume of its U.S. sales of subject merchandise, we based NV on sales of the foreign like product in the respondent's home market. *See* section 773(a)(1)(C)(ii) of the Act.

B. Affiliated Party Transactions and Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length. *See* 19 CFR 351.403(c). Sales to affiliated customers for consumption in the home market that were determined not to be at arm's-length were excluded from our analysis. DSM/KISCO/HSI reported sales of the foreign like product to affiliated customers. To test whether these sales were made at arm's-length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c), and in accordance with the Department's practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). DSM/KISCO/HSI's sales to its affiliated home market customers did not pass the arm's-length test. Therefore, we have excluded these sales from our analysis.

C. Cost of Production Analysis

In the most recently completed proceeding segment in which DSM/KISCO received a calculated dumping margin, the Department determined that these companies sold certain foreign

[4] As noted above, all U.S. sales were made by DSM.

like product at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. *See Steel Concrete Reinforcing Bar from The Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 57883, 57885 (October 7, 2003) (no change at final). Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that during the instant POR, DSM/KISCO/HSI sold foreign like product at prices below the cost of producing the merchandise. As a result, the Department initiated a cost of production (COP) inquiry with respect to DSM/KISCO/HSI.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, for each unique foreign like product sold by DSM/KISCO/HSI during the POR, we calculated a weighted-average COP based on the sum of the respondent's materials and fabrication costs, general and administrative expenses, interest expenses, and import duties normally associated with imported material. *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review* 68 FR 6889 (February 11, 2003). For further information, see the analysis memorandum for DSM/KISCO/HSI, dated concurrently with this notice.

2. Test of Comparison Market Sales Prices

In order to determine whether sales were made at prices below the COP on a product specific basis, we compared the respondent's weighted-average COP to the prices of its home market sales of foreign like product, as required under section 773(b) of the Act. In accordance with sections 773(b)(1)(A) and (B) of the Act, in determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time. We compared the COP to home market sales prices, less any applicable movement charges and direct and indirect selling expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product are made at prices less than the COP, we do not disregard any below cost sales of that product because the below cost sales are not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are made at prices less than the COP during the POR, we determine that such sales are made in ''substantial quantities'' and within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act. In such cases, because we use POR average costs, we also determine, in accordance with section 773(b)(2)(D) of the Act, that such sales are not made at prices that would permit recovery of all costs within a reasonable period of time. In the instant review, based on this test, we did not disregard below cost sales for DSM/KISCO/HSI.

Price-to-Price Comparisons

Where it was appropriate to base NV on prices, we used the prices at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same LOT as the comparison U.S. sale. We calculated NV using prices, less any discounts or rebates, for packed foreign like product delivered to unaffiliated purchasers or, where appropriate, affiliated purchasers in the home market. In accordance with sections 773(a)(6)(A), (B), and (C) of the Act, where appropriate, we deducted from the starting price the following home market expenses: movement, packing, and credit. Additionally, we added interest revenue to the starting price. We added to the starting price the following U.S. expenses: Packing, credit, and other direct selling expenses. Finally, where appropriate, we made price adjustments for physical differences in the merchandise and made a reasonable allowance for other selling expenses where commissions were paid in only one of the markets under consideration.

See 773(a)(6)(C)(ii) of the Act and 19 CFR 351.410(e).

Currency Conversion

Pursuant to section 773A(a) of the Act, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist for the period September 1, 2004, through August 31, 2005:

Manufacturer/Exporter	Margin (percent)
Dongkuk Steel Mill Co. Ltd./ Korea Iron and Steel Co., Ltd./Hwanyoung Steel Ind. Co. Ltd.	0.00
Dongil Industries Co Ltd.	102.28

Public Comment

Within 10 days of publicly announcing the preliminary results of this review, we will disclose to interested parties any calculations performed in connection with the preliminary results. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. *See* 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice in the **Federal Register**, or the first workday thereafter. Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice in the **Federal Register**. Also, interested parties may file rebuttal briefs, limited to issues raised in the case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments. Unless the deadline for issuing the final results of review is extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in the written comments, within 120 days of publication of the preliminary results in the **Federal Register**.

Assessment Rates

In accordance with 19 CFR 351.212(b)(1), in these preliminary results of review we calculated importer-specific assessment rates because the importer is known for all of the sales made by the collapsed entity. Since the collapsed entity reported the entered value, we calculated *ad valorem* assessment rates for the collapsed entity by summing, on an importer-specific basis, the dumping margins calculated for all of the collapsed entity's sales to the importer and dividing this amount by the total quantity of those sales. If the

importer-specific assessment rate is above *de minimis* (*i.e.*, 0.50 percent *ad valorem* or greater), we will instruct CBP to assess the importer-specific rate uniformly, as appropriate, on all entries of subject merchandise during the POR that were entered by the importer or sold to the customer. The Department will issue appropriate assessment instructions based on the final results of review directly to CBP within 15 days of publication of those final results.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the companies examined in the instant review will be the rate established in the final results of this review (except that if the rate for a particular company is *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 22.89 percent, the ''all others'' rate made effective by the LTFV investigation. *See LTFV Final Determination.* These cash deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and countervailing duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 2, 2006.

Joseph A. Spetrini,

Acting Assistant Secretary, for Import Administration.

[FR Doc. E6–16678 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100306I]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in October, 2006 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, October 25, 2006, at 9 a.m.

ADDRESSES: This meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300; fax: (781) 245–0842.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Research Steering Committee will review: three cod-tagging projects undertaken as part of the overall Northeast Regional Cod Tagging Program coordinated by the Gulf of Maine Research Institute (GMRI); the GMRI cod tagging program itself; two Northeast Consortium-funded cod projects and the National Marine Fisheries Service-sponsored cod industry-based survey that was the subject of a peer-review in August. Additionally, the committee will review the scientific basis for NMFS policies that guide the issuance of Exempted Fishing Permits in the Northeast Region.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: October 4, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–16638 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Technical Information Service

National Technical Information Service Advisory Board

AGENCY: National Technical Information Service, Commerce.

ACTION: Notice; solicitation of applications for NTIS Advisory Board membership.

SUMMARY: The National Technical Information Service (NTIS) is seeking a qualified candidate to serve as one of the five members of the NTIS Advisory Board. NTIS Advisory Board will meet at least semiannually to advise the Secretary of Commerce, the Under Secretary for Technology, and the Director of NTIS on NTIS's mission, general policies and fee structure.

DATES: Applications must be received no later than November 9, 2006.

ADDRESSES: Applications should be submitted by mail to Ellen Herbst, Director, NTIS, 5285 Port Royal, Springfield, Virginia 22161 or electronically to *EHerbst@ntis.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Steven Needle (703) 605–6404 or *SNeedle@ntis.gov*; Dr. Douglas Campion (703) 605–6214 or *DCampion@ntis.gov*; or Ms. Pat Moton (703) 605–6103 or *PMoton@ntis.gov*. These are not toll-free numbers. Alternatively, each can be reached by writing to them at National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

SUPPLEMENTARY INFORMATION: NTIS is seeking one candidate to serve as member of its five-member Advisory Board, which was established by Section 3704b(c) of Title 15 of the United States Code. It will meet at least semiannually to advise the Secretary of Commerce, the Under Secretary of Technology, and the Director of NTIS on NTIS's mission, general policies and fee structure. The selected candidate will be appointed by the Secretary and will serve for a three-year term. Members receive no compensation but will be authorized travel and per diem expenses. NTIS is seeking a candidate who can provide guidance on trends in the information industry and changes in the way NTIS's customers acquire and use its products and services. Interested candidates should submit a resume and a statement explaining their interest in serving on the Board.

Dated: October 4, 2006.

Ellen Herbst,

Director.

[FR Doc. 06–8567 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF COMMERCE

National Technical Information Service

National Technical Information Service Advisory Board

AGENCY: National Technical Information Service, Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the National Technical Information Service (NTIS) Advisory Board which advises the Secretary of Commerce, the Under Secretary of Commerce of Technology and the Director of NTIS on NTIS's mission, general policies, and fee structure.

DATES: The NTIS Advisory Board will meet on Wednesday, October 18, 2006 at 9 a.m. to approximately 4:30 p.m.

ADDRESSES: The NTIS Advisory Board meeting will be held in Room 2029, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Walter L. Finch (703) 605–6507 or *WFinch@nitis.gov;* Mr. Steven Needle (703) 605–6404 or *SNeedle@ntis.gov;* or Ms. Pat Moton (703) 605–6103 or *PMoton@ntis.gov.* These are not toll-free numbers. Alternatively, each can be reached by writing to them at National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

SUPPLEMENTARY INFORMATION: The NTIS Advisory Board is established by Section 3704b(c) of Title 15 of the United States Code. Its charter has been filed in accordance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

All members of the Advisory Board have recently been appointed. The main purpose of the meeting is to familiarize them with NTIS's operations and to explore areas where the members' expertise can be of most use. Most interaction will be between the members and NTIS staff. Although subject to change, the itinerary will include (1) a welcoming statement; (2) introduction of members; (3) a discussion of the NTIS's purpose, goals and charter; (4) an Executive overview; (5) lunch; (6) introduction of senior staff; (7) a review of strategic planning documents; and (8) general discussion. If time permits, the public will have an opportunity to address the Advisory Board. Persons wishing to address the Advisory Board should contact the individuals specified not later than October 11, 2006 and bring five written copies of any statement for the convenience of the members. A summary of the meeting will be posted at the NTIS Web site *http://www.ntis.gov*.

Because the meeting will take place in a secured facility, persons wishing to attend should contact any of the individuals specified by October 16, 2006 to arrange for admittance.

Dated: October 4, 2006.

Ellen Herbst,

Director.

[FR Doc. 06–8566 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–04–M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection requirement Submitted to Office of Management and Budget (OMB) for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Submission of Information Collection #3038–0017, Market Surveys.

SUMMARY: The Commodity Futures Trading commission has submitted information collection 3038–0017, Market Surveys, to OMB for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The information collected pursuant to these rules is in the public interest and is necessary for market surveillance.

DATES: Comments must be received on or before November 9, 2006.

ADDRESSES: Persons wishing to comment on this information collection should contact Gary J. Martinaitis, Division of Market Oversight, U.S. Commodity Futures Trading commission, 1155 21st Street, NW., Washington, DC 20581; (202) 418; Fax (202) 418–5527; e-mail: *gmartinaitis@cftc.gov.*

Title: market Surveys.

Control Number: 3038–0017.

Action: Extension.

Respondents: businesses (excluding small businesses).

Estimated Annual Burden: 700 total hours.

Respondents	Businesses
Regulation (17 CFR)	21.02
Estimated Number of respondents	400
Reports annually be each respondents	1
Total annual responses	400
Estimated number of hours per response	1.75

Dated: Issued in Washington, DC, on October 3, 2006.

Eileen A. Donovan,

Acting Secretary to the Commission.

[FR Doc. 06–8542 Filed 10–6–06; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–71]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–71 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 2, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/012158

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-71, concerning the Department of the Air Force's proposed Letters(s) of Offer and Acceptance to Turkey for defense articles and services estimated to cost $2.9 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

JEFFREY B. KOHLER
LIEUTENANT GENERAL, USAF
DIRECTOR

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**
4. **Section 620C(d)**

Transmittal No. 06-71

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Turkey

(ii) Total Estimated Value:

Major Defense Equipment*	$2.1 billion
Other	$ .8 billion
TOTAL	$2.9 billion

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: The Government of Turkey has requested a possible sale of:

Major Defense Equipment (MDE)

30 Advanced F-16 Block 50 Aircraft;
42 General Electric F-110-129 Engines;
60 LAU-129A Launchers;
36 Link-16 Multifunctional Information Distribution System-Low Volume Terminals (MIDS-LVT);
35 AN/APX-113 Advanced Identification Friend or Foe (AIFF);
32 AN/APG-68(V)9 Radar;
36 Joint Helmet Mounted Cueing Systems;
3 Link-16 Ground Stations; and
36 AN/ALQ-211 Airborne Integrated Defensive Electronic Warfare Suites or AN/ALQ-178 Self Protection Electronic Warfare Suites.

Also included are system integration and testing, software development/integration, test sets and support equipment, simulation units, link pods, spare and repair parts, training devices, publications and technical data, maintenance, personnel training and training equipment, U.S. Government and contractor representatives' program support services, contractor engineering and technical support services, and other related elements of logistics support.

* as defined in Section 47(6) of the Arms Export Control Act.

(iv) Military Department: Air Force (SMB)

(v) Prior Related Cases, if any:

FMS case NCE	- $1,099 million - 26Apr05
FMS case SLA	- $2,343 million - 26Mar92
FMS case SFA	- $3,270 million - 09Dec83

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 28 SEP 2006

POLICY JUSTIFICATION

Turkey – Advanced F-16 Block 50 Aircraft

The Government of Turkey has requested a possible sale of:

Major Defense Equipment (MDE)

30 Advanced F-16 Block 50 Aircraft;
42 General Electric F-110-129 Engines;
60 LAU-129A Launchers;
36 Link-16 Multifunctional Information Distribution System-Low Volume Terminals (MIDS-LVT);
35 AN/APX-113 Advanced Identification Friend or Foe (AIFF);
32 AN/APG-68(V)9 Radar;
36 Joint Helmet Mounted Cueing System;
3 Link-16 Ground Stations; and
36 AN/ALQ-211 Airborne Integrated Defensive Electronic Warfare Suites or AN/ALQ-178 Self Protection Electronic Warfare Suites.

Also included are system integration and testing, software development/integration, test sets and support equipment, simulation units, link pods, spare and repair parts, publications and technical data, maintenance, personnel training and training equipment, U.S. Government and contractor representatives' program support services, contractor engineering and technical support services, and other related elements of logistics support. The estimated cost is $2.9 billion.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey and advancing weapon system standardization and interoperability with U.S. forces.

This proposed sale will enhance the Turkish Air Force's ability to defend Turkey while patrolling the nation's extensive coastline and borders against future threats and to contribute to the Global War on Terrorism and NATO operations. The proven reliability and compatibility of like systems integrated with numerous platforms will foster increased interoperability with NATO and U.S. forces, and expand regional defenses to counter common threats to air, border, and shipping assets in the region. The F-16 aircraft will be provided in accordance with, and subject to the limitation on use and transfer provided under, the Arms Export Control Act, as amended, as embodied in the Letter of Offer and Acceptance.

Link-16 MIDS LVT improves interoperability with U.S. and NATO by providing Turkish aircraft with enhanced command, control communications system with high volume voice and data link.

This proposed sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus questions.

The principal contractors will be:

BAE Advanced Systems	Greenlawn, New York
Lockheed Martin Aeronautics Company	Fort Worth, Texas
Lockheed Martin Missiles/Fire Control	Orlando, Florida
L3 Communications	Arlington, Texas
McDonald Douglas Corporation A Wholly Owned Subsidiary Boeing Corporation	St. Louis, Missouri
Northrop-Grumman Electro-Optical Systems	Garland, Texas
Northrop-Grumman Electronic Systems	Baltimore, Maryland
General Electric Aircraft Engines	Cincinnati, Ohio
Raytheon Electronic Warfare Systems Company	Goleta, California

Although generally the purchaser requires offsets, at this time, there are no known offset agreements proposed in connection with this potential sale.

The number of U.S. Government and contractor representatives to support this program will depend on results of negotiations with Turkish defense contractors on the content of local work and subsequent decisions by the Government of Turkey on contractor responsibilities for modification effort.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-71

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The Advanced F-16 Block 50 Aircraft are mostly Unclassified. The highest level of classified information required for release for training, operation and maintenance is Secret. The highest level that could be revealed through reverse engineering or testing of the end item, including weapons, is Secret.

2. The Advanced F-16 Block 50 aircraft will include the following classified or sensitive components and weapons:

a. The Joint Helmet Mounted Cueing System (JHMCS) is a modified HGU-55/P helmet that incorporates a visor-projected Heads-Up Display (HUD) to cue weapons and aircraft sensors to air and ground targets. In close combat, a pilot must currently align the aircraft to shoot at a target. JHMCS allows the pilot to simply look at a target to shoot. This system projects visual targeting and aircraft performance information on the back of the helmet's visor, enabling the pilot to monitor this information without interrupting his field of view through the cockpit canopy. The system uses a magnetic transmitter unit fixed to the pilot's seat and a magnetic field probe mounted on the helmet to define helmet pointing positioning. A Helmet Vehicle Interface (HVI) interacts with the aircraft system bus to provide signal generation for the helmet display. This provides significant improvement for close combat targeting and engagement. Hardware is Unclassified. Technical data and documents classified up to Secret.

b. The AN/ALQ-211 Airborne Integrated Defensive Electronic Warfare Suite (AIDEWS) provides passive radar warning, wide spectrum Radio Frequency jamming, and control and management of the entire Electric Warfare (EW) system. It is an internally mounted suite. The commercially developed system software and hardware is Unclassified. The system is classified Secret when loaded with a U.S. derived EW database.

c. The AN/APG-68(V)9 is the latest model of the APG-68. This model contains the latest digital technology available for a mechanically scanned antenna, including higher processor power, higher transmission power, more sensitive receiver electronics and Synthetic Aperture Radar (SAR), which creates higher-resolution ground maps from a much further distance than previous versions of the APG-68. The upgrade features: 30% increase in detection range of air targets, a five-fold increase in processing speed, a ten-fold increase in memory, as well as significant improvements in all modes, jam resistance and false alarm rates. Complete hardware is classified Confidential. Major components and subsystems are classified Confidential. Software is classified Secret, and technical data and documentation are classified up to Secret.

d. The Multifunctional Information Distribution System-Low Volume Terminal (MIDS-LVT) is an advanced Link-16 command, control, communications, and intelligence (C^3I) system incorporating high-capacity, jam-resistant, digital communication links for exchange of near real-time tactical information, including both data and voice, among air, ground, and sea elements. MIDS-LVT is intended to support key theater functions such as surveillance, identification, air control, weapons engagement coordination, and direction for all services and allied forces. The system will provide jamming-resistant, wide-area communications on a Link-16 network among MIDS and Joint Tactical Information Distribution System (JTIDS) equipped platforms. The MIDS/LVT and MIDS On Ship Terminal hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Confidential. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through intermediate level) of the data link terminal, installed systems, and related software.

e. The AN/APX-113 Advanced Identification Friend or Foe is a combined interrogator/transponder. The system generates and responds to friendly interrogations to provide target identification. It provides for FAA and ICAO mandated IFF Mode IIIC, as well as military Modes 1, 2, and 4. National Security Agency controlled COMSEC is required for classified military modes, including interrogation, to function. It also can operate in Mode S and has growth potential for Mode 5, which are newly adopted DoD requirements. The system is Unclassified until loaded with COMSEC; then it becomes Secret.

f. The AN/ALQ-178 Self-Protection Electronic Warfare Suite (SPEWS) II is an internal system composed of a fully integrated Radar Warning Receiver, jammer, and ALE-47 variant chaff and flare dispenser. It incorporates updated digital receivers provides a wide-variety of advanced jamming techniques, and Digital Radio Frequency Memory capability. The commercially-developed system software and hardware is Unclassified. The system is classified Secret when loaded with a U.S. derived EW database.

3. If hardware or publications for any or all of the above items are lost to a technologically savvy or competent advanced adversary, the information could provide the adversary insight into many critical U.S. capabilities. Information gained from exploitation of the hardware, publications and software could be used to develop countermeasures (electronic, infrared, or other types) as well as offensive and defensive counter-tactics. Information gained would also allow an adversary to exploit known vulnerabilities during combat. Additionally, material exploitation of these items would give engineering, manufacturing, and integration insight to foreign industrial competitors.

CERTIFICATION PURSUANT TO § 620C(d) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to § 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 293, I hereby certify that the furnishing to Turkey of 30 F-16C/D Aircraft; 42 General Electric F-110-129 Engines; 60 LAU-129A Launchers; 36 Link-16 Multifunctional Information Distribution System-Low Volume Terminals; 35 AN/APX-113 Advanced Identification Friend or Foe; 32 AN/APG-68(V)9 Radar; 36 Joint Helmet Mounted Cueing Systems; 3 Link-16 Ground Stations; 36 AN/ALQ-211 Airborne Integrated Defensive Electronic Warfare Suites or AN/ALQ-178 Self Protection Electronic Warfare Suites; system integration and testing; software development/integration; test sets and support equipment; training devices; simulation units; link pods; spare and repair parts; publications and technical data; maintenance; personnel training and training equipment; U.S. Government and contractor representatives' program support services; contractor engineering and technical support services; and other related elements of logistics support is consistent with the principles set forth in § 620C(b) of the Act.

This certification will be made part of the notification to Congress in accordance with § 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying said notification, of which said justification constitutes a full explanation.

Robert Joseph
Under Secretary of State
for Arms Control and International Security

[FR Doc. 06–8548 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–60]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–60 with attached transmittal and policy justification.

Dated: October 2, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/009749

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-60, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Chile for defense articles and services estimated to cost $123 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-60

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Chile

(ii) Total Estimated Value:

Major Defense Equipment*	$ 1 million
Other	$122 million
TOTAL	$123 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 28 LAU-129/A launchers, support equipment, spare and repair parts, program support, publications, documentation, personnel training, training equipment, contractor technical and logistics personnel services and other related elements of program support.

(iv) Military Department: Air Force (QAI)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: 28 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Chile – LAU-129/A Launchers and Support for F-16 Mid-Life Update Aircraft

The Government of Chile has requested a possible sale for 28 LAU-129/A launchers, support equipment, spare and repair parts, program support, publications, documentation, personnel training, training equipment, contractor technical and logistics personnel services and other related elements of program support. The estimated cost is $123 million.

The proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been and continues to be an important force for political stability and economic progress in South America. Chile has deployed forces to numerous different peacekeeping operations around the world and plays a significant role in Haiti. Chile firmly supports our current efforts in the Global War on Terror. Its willingness to deploy to peacekeeping and humanitarian operations while U.S. forces are occupied elsewhere has had a significant impact on regional political and economic stability and serves U.S. national security interests.

Chile is modernizing its antiquated Air Force fleet. As the Chilean Air Force equips these aircraft so that they can launch modern missiles and they become operational, it plans to retire its entire French Mirage aircraft fleet.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be:

Lockheed Martin	Fort Worth, Texas
Pratt & Whitney United Technology Company	East Hartford, Connecticut

There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Chile.

[FR Doc. 06–8549 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–66]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–66 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 3, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/011048

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-66, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Japan for defense articles and services estimated to cost $144 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

JEFFREY B. KOHLER
LIEUTENANT GENERAL, USAF
DIRECTOR

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-66

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser**: Japan

(ii) **Total Estimated Value**:

Major Defense Equipment*	$ 84 million
Other	$ 60 million
TOTAL	$144 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase**: 16 PATRIOT Advanced Capability-3 (PAC-3) (4 pack canisters containing four missiles each) guided missiles, support equipment, modification kits, publications, spare and repair parts, U.S. Government and contractor technical assistance and other related elements of logistics support.

(iv) **Military Department**: Army (XCP)

(v) **Prior Related Cases, if any**: FMS case WYN - $60 million - 09Dec04

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid**: none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold**: See Annex attached.

(viii) **Date Report Delivered to Congress**: 29 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan – PATRIOT Advanced Capability-3 Missiles

The Government of Japan has requested a possible sale of 16 PATRIOT Advanced Capability-3 (PAC-3) (4 pack canisters containing four missiles each) guided missiles, support equipment, modification kits, publications, spare and repair parts, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $144 million.

Japan is one of the major political and economic powers in East Asia and the Western Pacific and a key ally of the United States in ensuring peace and stability in that region. It is vital to the U.S. national interest to assist Japan to develop and maintain a strong and ready self-defense capability, which will contribute to an acceptable military balance in the region. This proposed sale is consistent with these U.S. objectives and with the 1960 Treaty of Mutual Cooperation and Security.

Japan needs these defense articles in order to defend its borders, and to remain militarily viable in the region. Japan also needs additional PATRIOT PAC-3 missiles to provide advanced air defense capability versus conventional threats and limited area defense against Theater Ballistic Missiles (TBM). Japan has already fielded the PATRIOT Air Defense System and is upgrading its ground support equipment to Configuration 3 to support the PAC-3 missiles. The proposed sale will provide Japan with an effective, state-of-the-art, anti-tactical missile capability and will greatly improve the defense posture of Japan. Japan will have no difficulty absorbing these PAC-3 missiles into its inventory.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Missiles and Fire Control in Dallas, Texas. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will potentially require the assignment of up to 2 U.S. Government representatives and up to 8 contractor representatives in Japan for two weeks following delivery of the missiles.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-66

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The PATRIOT Air Defense System contains classified Secret components and critical/sensitive technology. The PATRIOT Advanced Capability-3 (PAC-3) Missile Four-Pack is classified Confidential. With the incorporation of the PAC-3 missile, the PATRIOT System will continue to hold a significant technology lead over other surface-to-air missile systems in the world.

2. The PAC-3 Missile sensitive/critical technology is primarily in the area of design and production know-how and primarily inherent in the design, development and/or manufacturing data related to certain components. Information on system performance capabilities and effectiveness, select software documentation, and test data are classified up to Secret.

3. The loss of this hardware, software, documentation and/or data could permit development of information leading to the exploitation of countermeasures and could provide a significant threat to future United States military operations. If an adversary were to obtain this sensitive technology, the missile system effectiveness could be compromised through reverse engineering techniques.

[FR Doc. 06–8550 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–58]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–58 with attached transmittal and policy justification.

Dated: October 3, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

SEP 2 7 2006

In reply refer to:
I-06/009745

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-58, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Jordan for defense articles and services estimated to cost $450 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

JEFFREY B. KOHLER
LIEUTENANT GENERAL, USAF
DIRECTOR

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-58

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Jordan

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 0 million
Other	$450 million
TOTAL	$450 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** Design, Acquisition, and Installation of a national Command, Control, Communication, Computers, Intelligence Surveillance and Reconnaissance (C4ISR) System.

(iv) **Military Department:** Army (WXY)

(v) **Prior Related Cases, if any:** none

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** None

(viii) **Date Report Delivered to Congress:** 28 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Jordan – Command, Control, Communications, Computers, Intelligence, Surveillance, and Reconnaissance System

The Government of Jordan has requested a possible sale of a Commercial Off the Shelf (COTS) National Command, Control, Communications, Computers, Intelligence, Surveillance, and Reconnaissance (C4ISR) System. The proposed sale will consist of major improvements to Jordan's military communications in three (3) major areas:

- **A C4ISR subsystem capable of serving multiple internal services and agencies within Jordan.**
- **A communication subsystem comprised of multiple communications segments addressing various communications specific upgrades.**
- **An Air Defense subsystem capable early warning of air attack and real-time Command and Control (C2) of national air defense forces.**

The major components of the upgraded capability are COTS hardware (HW) and software (SW) that has been exported previously to other United States (U.S.) Allies.

- **As part of the C4ISR subsystem, the upgrade will enable increased planning, analysis, as well as quick and effective transmission of intelligence data, operational information, and logistical information to various levels of military and civilian authority in Jordan.**

- **As a part of the above major communications upgrades, the U.S. will provide facility modifications, as well as logistical and technical support in several areas to include: Establishment of a maintenance facility in Jordan to maintain delivered hardware and software; technical training; and establishment of a Modeling and Simulation Center to enhance the Jordanian ability to train and maintain proficiency with the systems provided and modifications to the current heating, ventilation, and air conditioning (HVAC) environments, as well as HVAC control systems, building lighting, and electric power distribution where necessary.**

- **The following contains a general description of the types of hardware, software, and services to be provided under this proposed sale:**

    a. **Major components of the C4ISR provide capabilities primarily through the use of commercial-off-the-shelf (COTS) software and hardware.**

b. The major components of the communications subsystem will include: 1. The Long Haul Communications (LHC) consisting of upgrades to Jordan's microwave and fiber networks; 2. The Last Mile Communication (LMC) segment linking the LHC segment; 3. Wireless Communications providing connectivity to mobile forces; 4. Radio Frequency (RF) communications for all command levels; and 5. The Tactical Wired Communications at the Company and Platoon levels.

c. Major components of the Air Defense subsystem upgrade will incorporate third generation air defense software, installation of an industry standard operating system with open architecture and COTS hardware and software, improved workstations and voice switches.

The estimated cost is $450 million.

Proposed sale will enhance the foreign policy and national security objectives of the United States by improving the security of a key regional partner who has proven to be a vital force for political stability and peace in the Middle East.

Jordan needs this equipment to upgrade its entire C4ISR capability from Platoon/Company through higher echelons to the General Headquarters. These defense articles and services will enable Jordan to more effectively organize its armed forces to be able to respond quickly, effectively, and comprehensively to situations concerning its national security. Jordan will have no difficulty absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Northrop Grumman Corporation of Linthicum, Maryland.
There are no known offset agreements proposed in connection with this potential sale.

The United States Government and contractor representatives will participate in program services and technical reviews during 2006 to 2013. The number of in-country U.S. Government personnel and contractor representatives required to support this program will be determined in joint negotiations as the program proceeds through the development, production and equipment installation phases.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 06–8551 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–51]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–51 with attached transmittal, policy justification and Sensitivity of Technology.

Dated: October 3, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

SEP 2 7 2006

In reply refer to:
I-06/009129

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-51, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Jordan for defense articles and services estimated to cost $60 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-51

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Jordan

(ii) Total Estimated Value:

Major Defense Equipment*	$50 million
Other	$10 million
TOTAL	$60 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: two UH-60L VIP BLACK HAWK helicopters with engines, spare and repair parts, publications and technical data, support equipment, personnel training and training equipment, contractor engineering, logistics, and technical support services, a quality assurance team's services, aircraft survivability equipment, tools and test equipment, and other related elements of logistics support.

(iv) Military Department: Army (WAT Amendment 1)

(v) Prior Related Cases, if any: FMS Case VZR - $179 million - 23Nov03

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 28 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Jordan - UH-60L VIP BLACK HAWK HELICOPTERS

The Government of Jordan has requested a possible sale of two UH-60L VIP BLACK HAWK helicopters with engines, spare and repair parts, publications and technical data, support equipment, personnel training and training equipment, contractor engineering, logistics, and technical support services, a quality assurance team's services, aircraft survivability equipment, tools and test equipment, and other related elements of logistics support. The estimated cost is $60 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been and continues to be an important force for political stability and economic progress in the Middle East.

The aircraft will provide Jordan's King Abdullah II additional security while flying throughout the Kingdom and while training with the Special Operation Aviation Brigade. The additional aircraft will provide the Jordanian Royal Squadron a back up aircraft if the primary is in maintenance or becomes inoperative. Jordan will use these helicopters for intra-country transportation requirements, including the movement of its National Command Authority. Jordan, which already has BLACK HAWK helicopters in its inventory, will have no difficulty absorbing the additional helicopters.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: Sikorsky Aircraft Corporation of Stratford, Connecticut and General Electric of Fairfield, Connecticut. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of one Contractor Field Service representative and up to six U.S. Government Quality Assurance representatives to Jordan for two years to assist in the delivery and deployment of the helicopters.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-51

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The UH-60L BLACK HAWK helicopters contain communications and identification equipment, navigation equipment, aircraft survivability equipment, displays and sensors. The airframe itself does not contain sensitive technology. The highest levels of classified information require to be released for training, operation and maintenance of the BLACK HAWK helicopters is Unclassified. The highest level that could be revealed through reverse engineering or testing of the end item is Secret.

2. The UH-60L BLACK HAWK Helicopters will include the following pertinent equipment listed below, either installed on the aircraft or included in the proposed sale:

a. The AN/APR-39B(V)2 Radar Signal Detecting Set is a system which provides warning of a radar directed air defense threat to allow appropriate countermeasures. Hardware is classified Confidential when programmed with United States threat data; releasable technical manuals for operation and maintenance are classified Confidential; releasable technical data (technical performance) is classified Secret. The system can be programmed with threat data provided by the purchasing country.

b. The AN/ALQ-144A(V)5 Infrared (IR) Jammer is an active, continuous operating, omni-directional, electrically fired IR jammer system designed to confuse or decoy IR missile threats, in conjunction with low reflective paint and engine suppressors. Hardware is classified Confidential and releasable technical manuals for operation and maintenance are classified Secret. Reverse engineering and development of countermeasures are concerns if the hardware and releasable technical data are compromised by a competent adversary.

c. The M130 Flare and Chaff Dispenser. The Dispenser components and Payload Module components dispense decoy objects to confuse threat radar devices. Radar cross-section and frequency coverage are sensitive elements. Hardware and the releasable technical publications for operation and maintenance are Unclassified. Aircraft optimization is the critical element; reverse engineering is not a major

concern. Additional components are the Control Panel and the Electronics Module that have been integrated in the Weapons Management and Control software.

d. The AN/ALE-47 Countermeasures Dispenser System provides an integrated, reprogrammable, computer controlled system to dispense expendables/decoys to enhance aircraft survivability. The system is designed to employ electronic and infrared countermeasures according to a program developed and implemented by the aircrew. The hardware is Unclassified. Releasable technical manuals for operation and maintenance are classified Secret. Reverse engineering and development of countermeasures are concerns if the hardware and releasable technical data are compromised by a competent adversary.

e. The Hover Infrared Suppression System (HIRSS) and Improved HIRSS and Forward Looking Infrared (FLIR) systems are Unclassified. The FLIR is optional.

f. The 200 Gallon Internal Auxiliary Fuel Tank Kits provide extra range fuel capabilities and allow the helicopter to transport and dispense aviation fuel to aircraft or tactical vehicles at forward landing zones. The tank kits allows for rapid mission changes and are Unclassified. The tank kits are optional.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advance capabilities.

[FR Doc. 06–8552 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–48]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–48 with attached transmittal and policy justification.

Dated: October 3, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

SEP 2 7 2006

In reply refer to:
I-06/008468

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-48, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Korea for defense articles and services estimated to cost $1.5 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-48

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Korea

(ii) Total Estimated Value:

Major Defense Equipment*	$ 5 million
Other	$1,495 million
TOTAL	$1,500 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 58 AN/VRC-90E ITT Long-Range Radio System Single Channel Ground and Airborne Radio System (SINCGARS) Vehicular, two (2) 30 KW Electric Power Unit II, PATRIOT Missile System support equipment including spare and repair parts, Information Coordination Centrals, maintenance equipment, transporters, calibration support, tools and test equipment, modification kits, system integration and check out, devices, documentation, personnel training and training equipment, technical support, and other related elements of logistics support.

(iv) Military Department: Army (ZAA)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None.

(viii) Date Report Delivered to Congress: 28 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION (U)

Korea – SINCGARS and PATRIOT Missile System Support Equipment

The Government of Korea has requested a possible sale of 58 AN/VRC-90E ITT Long-Range Radio System Single Channel Ground and Airborne Radio System (SINCGARS) Vehicular, two (2) 30 KW Electric Power Unit II, PATRIOT Missile System support equipment including spare and repair parts, Information Coordination Centrals, maintenance equipment, transporters, calibration support, tools and test equipment, modification kits, system integration and check out, devices, documentation, personnel training and training equipment, technical support, and other related elements of logistics support. The estimated cost is $1.5 billion.

This proposed sale will contribute to the foreign policy and national security of the United States (U.S.) by helping to improve the security of a friendly country that has been and continues to be an important force for moderation and progress in East Asia.

Korea needs this surface-to-air equipment to continue the upgrade of its air defense capabilities and will have no difficulty absorbing this additional equipment into its armed forces.

The proposed sale of this material and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Corporation at Andover, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of up to 24 U.S. Government and contractor representatives for up to 2 years to participate in training, maintenance, program management and technical review in Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 06–8553 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–67]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–67 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 2, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/011096

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-67, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Brazil for defense articles and services estimated to cost $300 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**
3. **Sensitivity of Technology**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-67

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Brazil

(ii) Total Estimated Value:

Major Defense Equipment*	$231 million
Other	$ 69 million
TOTAL	$300 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: six (6) S-70B helicopters, 13 T-700-401C engines, spare and repair parts, communications and support equipment, publications and technical data, personnel training and training equipment, contractor engineering and technical support services and other related elements of logistics support.

(iv) Military Department: Navy (SDE)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 27 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Brazil – S-70B Helicopters and Engines

The Government of Brazil has requested a possible sale of six (6) S-70B helicopters, 13 T-700-401C engines, spare and repair parts, communications and support equipment, publications and technical data, personnel training and training equipment, contractor engineering and technical support services and other related elements of logistics support. The estimated cost is $300 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in South America.

Brazil needs these helicopters to fulfill its strategic commitments for search and rescue and self-defense within the region. The Brazilian Armed Forces' possession of an enhanced capability to conduct search and rescue operations, maritime interdiction operations, and provide other types of maritime support reduces requirements for U.S. forces. This procurement also will enable the Brazilian Navy to be interoperable with U.S. forces on routine training exercises and deployments in support of peacekeeping security operations. Brazil plans to use this equipment to augment or replace existing SH-3 helicopters. Brazil will have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: Sikorsky Aircraft (United Technologies) Corporation of Stratford, Connecticut and General Electric Engines of Lynn, Massachusetts. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale may require the assignment of two contractor representatives in Brazil for a period of up to three years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-67

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The S-70B Seahawk is an international derivative of the U.S. Navy SH-60B and is the most modern and capable Under Sea Warfare (USW) and Anti-Surface Unit Warfare (ASUW) helicopter in the world. The S-70B has a fully ingrated glass cockpit with smart multifunction liquid crystal displays and a mission management system.

2. The LR-100 Electronic Support Measures (ESM) system is an airborne passive electronic system which detects and identifies C through J band radar emitter transmitting in the aircraft area of operation. The system provides the crew with a visual symbol of the type of emitter detected, projected on a 360 degree Threat Warning Indicator located on the center of the instrument panel. Symbols are positioned on the display in a location corresponding to its general proximity with respect to the aircraft. The system recognizes detected emitters by comparing their characteristics with those that have been preprogrammed into the system memory. The LR-100 is also used to command the ALE-47 Chaff Flare Dispenser System to dispense the appropriate combination of chaff/flares based on the type of threat, for aircraft protection.

3. The AN/AAS-44 (mod) Electro Optical Sensor System is a third generation, 3-5 micron, high performance, multipurpose thermal imaging and color day television (TV) sensor. The S-70B integrates the AN/AAS-44 (mod) electro-optical system to provide long-range surveillance, target acquisition, tracking, and range finding. The AN/AAS-44 (mod) EOSS set consists of a Turret Unit, Electronics Unit, and a Hand Control Unit. The Turret Unit houses: the infrared receiver, the laser ranger, the color day TV camera, the pointing/stabilization gimbals, and electronic and environmental control equipment. The Electronics Unit contains system controls, image processing, tracker, servo controls and drives and power supplies to the Forward Looking Infrared (FLIR).

4. The AN/APS-147 Inverse Synthetic Aperture Radar (ISAR) is a modern, airborne pulse compression search radar that provides the operator with the means to search for, detect, and track both surface and airborne targets while performing 360 degree surveillance. The radar system may be operated in three basic modes: standby, weather, and search. Radar returns are compressed, processed, and converted to video data for display on the Tactical Sensor Operator (TSO) and cockpit Multifunction Displays (MFDs).

5. The Airborne Data Link Processor (ADLP) interfaces with the Data terminal Set on the radio side and the MFD on the mission computer side. The ADLP is compatible with a KG-40 Encryption Device. The KG-40 Encryption Device mount and control panel are provided as a Buyer Furnished Equipment.

6. The AGM-119 Penguin MK 2 Mod 7 Missile capability is mounted on the left outboard weapons station of the S-70B when a Missile Launch Adapter (MLA) is attached to the left outboard pylon. Control of the missile is provided via a Missile Control System (MCS), which is mounted on the MLA. The missiles includes an inertial platform that must be aligned prior to launch. The MCS performs the alignment based on aircraft heading and velocity data provided to it by the Mission Processor. Targeting is via the AN/APS-147 radar system. The Missile Alignment unit contained with the MCS is considered Classified.

7. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 06–8554 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–47]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/CFM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–47 with attached transmittal, policy justification, Sensitivity of Technology, and Section 620c(d).

Dated: October 3, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

27 SEP 2006

In reply refer to:
I-06/008434

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-47, concerning the Department of the Army's proposed Letters(s) of Offer and Acceptance to Greece for defense articles and services estimated to cost $63 millions. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification required by subsection 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Section 620C(d)

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-47

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Greece

(ii) Total Estimated Value:

Major Defense Equipment*	$59 million
Other	$ 4 million
TOTAL	$63 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 299 M26A2 Multiple Launch Rocket System (MLRS) extended range rocket pods (six rockets per pod) with M101 grenades, 1 MLRS Extended Range Rocket, U.S. Government and contractor engineering and logistics services, spare and repair parts, personnel training and training equipment, publications and technical data, support equipment, maintenance support of repairable material and other related elements of program support.

(iv) Military Department: Army (XNP)

(v) Prior Related Cases, if any:

FMS case XIR -	$32 million -	05Mar99
FMS case JAV -	$15 million -	11Mar94
FMS case JAX -	$ 1 million -	11Mar94

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.

(viii) Date Report Delivered to Congress: 29 SEP 2006

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece - M26A2 Multiple Launch Rocket Systems Extended Range Rocket Pods

The Government of Greece has requested a possible sale of 299 M26A2 Multiple Launch Rocket System (MLRS) extended range rocket pods (six rockets per pod) with M101 grenades, 1 MLRS Extended Range Rocket, U.S. Government and contractor engineering and logistics services, spare and repair parts, personnel training and training equipment, publications and technical data, support equipment, maintenance support of repairable material and other related elements of program support. The estimated cost is $63 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece and further weapon system standardization and interoperability with U.S. forces.

Greece needs these MLRS pods in order to defend their borders. This proposed sale will enable the Greek Army to continue developing a defensive area fire capability to counter hostile long range artillery and rocket systems as well as enhance its interoperability with U.S. forces. The systems will be provided in accordance with, and subject to the limitation on use and transfer provided under the Arms Export Control Act, as amended, as embodied in the Letter of Offer and Acceptance.

Greece, which already has MLRS extended range pods in its inventory, will have no difficulty absorbing the additional pods.

This proposed sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus questions.

The prime contractor will be Lockheed Martin Missiles and Fire Control at Dallas, Texas. The purchaser has requested offsets; however, agreements are undetermined and will be defined in negotiations between the purchaser and contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 06-BN

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The Multiple Launch Rocket System extended range (MLRS-ER) rocket pods hardware is Unclassified. The highest level of classified information to be released for training, operation and maintenance of the MLRS-ER rocket pods is Secret. The highest level of information that could be revealed through reverse engineering or testing of the end item is Secret. The system specifications and limitations are classified Confidential. Vulnerability data, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified up to the Secret.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

CERTIFICATION PURSUANT TO § 620C(d) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to § 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 145, I hereby certify that the sale of defense articles and defense services, to include 299 M26A2 Multiple Launch Rocket System (MLRS) extended range rocket pods (six rockets per pod) with M101 grenades, 1 MLRS Extended Range Rocket, U.S. Government and contractor engineering and logistics services, spare and repair parts, personnel training and training equipment, publications and technical data, support equipment, maintenance support of repairable material and other related elements of program support to the Government of Greece is consistent with the principles set forth in § 620C(b) of the Act.

This certification will be made part of the notification to Congress in accordance with § 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying said notification, of which said justification constitutes a full explanation.

Robert G. Joseph
Under Secretary of State
for Arms Control and
International Security

[FR Doc. 06–8555 Filed 10–6–06; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

[DOD–2006–OS–0203]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Office of the Secretary of Defense 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 November 9, 2006 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 696–4940.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense 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: October 2, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P18

SYSTEM NAME:

Office of the Secretary of Defense Identification Badge Suspense Card System (February 22, 1993, 58 FR 10227).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace ''Office of the Secretary of Defense Identification Badge System.''

SYSTEM LOCATION:

Delete entry and replace ''Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete ''and activities serviced by WHS.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete, ''and activities serviced by WHS.''

* * * * *

PURPOSE(S):

Delete ''and activities serviced by WHS.''

* * * * *

STORAGE:

Delete entry and replace with ''Excel Database.''

RETRIEVABILITY:

Delete entry and replace with ''Information is retrieved by last name of recipient, social security number, grade, and/or service.''

SAFEGUARDS:

Delete entry and replace with ''Automated records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to personnel with a valid requirement and authorization to enter. Back-up data maintained at each location is stored in a locked room.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records maintained by the Service Representatives in OSD Military Personnel are considered unit-level files for the Service elements and are maintained in accordance with the appropriate Service regulations.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete name and address and replace with ''Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.''

NOTIFICATION PROCEDURE:

Delete name and address and replace with ''Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.''

* * * * *

DWHS P18

SYSTEM NAME:

Office of the Secretary of Defense Identification Badge System.

SYSTEM LOCATION:

Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military personnel assigned to the Office of the Secretary of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

All military personnel who are eligible for the Office of the Secretary of Defense Identification Badge after being assigned on permanent duty with the Office of the Secretary of Defense for a period of one year. Data includes name, Social Security Number, the Office of the Secretary of Defense activity, grade, service and dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 10 U.S.C. 1125.

PURPOSE(S):

To be used by officials of the Military Personnel Division, WHS to establish who is eligible for the Office of the Secretary of Defense Identification Badge after being assigned to an authorized space in the Office of the Secretary of Defense.

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 OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Excel Database.

RETRIEVABILITY:

Information is retrieved by last name of recipient, social security number, grade, and/or service.

SAFEGUARDS:

Automated records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to personnel with a valid requirement and authorization to enter. Back-up data maintained at each location is stored in a locked room.

RETENTION AND DISPOSAL:

Records maintained by the Service Representatives in OSD Military Personnel are considered unit-level files for the Service elements and are maintained in accordance with the appropriate Service regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Military Personnel, Washington Headquarters Services, Department of Defense, Room 5E556, 1155 Defense Pentagon, Washington, DC 20301–1155.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Written or verbal inquiries.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E6–16672 Filed 10–6–06; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2006–OS–0096]

Higher Initial Maximum Uniform Allowance Rate; Uniform Allowances

AGENCY: Department of Defense; Office of the Deputy Under Secretary of Defense (Civilian Personnel Policy).

ACTION: Notice; request for comments.

SUMMARY: The Department of Defense (DoD or ''the Department''), is proposing to establish a higher initial maximum uniform allowance to procure and issue uniform items for uniformed police personnel. This proposal is pursuant to the authority granted to DoD by § 591.104 of title 5, Code of Federal Regulations (CFR), which states that an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under 5 CFR 591.103.

DATES: The Department must receive comments on or before December 11, 2006.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. George T. Bell, 703–696–1268

SUPPLEMENTARY INFORMATION: DoD is proposing to implement a higher initial maximum uniform allowance to procure and issue uniform items for uniformed police personnel. This is being proposed in accordance with 5 CFR 591.104, which states that an agency may establish one or more initial maximum uniform allowance rates greater than the Governmentwide maximum uniform allowance rate established under 5 CFR 591.103. The current $400.00 limit has become inadequate to maintain the uniform standards and professional image expected of Federal police officers. The uniform items for uniformed police personnel include the following items or similar items such as: Goretex gloves; 6-pocket pants; 4-pocket long sleeve shirts; cold weather duty jackets; light weight duty jackets; sweaters; all season trousers; summer duty shirts; winter duty shirts; raincoats; sheriff's type hats; ties; shoes; leather boots; heavy duty coats; shoulder patches, and cloth badges. The average total uniform cost for the listed items is $1,800.00. Based on these current costs, the Department is proposing to increase the initial maximum uniform allowance for uniformed police personnel to $1,800.00 The number of uniformed police personnel affected by this challenge in the Department would be approximately 5,000 employees. The proposed effective date of this higher initial maximum uniform allowance rate is December 1, 2006.

Dated: October 2, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–8547 Filed 10–06–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Publication of Changes to Surface Deployment and Distribution Command Policy TR–12, Fuel Related Rate Adjustment Policy

AGENCY: Department of the Army, DOD.

ACTION: Notice IAW 41 U.S.C. 418b.

SUMMARY: SDDC intends to modify SDDC Policy TR–12. SDDC intends to implement the modified policy 90 (ninety) days from publication in the **Federal Register**. Modifications include the following: 1. SDDC will no longer pay a Fuel Related Adjustment (FRA) or fuel surcharge on movements based on what is known as a ''Spot Bid'' tender. 2. SDDC will no longer pay an FRA for any type of rail shipment. 3. SDDC will pay an FRA based on an updated baseline of $2.50 rather than a baseline of $1.30.

DATES: SDDC intends to implement the policy change 90 (ninety) days from publication in the **Federal Register**, except that the effective date of the policy change for the SDDC Personal Property Program is April 1, 2007 for the domestic line haul portion of international movements and May 1, 2007 for the line haul portion of

domestic interstate and intrastate movements including Alaska and Hawaii. Until the policy change goes into effect for Personal Property Program shipments, the policy in TR–12 dated October 5, 2005 shall continue to be used to determine payment for Personal Property Program shipments.

ADDRESSES: Submit comments to Ms. Carol Breen, 200 Stovall St., Hoffman II, Room 11S19, Alexandria, VA 22332. Request for additional information may be sent by e-mail to: *breenc@sddc.army.mil.*

SUPPLEMENTARY INFORMATION:

Military Surface Deployment And Distribution Command (SDDC)—Transportation and Travel

[Policy No. TR–12]

Subject: Fuel-Related Adjustment (FRA) Policy

This version of Policy No. TR–12 supersedes all previous versions of TR–12, except to the extent that a previous version is explicitly referenced as the basis for payment in an agreement with SDDC.

A. Policy

1. The following FRA or fuel surcharge policy applies to commercial carrier freight and personal property movements within the United States. SDDC will pay an FRA for certain types of domestic movements, as stated in paragraph E. SDDC will no longer pay an FRA on ''Spot Bid'' movements, regardless of mode. Nor will SDDC pay an FRA for any type of rail shipment. This policy provides the transportation industry, including individual carriers, economic adjustment and reasonable relief for unanticipated increases in diesel fuel prices. Carriers are urged to consider anticipated variation in fuel prices when submitting or supplementing rates during rate filing and/or bid submission periods.

2. Written provision will be made in SDDC regulations and solicited tender agreements for FRAs. At the sole discretion of the appropriate Contracting Officer this policy may be applied to Federal Acquisitions Regulation (FAR) contracts. SDDC has no obligation whatsoever to apply this policy to FAR contracts other than where the appropriate Contracting Officer determines that it shall apply.

B. Effective Date

The effective date of the policy change is 90 (ninety) days from publication in **Federal Register**, except that the effective date of the policy change for the SDDC Personal Property Program is April 1, 2007 for the domestic line haul portion of international movements and May 1, 2007 for the line haul portion of domestic interstate and intrastate movements including Alaska and Hawaii. Until the policy change goes into effect for Personal Property Program shipments, the policy in TR–12 dated October 5, 2005 shall continue to be used to determine payment for Personal Property Program shipments.

C. Expiration Date

This policy is in effect until superseded or withdrawn in writing.

D. Definitions

The following definitions shall apply to terms used in this regulation.

1. *Fuel Cost:* The national average diesel fuel price published by the Department of Energy (DOE) Energy Information Administration (EIA). The diesel fuel prices published by the EIA may be found via the following sources:

—EIA Website: *http://www.eia.doe.gov/*

—EIA Weekly Petroleum Status Report

—EIA Hotline: (202) 586–6966

2. *Pick up date:* The date listed on the bill of lading indicating the calendar day on which the carrier takes possession of a given shipment.

3. *Spot Bid:* A flexible and responsive one-touch electronic resource that posts open shipments for bid by qualified carriers via the Internet. It is a viable acquisition alternative for procuring transportation services for one-time only, unique shipments of any or all modes. It supports SDDC Operations policy on overweight/over-dimensional shipments. Carriers bid on open shipments via the Internet, and bids remain sealed until the bid timeframe closes. It allows the Shipper to establish the bidding timeframe. Bids are used in place of standard tenders in the generation of a Bill of Lading. It also provides automatic open shipment notification for participating carriers. All submitted bids reflect an all-inclusive expense representing line haul, accessorial charges, and any additional expenses anticipated to support that particular shipment.

E. Application

SDDC shall pay an FRA in accordance with this policy on the following types of movements.

1. *Personal Property Program:* a. Pickup occurs on or after April 1, 2007 for the domestic line haul portion of international movements and on or after May 1, 2007 for the line haul portion of domestic interstate and intrastate movements including Alaska and Hawaii.

b. The transportation charges applicable on domestic and international storage-in-transit shipments when such shipments are delivered or removed from the domestic storage-in transit warehouse of the CONUS segment including Alaska and Hawaii.

2. *Domestic Freight Program:* a. The domestic line haul portion of the carrier rate including Alaska and Hawaii.

b. The accessorial, Commercial Security Escort Vehicles (CSEV).

F. Determination of Adjustment Amount

1. *Formula:* For applicable shipments, the FRA shipments shall be paid based on a percentage of the line-haul rate. The line-haul rate does not include accessorials unless specified in the policy, *i.e.*, E.2.b, or specifically called for in the solicitation for the freight movement on which the FRA is based. Where the FRA applies, SDDC shall pay the carrier 1% (one percent) of the line-haul rate, not including accessorial charges, for every increment of $.10 (ten cents) by which the fuel cost exceeds $2.50 at the time of pickup.

2. *Determination of Fuel Cost at Time of Shipment:* a. For applicable personal property program shipments, SDDC shall pay the FRA based on the fuel cost published on the first Monday of the month in which the shipment subject to the FRA is picked up. If Monday is a holiday the fuel price will be determined based on the price on the next business day. The fuel adjustment will automatically apply to shipments picked up on or after the 15th day of the month through the 14th day of the following month.

b. For applicable domestic freight program shipments, SDDC shall pay the FRA based on the fuel cost published on the Monday of the week in which the shipment subject to the FRA was picked up. If Monday is a holiday the fuel price will be determined based on the price on the next business day.

G. Monitoring Diesel Fuel Prices

1. *Fuel Price Source:* It is the responsibility of the carrier to monitor diesel fuel prices via one of the sources identified in this policy. The National Average diesel fuel price determined by the DOE, EIA will serve as the basis for determining the entitlement to an FRA. The National Average fuel price and the actual pickup date of shipment will determine if there is an entitlement to an adjustment and the amount of the adjustment. An adjustment is not applicable to any portion of transportation in which a surcharge or

any other additional payment for fuel is already in existence.

2. *Percentage:* Please see the table included to the Attachment to this policy for a demonstration of the percentage amount of the FRA for applicable shipments.

H. Billing Procedures

Carriers will clearly show fuel price adjustments on all paper and electronic commercial freight bills and Bills of Lading and invoices. The amount of any diesel fuel rate surcharge must be shown as a separate item on the carrier's invoice.

Regulatory Flexibility Act

This action is not considered rulemaking within the meaning of Regulatory Flexibility Act, 5 U.S.C. 601–612.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3051 *et seq.*, does not apply because no information collection or record keeping requirements are imposed on contractors, offerors or members of the public.

David R. McClean,

Colonel, U.S. Army, Deputy Chief of Staff for Strategy, Plans, Policy and Programs.

Attachment

The table below demonstrates the percentage of the line-haul rate SDDC will pay at a given fuel cost given a $2.50 baseline. Should the baseline differ at any time, the same principle applies simply with a different starting point for calculating the percent adjustment. The table ends at $4.40, but the same principle applies to fuel costs above that dollar amount.

Cost per gallon	Rate adjustment (percent)
250.0 and below	0
251.1—260.0	1
260.1—270.0	2
270.1—280.0	3
280.1—290.0	4
290.1—300.0	5
300.1—310.0	6
310.1—320.0	7
320.1—330.0	8
330.1—340.0	9
340.1—350.0	10
350.1—360.0	11
360.1—370.0	12
370.1—380.0	13
380.1—390.0	14
400.1—410.0	15
410.1—420.0	16
420.1—430.0	17
430.1—440.0	18

For example, if the reported DOE, EIA National Average diesel fuel price is $3.15 the carrier would be entitled to an FRA of 7% of the line-haul rate.

[FR Doc. E6–16685 Filed 10–6–06; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Nourishment of 7.25 Miles of Beach, the Repositioning of the New River Inlet Channel, and the Implementation of an Inlet Management Plan, in North Topsail Beach, Onslow County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (COE), Wilmington District, Wilmington Regulatory Field Office has received an amendment to the 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 North Topsail Beach to nourish approximately 7.25 miles of shoreline. The modification will include an additional 3.85 miles of beachfront to protect residential homes and town infrastructures located along the south section of the Town limits. The proposed sources of material for the addition will be dredged from the same offshore borrow area as described in the original 7.25 mile plan. The placement of beach fill along the Town's southern shoreline would result in the initial widening of the beach 75 to 1590 feet seaward, depending on the final design volume and foreshore slopes that the fill assumes during construction.

The 3.85 miles of shoreline are located at the southern end of North Topsail Beach. Unlike the original 7.25 miles of proposed nourishment, the additional section is outside the Coastal Barrier Resource System (CBRS) designation; therefore, it is not subject to the expenditure of Federal funding restrictions associated with the Coastal Barrier Resource Act of 1982 and the coastal Barrier Improvement Act of 1990. This south section, or stretch, of shoreline is currently being considered by the U.S. Army Corps of Engineers for a federal shoreline protection project. Due to delays to complete the federal plan formulation process, the North Topsail Beach Board of Alderman voted to include the 3.85 mile section in the non-federal 7.25 mile section that is currently under review pursuant to the Environmental Impact Statement (EIS) procedures. The decision to include the south section in the present EIS process is intended to act as interim or emergency beach fill by preserving existing development and infrastructure along the 3.85 miles of shoreline while the federal plan formulation continues.

The original Notice of Intent was published on May 19, 2005 (70 FR 28924) with a commenting deadline of June 21, 2005.

DATES: Written comments for this project amendment or modification must be provided by November 10, 2006.

ADDRESSES: Copies of comments and questions regarding the inclusion of the additional 3.85 miles of nourishment may be addressed to: U.S. Army Corps of Engineers, Wilmington District, Regulatory Division. *Attn:* File Number 2004–344–067, Post Office Box 1890, Wilmington, NC 28402–1890.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed amendment and DEIS can be directed to Mr. Mickey Sugg, Wilmington Regulatory Field Office, telephone: (910) 251–4811.

SUPPLEMENTARY INFORMATION: 1. Project Description. The formulation of the federal storm damage reduction project for the southern 3.85 miles of North Topsail Beach by the Corps of Engineers is based on the condition of the shoreline that existed in 2002. Corps of Engineers guidance for the design of the emergency beach fill in the South Section indicated that the volume of material should be based on: (1) Restoring the 2002 shoreline condition and (2) providing advanced nourishment sufficient to maintain the 2002 shoreline condition until the federal storm damage reduction project is implemented (estimated timeframe 6 to 8 years). The volume of material necessary to achieve the project objective will range between 500,000 and 1,000,000 cubic years. The material would be distributed along the 3.85 mile shoreline in the form of a horizontal beach berm at elevation +7.0 NGVD (National Geodetic Vertical Datum). The berm would begin near the seaward toe of the existing dune system and would extend 75 to 150 feet seaward depending on the final design volume and foreshore slopes that the fill assumes during construction.

2. Proposed Action. The scope of activities for the proposed emergency beach fill project includes: (a) Additional vibracores in the borrow area, (b) side scan sonar surveys of the ocean bottom just offshore of the South Section, (c) in-water investigations of

potential near shore hard bottom resources identified by the side scan sonar survey, and (d) beach profile surveys. The boundaries of the borrow area will take into consideration the location and extent of hard bottom resources identified by side scan sonar and seismic surveys and in-water observations conducted in connection with the planning and design of the northern 7.25 mile beach nourishment project. A magnetometer survey will be conducted in the borrow area. Any historically significant archaeological artifacts located by the magnetometer surveys and verified through field investigations will be avoided. A final compatibility analysis of the material in the borrow area with the native beach material will be performed following the refinement of the boundaries of the borrow area.

3. Issues. There are several potential environmental issues that will be addressed in the EIS. 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 Hard Bottoms.

b. Potential impact to threatened and endangered marine mammals, birds, fish, and plants.

c. Potential impacts to water quality.

d. Potential increase in erosion rats to adjacent Onslow Beach.

e. Potential effects on military training on U.S. Marine Corps Camp Lejeune Base.

f. Potential impacts to Navigation, commercial and recreational.

g. Potential impacts to the long-term management of New River Inlet.

h. Potential impacts to private and public property.

i. Cumulative impacts of Inlet and Inlet channel relocations throughout North Carolina.

j. Cumulative impacts for using inlets as sand source in nourishment projects.

k. Potential impacts on public health and safety.

l. Potential impacts to recreational and commercial fishing.

m. The compatibility of the material for nourishment.

n. Potential economic impacts.

4. Alternatives. Several alternatives, including various borrow areas, are being considered for the 11.1 miles of shoreline. These alternatives are being further formulated and developed during the scoping process and an appropriate range of alternatives, including the no federal action alternative, will be considered in the EIS.

5. Scoping Process. A public scoping meeting was held on June 7, 2005, and Project Delivery Team (PDT) meetings are continuing on a periodic basis. The release of the Draft EIS is expected sometime in early 2007.

The COE will also be 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 EIS will assess the potential water quality impacts pursuant to Section 401 of the Clean Water Act, and will be coordinated with the North Carolina Division of Coastal Management (DCM) to determine the projects consistency with the Coastal Zone Management Act. The COE will closely work with DCM through the EIS to ensure the process complies with all State Environmental Policy Act (SEPA) requirements. It is the COE and DCM's intentions to consolidate both NEPA and SEPA processes to eliminate duplications.

6. Availability of the Draft EIS. The Draft EIS is expected to be published and circulated sometime in early 2007, and a public hearing will be held after the publication of the Draft EIS.

Dated: October 6, 2006.

John E. Pulliam, Jr.,

Colonel, U.S. Army, District Commander.

[FR Doc. 06–8562 Filed 10–6–06; 8:45 am

BILLING CODE 3710–GN–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report (EIR) for a Permit Application for the Carryover Storage and San Vicente Dam Raise Project, San Diego County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent (NOI).

SUMMARY: The U.S. Army Corps of Engineers (Corps), Los Angeles District, has received an application for a Department of the Army permit under Section 404 of the Clean Water Act from the San Diego County Water Authority (Water Authority) to construct the San Vicente Carryover Storage Project (Proposed Action). As part of the permit process, and in conjunction with the Water Authority, the Corps is evaluating the environmental effects associated with raising San Vicente Dam beyond the permitted height of the Emergency Storage Project (ESP), to provide additional reservoir capacity for carryover storage.

The primary Federal involvement associated with the Proposed Action is the discharge of fill materials (including permanent inundation) within Federal jurisdictional areas and waters of the United States. In addition, the Proposed Action could have potential significant effects on the human environment. Therefore, the Corps will prepare an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA) to render a final decision on the Water Authority's permit application. The Corps decision will be to either issue or deny a Department of the Army permit for the Proposed Action. The EIS will be prepared as a joint document. Pursuant to the California Environmental Quality Act (CEQA), the Water Authority will serve as Lead Agency for the preparation of an Environmental Impact Report (EIR). The Corps and Water Authority have agreed to jointly prepare a Draft EIS/EIR for the Proposed Action to optimize efficiency and avoid duplication. The Draft EIS/EIR is intended to be sufficient in scope to address Federal, state, and local requirements and environmental issues concerning the Proposed Action and permit approvals.

FOR FURTHER INFORMATION CONTACT: Questions about the Proposed Action and Draft EIS/EIR can be answered by Mr. Robert R. Smith, Corps Regulatory Project Manager, by telephone at (858) 674–6784 or by e-mail at *robert.r.smith@usace.army.mil.* Written comments should be addressed to both the U.S. Army Corps of Engineers, Rancho Bernardo Branch Office, Attn: File Number 200601015–RRS, 16885 West Bernardo Drive, Suite 300A, San Diego, CA 92127, and to Ms. Kelley Gage, Senior Water Resources Specialist, San Diego County Water Authority, 4677 Overland Avenue, San Diego, CA 92123. Information about the Proposed Action and Draft EIS/EIR can also be obtained from the Water Authority's Web site at *http://www.sdcwa.org.*

SUPPLEMENTARY INFORMATION:

1. *Project Site and Background Information.* The Proposed Action is located at the existing San Vicente Reservoir in the unincorporated area of San Diego County, north of Lakeside. The site is within the USGS 7.5' San Vicente Reservoir Quadrangle, Sections 13, 14, 25, and 36, Township 14 South, Range 1 West; and Sections 16–20, 23,

24, and 29–31, Township 14 South, Range 1 East.

(a) *Background.* In August 1996, the Water Authority approved the Emergency Storage Project (ESP) to provide local water storage to meet emergency needs within the Water Authority's service area. The ESP includes expansion of the existing San Vicente Reservoir by raising the existing San Vicente Dam by 54 feet, providing approximately 52,100 acre-feet of emergency storage capacity, and construction of associated pipelines, pump stations, and ancillary structures. The Corps issued the Record of Decision for the Final EIS for the ESP on August 4, 1997. The ESP was permitted by the Corps on August 18, 1997 (No. 95–2009200–DZ).

As part of its water planning efforts, the Water Authority completed a *Regional Water Facilities Master Plan* (Master Plan) in December 2002. The Master Plan contains an evaluation of the facilities and resources the Water Authority will need to fulfill its mission of providing a safe and reliable supply of water to its member agencies through the year 2030. The Master Plan identified an immediate need for additional carryover storage for the region, and identified an additional expansion of San Vicente Reservoir to include 100,000 acre-feet of carryover storage as a component of each alternative. The Water Authority further refined its water supply and demand mix in its 2005 *Urban Water Management Plan* (UWMP) update. The UWMP confirmed the need for 100,000 acre-feet of carryover storage and identified the need for additional carryover storage above and beyond the 100,000 acre-feet addressed in the Master Plan.

(b) *Purpose and Need.* The overall project purpose is to substantially increase the reliability and flexibility of the regional water supply by providing the Water Authority with facilities to accumulate and store approximately 100,000 acre-feet of water. During dry weather periods, increased regional demand for water may exceed local supplies resulting in potential water shortages. Through the use of carryover storage, water can be accumulated during wetter years/seasons, when supplies are greater, and used in drier years/seasons or during droughts, when supplies are in higher demand. In order to accomplish this purpose, the following objectives must be met:

- Provide approximately 100,000 acre-feet of readily available, locally stored water for distribution to the Water Authority's member agencies during supply shortages by the year 2011;
- Increase system reliability and operation flexibility;
- Locate new facilities in a manner that reduces the need for additional improvements to the Water Authority's infrastructure network;
- Minimize environmental and social impacts, and;
- Minimize costs.

(c) *Dam Raise Construction.* The existing San Vicente Dam is 220 feet high and the capacity of the reservoir is approximately 90,000 acre-feet. The Proposed Action would raise the dam an additional 63 feet beyond the approved ESP dam raise, increasing the overall dam height by up to 117 feet (or a total dam height of up to 337 feet). This would increase the total usable capacity of the reservoir by approximately 152,100 acre-feet. The elevation of the spillway crest would be raised from 650 to 766 feet above mean sea level (AMSL). Total storage capacity and surface area at Maximum Normal Pool (MNP) of the expanded reservoir would be 247,100 acre-feet and 1,700 acres, respectively.

Two options are being evaluated for the provision of aggregate to produce the concrete material for dam construction: (1) Extraction and processing of aggregate at an on-site quarry within City of San Diego property south of San Vicente Dam; and (2) hauling of aggregate to the site from an offsite location.

Concurrent with the dam raise, construction of a new inlet/outlet facility would require a cofferdam to create a dry working area on the upstream (water) side of the dam. The proposed increase in reservoir capacity and elevation would also require the construction of two saddle dams to the west of the main dam, relocation of the San Vicente Marina, and relocation of the marina access road. New marina facilities, to replace the existing marina that would be inundated by the ESP dam raise, were included as part of the ESP. The marina facilities would be shifted west of the ESP planned location as part of the Proposed Action. The Proposed Action also includes installation of a bypass pipeline extending from the easterly saddle dam to the First Aqueduct Diversion Structure north of the proposed marina.

(d) *Reservoir Lowering/Raising.* As addressed in the Corps permit for the ESP, the water in the San Vicente Reservoir would be lowered prior to construction of the cofferdam. The total time required to lower the reservoir, maintain the reservoir at the lowered water level during construction of the dam raise, and refill the reservoir to the new water level would be approximately eight years, depending on the rate of imported water and local watershed inflows. Of these eight years, approximately 18 to 24 months would be attributed to the construction and filling activities for the Proposed Action.

(e) *Determination of Ordinary High Water Mark (OHWM).* For the Proposed Action, the Corps has determined that the jurisdictional OHWM for the reservoir is the existing San Vicente Dam spillway at 650 feet AMSL.

2. *Alternatives.* Alternatives to the Proposed Action initially being considered include:

(a) Construction of a new dam and reservoir at Moosa Valley in the Valley Center area, to provide 100,000 acre-feet of carryover storage capacity.

(b) A reduced dam raise at San Vicente Reservoir to provide 50,000 acre-feet of carryover storage capacity, combined with the construction of a new dam and reservoir at Moosa Valley in the Valley Center area, to provide an additional 50,000 acre-feet of carryover storage capacity.

(c) No Project.

(d) No Permit Issued.

(e) Other new or expanded surface reservoirs, reoperation of existing local reservoir storage, local or out-of-region groundwater basin storage, and other alternatives that have been considered but rejected.

3. *Draft EIS/EIR Scoping Process.*

(a) The Corps is furnishing this notice to: (1) Advise other Federal and state agencies, affected Tribes, and the public of our intentions; (2) announce the initiation of a 30-day scoping period; and (3) obtain suggestions and information on the scope of issues and alternatives to be included in the Draft EIS/EIR. The Corps and the Water Authority invite comments from all interested parties to ensure that the full range of issues related to the permit request is addressed and that all significant issues are identified. We will accept written comments until 30 days after the date of publication of this notice.

(b) Significant issues to be analyzed in the Draft EIS/ EIR include:

(1) Aesthetics/visual quality;
(2) Agricultural resources;
(3) Air quality;
(4) Biological resources;
(5) Cultural resources;
(6) Cumulative impacts;
(7) Energy;
(8) Environmental justice;
(9) Geology/soils;
(10) Growth inducement;
(11) Land use/planning;

(12) Mineral resources;
(13) Noise/vibration;
(14) Paleontological resources;
(15) Population/housing;
(16) Public safety/hazardous materials;
(17) Public services/utilities;
(18) Recreation;
(19) Socioeconomics;
(20) Traffic/circulation; and
(21) Water resources.

(c) The Corps and the Water Authority will conduct an environmental review of the Proposed Action in accordance with the requirements of NEPA, 1969 as amended, (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 Code of Federal Regulations, Section 1500 *et seq.*), Corps Procedures for Implementing NEPA (33 Code of Federal Regulations, Section 230 *et seq.*), and with other appropriate Federal laws and regulations, policies, and procedures of the Corps for compliance with those regulations; and with CEQA (Public Resources Section 21000, *et seq.*), State of California CEQA Guidelines (California Code of Regulations, Section 15000 et seq). The Proposed Action, through the Corps permit process, will require consultation under the federal Endangered Species Act and Section 106 of the National Historic Preservation Act.

(d) Written comments should be addressed to both the U.S. Army Corps of Engineers, Rancho Bernardo Branch Office, Attn: File Number 200601015–RRS, 16885 West Bernardo Drive, Suite 300A, San Diego, CA 92127, and to Ms. Kelley Gage, Senior Water Resources Specialist, San Diego County Water Authority, 4677 Overland Avenue, San Diego, CA 92123. Information about the Proposed Action and Draft EIS/EIR can also be obtained from the Water Authority's Web site at *http://www.sdcwa.org.*

4. *Scoping Meeting.* A public scoping meeting will be held on the Proposed Action on November 1, 2006, 6:30 p.m., at the San Diego County Water Authority, 4677 Overland Avenue, San Diego, CA 92123. This meeting will give agencies and the public an opportunity to receive more information on the Proposed Action and to provide comments and suggestions on the scope of the EIS/EIR.

5. *Availability of the Draft EIS/EIR.* The Corps and Water Authority expect the Draft EIS/EIR to be made available to the public in the Spring 2007. A joint public hearing will be held during the public comment period for the Draft EIS/EIR. Written comments will be accepted at the meeting.

Mark Durham,

Chief, South Coast Section, Regulatory Branch.

[FR Doc. E6–16590 Filed 10–6–06; 8:45 am]

BILLING CODE 3710–KF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–463–000]

ANR Storage Company; Notice of Application

October 2, 2006.

Take notice that on September 21, 2006, ANR Storage Company (ANR Storage), 1001 Louisiana, Houston, Texas 77002, filed in docket CP06–463–000 an application pursuant to section 7 of the Natural Gas Act (NGA), as amended, for authority to abandon by sale to ANR Pipeline Company (ANR Pipeline) an ownership interest in the Cold Springs 12 Lateral that ANR Storage owns in Kalkaska County, Michigan, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Dawn McGuire, Attorney, ANR Pipeline Company, 1001 Louisiana, Houston, Texas 77002, or call (713) 420–5503 or fax (713) 420–1601.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: October 23, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–16620 Filed 10–6–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

October 2, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–1185–002.
Applicants: Pace Global Asset Management, LLC.
Description: Pace Global Asset Management, LLC submits an amended tariff, Substitute Sheet 1 et al. to FERC Electric Tariff, Original Volume 1.
Filed Date: 09/27/2006.
Accession Number: 20060929–0208.
Comment Date: 5 p.m. Eastern Time on Wednesday, October 18, 2006.

Docket Numbers: ER06–1249–001.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services Inc submits its Compliance Refund Report pursuant to FERC's Letter Order dated 9/11/06.
Filed Date: 09/28/2006.
Accession Number: 20060929–0203.
Comment Date: 5 p.m. Eastern Time on Thursday, October 19, 2006.

Docket Numbers: ER06–1537–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits its Network Integration Transmission Service Agreement and a related Network Operating Agreement et al. with Navajo Tribal Utility Authority.
Filed Date: 09/28/2006.
Accession Number: 20060929–0209.
Comment Date: 5 p.m. Eastern Time on Thursday, October 19, 2006.

Docket Numbers: ER06–1540–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co submits its Service Agreement No. 7, FERC Electric Tariff, Second Revised Volume No. 6.
Filed Date: 09/28/2006.
Accession Number: 20060929–0207.
Comment Date: 5 p.m. Eastern Time on Thursday, October 19, 2006.

Docket Numbers: ER06–1542–000.
Applicants: Kansas City Power & Light Company.
Description: Kansas City Power & Light Company submits its OATT, First Revised Volume No. 3.
Filed Date: 09/28/2006.
Accession Number: 20060929–0195.
Comment Date: 5 p.m. Eastern Time on Thursday, October 19, 2006.

Docket Numbers: ER06–1543–000.
Applicants: Brush Cogeneration Partners.
Description: Brush Cogeneration Partners application for order accepting initial rate schedule, waiving regulations, and granting blanket approvals.
Filed Date: 09/28/2006.
Accession Number: 20060929–0204.
Comment Date: 5 p.m. Eastern Time on Thursday, October 19, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6–16621 Filed 10–6–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

October 2, 2006.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket number	Date received	Presenter or requester
Prohibited		
1. Project No. 637–022	9–29–06	Terry Luker
Exempt		
1. CP05–130–000	9–19–06	Hon. Barbara A. Mikulski.
2. CP06–12–000, CP06–13–000, CP06–14–000.	9–29–06	E.M. Staunton.
3. CP06–275–000	9–20–06	Hon. Charlie Borders.
4. CP06–275–000	9–25–06	Hon. Joey Pendleton.
5. CP06–275–000	9–25–06	Hon. Dorsey Ridley.
6. ER06–615–000	9–19–06	Hon. Peter DeFazio, Hon. Doc Hastings, Hon. Norm Dicks, Hon. Greg Walden, Hon. Jim McDermott, Hon. David Reichert, Hon. Jay Inslee, Hon. Cathy McMorris, Hon. Darlene Hooley, Hon. Jon Porter, Hon. Adam Smith, Hon. Stevan Pearce, Hon. Brian Baird, Hon. Rick Larsen, Hon. Jim Gibbons.
7. ER06–615–000	9–20–06	Hon. Jeff Hatch-Miller, Hon. William A. Mundell, Hon. Kristin K. Mayes, Hon. Barry Wong.
8. ER06–615–000	9–21–06	Hon. John Shadegg, Hon. J.D. Hayworth, Hon. Jeff Flake, Hon. Trent Franks, Hon. Rick Renzi.
9. PF06–30–000	9–27–06	Maurice A. Hartley.[1]
10. Project No. 1637–000	9–15–06	Hon. Patty Murray, Hon. Doc Hastings.
11. Project No. 1971–079	9–27–06	Alan Mitchnick.
12. Project No. 2216–066	7–06–06	Mr. and Mrs. James J. Trzaska.
13. Project No. 12657–000	9–1–06	Hon. Geoff Davis.

[1] This is one letter among similar correspondence (e-mails, letters, scoping meeting summary) placed in the record in this proceeding on September 27, 2006.

Magalie R. Salas,
Secretary.

[FR Doc. E6–16619 Filed 10–6–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8229–2]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, P.L. 92463, EPA gives notice of a meeting of the Good Neighbor Environmental Board. The Board meets three times each calendar year at different locations along the U.S.-Mexico border and in Washington, DC. It was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The purpose of the meeting is to hear presentations from local experts on the meeting theme: ''Big Bend/El Gran Recodo; '' hold a public comment session; and invite public input on the text of the Board's next report to the President and Congress. A copy of the meeting agenda is posted at *http://www.epa.gov/ocem/gneb.* For a copy of the draft report, contact Designated Federal Officer Elaine Koerner at the address below.

DATES: The Good Neighbor Environmental Board will hold its next meeting on Tuesday, October 24th, 2006, from 8:30 a.m. to 5:30 p.m. In addition, on Thursday, October 26th, 2006, the Board will hold a routine public business meeting from 8 a.m. to 12 noon. (On Wednesday, October 25th, the Board will go on an all-day site visit to Big Bend National Park.)

ADDRESSES: The meeting will be held at Sul Ross State University Espino Conference Center, 2nd Floor, University Center, East Hwy 90, Alpine, Texas 79832. Telephone: 1–432–837–8191. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Elaine Koerner, Designated Federal Officer, *koerner.elaine@epa.gov,* 202–233–0069, U.S. EPA, Office of Cooperative Environmental Management (1601E), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make brief oral comments or provide written statements to the Board should be sent to Elaine Koerner, Designated Federal Officer, at the contact information above.

Meeting Access: For information on access or services for individuals with disabilities, please contact Elaine Koerner at 202–233–0069 or *koerner.elaine@epa.gov.* To request accommodation of a disability, please contact Elaine Koerner, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 22, 2006.

Elaine Koerner,

Designated Federal Officer.

[FR Doc. E6–16650 Filed 10–6–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8229–4]

Clean Water Act Section 303(d): Final Agency Action on Thirty Oklahoma Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on thirty TMDLs, and their administrative record files prepared by EPA Region 6 for certain waters listed in the Upper Canadian River and Turkey Creek Watersheds in Oklahoma, under section 303(d) of the Clean Water Act (CWA). Documents from the administrative record file for the thirty TMDLs, including TMDL calculations and responses to comments, may be viewed at *http://www.epa.gov/region6/6wq/npdes/tmdl/index.htm.* The administrative record file may be examined by calling or writing Ms. Diane Smith at the following address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–2145.

SUPPLEMENTARY INFORMATION: On March 10, 2006, EPA Region 6 made a commitment to the EPA Headquarters Office of Water under EPA's National Water Program Fiscal Year 2006 Guidance for the program activity measure (PAM) number WQ–12, to establish or approve a total of 188 TMDLs in fiscal year (FY) 2006. Under the PAM number WQ–12, EPA expected the Oklahoma Department of Environmental Quality (ODEQ) to develop a total of 87 TMDLs in fiscal year (FY) 2006 and submit them for EPA's approval. By the end of July 2006, ODEQ had submitted two final TMDLs for EPA's approval and 30 draft TMDLs for EPA's review and comments. EPA has approved the two final TMDLs submitted by ODEQ. However, a recent discussion between EPA Region 6 and ODEQ senior managers determined that although substantial progress has been made on the other TMDLs, the remainder of the TMDLs needed to meet the commitment could not be completed by the target date. Accordingly, EPA Region 6 has decided to conduct the public participation process for these thirty TMDLs and establish the final TMDLs.

EPA Takes Final Agency Action on Thirty TMDLs

By this notice EPA is taking final agency action on the following thirty TMDLs for certain waters located within Oklahoma's Upper Canadian River and Turkey Creek Watersheds:

Segment	Waterbody name	Pollutant
Upper Canadian River Watershed		
OK520620010010_00	Canadian River	Fecal coliform.
OK520620010120_00	Bear Creek	E. coli, Enterococci, and Fecal coliform.
OK520620020010_00	Canadian River	Enterococci, and Fecal coliform.
OK520620020090_00	Trail Creek	E. coli, Enterococci, and Fecal coliform.
OK520620030020_00	Lone Creek	E. coli and Enterococci.
OK520620030050_00	Red Trail Creek	E. coli, Enterococci, and Fecal coliform.
OK520620030110_00	Red Creek	E. coli, Enterococci, and Fecal coliform.
OK520620040050_00	Hackberry Creek	E. coli and Enterococci.
OK520620050160_00	Commission Creek	E. coli and Enterococci.
OK520620060010_00	Deer Creek	E. coli and Enterococci.
Turkey Creek Watershed		
OK620910060010_00	Turkey Creek	Fecal Coliform and turbidity.
OK620910060020_00	Little Turkey Creek	Fecal Coliform and turbidity.
OK620910060030_00	Buffalo Creek	Fecal Coliform and turbidity.
OK620910060110_00	Clear Creek	Fecal Coliform.

EPA requested the public to provide EPA with any significant data or information that may impact the thirty TMDLs in **Federal Register** Notice: Volume71, Number 155, pages 46227–46228 (August 11, 2006). The comments received and EPA's response to comments may be found at *http://www.epa.gov/region6/6wq/npdes/tmdl/index.htm.*

Dated: September 29, 2006.

Miguel I. Flores,

Director, Water Quality Protection Division, Region 6

[FR Doc. E6–16651 Filed 10–6–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8229–3]

Clean Water Act Section 303(d): Final Agency Action on Eighty Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on eighty TMDLs prepared by EPA Region 6 for waters listed in Louisiana's Red River, Sabine River, and Terrebonne Basins, under section 303(d) of the Clean Water Act (CWA). Documents from the administrative record file for the eighty TMDLs, including TMDL calculations and responses to comments, may be viewed at *http://www.epa.gov/earth1r6/6wq/npdes/tmdl/index.htm.* The administrative record file may be examined by calling or writing Ms. Diane Smith at the address below. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups,

the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA established 63 of these TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Takes Final Agency Action on Eighty TMDLs

By this notice EPA is taking final agency action on the following eighty TMDLs for waters located within the Louisiana river basins:

Subsegment	Waterbody name	Pollutant
100306	Kelly Bayou—AR State Line to Black Bayou	Fecal Coliform.
100309	Cross Bayou	Turbidity, TDS, Chloride, Sulfate, and TSS.
100406	Flat River—Headwaters to Loggy Bayou	Fecal Coliform and TDS.
100602	Boggy Bayou	Turbidity and Sedimentation/siltation.
100603	Wallace Lake	Turbidity and Sedimentation/siltation.
100701	Black Lake Bayou	Turbidity, TDS, and Sedimentation/siltation.
100704	Kepler Creek	TDS.
100707	Castor Creek—Headwaters to Black Lake Bayou	Fecal Coliform.
100708	Unnamed Tributary to Castor Creek near Town of Castor.	Sulfate and TDS.
100709	Grand Bayou—Headwaters to Black Lake Bayou	Fecal Coliform.
100710	Unnamed Tributary to Grand and Bayou near Town of Hall Summit.	TDS, Chloride, Sulfate.
100801	Saline Bayou—from its origin near Arcadia to LA Hwy 156 in Winn Parish (scenic).	Fecal Coliform.
100804	Unnamed Tributary to Saline Bayou near Town of Arcadia.	TDS and Sulfate.
100901	Nantaches Creek—Headwaters to Nantaches Lake	Fecal Coliform.
101101	Cane River—above Natchitoches to Red River	TDS and Chloride.
101103	Bayou Kisatchie—entrance into Kisatchie National Forest to Old River (scenic).	Fecal Coliform and TDS.
101301	Rigolette Bayou—Headwaters to Red River	Fecal Coliform.
101303	Iatt Creek—Headwaters to Iatt Lake	TDS.
101401	Buhlow Lake (Pineville)	Turbidity.
101601	Bayou Cocodrie—from Little Cross Bayou to Wild Cow Bayou (scenic).	Turbidity.
110202	Pearl Creek—from its origin to its entrance into Sabine River (scenic).	Fecal Coliform.
110401	Bayou Toro—Headwaters to LA Hwy 473	Fecal Coliform.
110402	Bayou Toro—LA Hwy 473 to its entrance into Sabine River.	Fecal Coliform.
110501	West Anacoco Creek—Headwaters to Vernon Lake	Fecal Coliform.
110504	Bayou Anacoco—Vernon Lake to Anacoco Lake	Fecal Coliform.
110601	Vinton Waterway	Turbidity.
120101	Bayou Portage	TDS, Chloride, Fecal Coliform, and TSS.
120102	Bayou Poydras	Sediment, Sulfate, TDS, TSS, and Fecal Coliform.
120104	Bayou Grosse Tete	Fecal Coliform and TDS.
120105	Chamberlin Canal	Fecal Coliform, TSS, and Sediment.
120106	Bayou Plaquemine	Turbidity.
120109	Intracoastal Waterway	Fecal Coliform.
120110	Bayou Cholpe	TDS and Sulfate .
120111	Bayou Maringouin— and Headwaters to East Atchafalaya Basin Levee.	Fecal Coliform TDS.
120112	Bayou Fordoche	Fecal Coliform and TDS.
120201	Lower Grand River and Belle River	Fecal Coliform and Sulfate.
120206	Grand Bayou and Little Grand Bayou	Fecal Coliform.
120301	Bayou Terrebonne	Fecal Coliform.
120502	Bayou Grand Caillou	Fecal Coliform.
120503	Bayou Petit Caillou	Fecal Coliform.
120504	Bayou Petit Caillou	Fecal Coliform.
120506	Bayou du Large	Fecal Coliform.
120507	Bayou Chauvin	Fecal Coliform.
120508	Houma Navigation Canal	Fecal Coliform.
120602	Bayou Terrebonne	Fecal Coliform.
120605	Bayou Pointe au Chien	Fecal Coliform.
120606	Bayou Blue	Fecal Coliform.
120701	Bayou Grand Caillou	Fecal Coliform.
120703	Bayou du Large	Fecal Coliform.
120707	Lake Boudreaux	Fecal Coliform.
120708	Lost Lake, Four League Bay	Fecal Coliform.

EPA requested the public to provide EPA with any significant data or information that might impact the eighty TMDLs in the **Federal Register** Notice: Volume 71, Number 139, pages 41217–41218 (July 20, 2006). The

comments received and the EPA's response to comments may be found at *http://www.epa.gov/earth1r6/6wq/npdes/tmdl/index.htm.*

EPA received requests from the Gulf Restoration Network and six individuals for a 60-day extension of the comment period on the eighty draft TMDLs in Louisiana. EPA will not extend the original comment period, however, the Gulf Restoration Network and others may submit comments after the closing date (i.e., August 21, 2006) of the comment period until October 20, 2006. EPA will review and respond to comments received between August 22, 2006, and October 20, 2006, and may consider revising or modifying these TMDLs if appropriate.

Dated: September 28, 2006.

Miguel I. Flores,

Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. E6–16652 Filed 10–6–06; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 93]

Agency Information Collection Activities; Comment Request

AGENCY: Export-Import Bank of the United States (Ex-Im Bank).

ACTION: Notice and Request for Comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection as required by the Paperwork Reduction Act of 1995. The purpose of the survey is to fulfill a statutory mandate (The Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635) which directs Ex-Im Bank to report annually to the U.S. Congress any action taken toward providing export credit programs that are competitive with those offered by official foreign export credit agencies. The Act further stipulates that the annual report on competitiveness should include the results of a survey of U.S. exporters and U.S. commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with U.S. exporters.

Accordingly, Ex-Im Bank is requesting that the proposed survey (EIB No. 00–02) be sent to approximately 60 applicants of Ex-Im Bank's medium- and long-term programs. The revised survey is similar to the previous survey, as it asks bankers and exporters to evaluate the competitiveness of Ex-Im Bank's programs vis-à-vis foreign export credit agencies. However, it has been modified in order to account for newer policies and to capture enough information to provide a better analysis of our competitiveness. In addition, the survey will be available on Ex-Im Bank's Web site, *http://www.exim.gov*, with recipients encouraged to respond on-line as well.

DATES: Written comments should be received on or before December 11, 2006 to be assured of consideration.

ADDRESSES: Direct all requests for additional information to Piper Starr, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Room 1279, Washington, DC 20571, (202) 565–3767.

SUPPLEMENTARY INFORMATION: With respect to the proposed collection of information, Ex-Im Bank invites comments as to:

- Whether the proposed collection of information is necessary for the proper performance of the functions of Ex-Im Bank, including whether the information will have a practical use;
- The accuracy of Ex-Im Bank's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

Title & Form Number: 2006 Exporter & Banker Survey of Ex-Im Bank Competitiveness, EIB Form 00–02.

OMB Number: 3048–0004.

Type of Review: Revision of a currently approved collection.

Annual Number of Respondents: 60.

Annual Burden Hours: 60.

Frequency of Reporting or Use: Annual Survey.

Dated: October 3, 2006.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. 06–8565 Filed 10–6–06; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Standards (SFFAS) No. 32, Consolidated Financial Report of the United States Government Requirements; and Technical Bulletin 2006–1, Recognition and Measurement of Asbestos-Related Cleanup Costs. The 2007 Meeting Schedule of the Accounting and Auditing Policy Committee (AAPC)

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in April 2004, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Standard 32, *Consolidated Financial Report of the United States Government Requirements, and Technical Bulletin 2006–1, Recognition and Measurement of Asbestos-Related Cleanup Costs.*

Copies of the Standard and Technical Bulletin can be obtained by contacting FASAB at 202–512–7350. The Standard and Technical Bulletin are also available on FASAB's home page *http://www.fasab.gov/codifica.html.*

The FASAB Accounting and Auditing Policy Committee (AAPC), a permanent committee established by the Federal Accounting Standards Advisory Board (FASAB), will meet on the following dates in room 7C13 of the GAO Building:

— Thursday, January 25, 2007.

— Thursday, March 29, 2007.

— Thursday, May 31, 2007.

— Thursday, July 12, 2007.

— Thursday, September 27, 2007.

— Thursday, November 29, 2007.

FOR FURTHER INFORMATION CONTACT: Wendy M. Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

AUTHORITY: Federal Advisory Committee Act. Pub. L. No. 92–463.

Dated: October 4, 2006.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 06–8546 Filed 10–6–06; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans. No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—09/05/2006			
20061262	GKN plc	Carlyle Strategic Partners, L.P	Stellex Aerostructures, Inc.
20061637	The Sage Group plc	Emdeon Corporation	Emdeon Practice Services, Inc.
20061640	Pegasus Partners III International Holdings, L.P	ConocoPhillips	Chevron Phillips Chemical Puerto Rico Core, Inc.
20061641	Pegasus Partners III International Holdings, L.P	Chevron Corporation	Chevron Phillips Chemical Puerto Rico Core, Inc.
20061644	Randal D. Boyd	KINO Management, LLC	KINO Holdings, Inc.
20061649	RMK Acquisition Corporation	ARAMARK Corporation	ARAMARK Corporation.
20061653	Resources Services Holdings S.a.r.l	Longyear Global Holdings, Inc	Longyear Global Holdings, Inc.
20061655	Michael J. Gaughan	Boyd Gaming Corporation	Silverado South Strip, LLC.
20061656	Sumner M. Redstone	Atom Entertainment, Inc	Atom Entertainment, Inc.
20061659	Eos Capital Partners III, L.P	W. Andrew Wright, III	Addus HealthCare, Inc.
20061662	Wells Fargo & Company	James B. Freedman	Barrington Associates.
20061663	Wireless Facilities, Inc	John L. Stallworth	Madison Research Corporation.
20061668	Mars, Incorporated	MMI Holdings, Inc	MMI Holdings, Inc.
20061679	2003 Riverside Capital Appreciation Fund, L.P.	Jeffrey R. Twyman	GreenLine Foods, Inc.
20061680	Jess Stonestreet Jackson	AIC Capital Partners, LLC	The Legacy Estate Group LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—09/06/2006			
20061148	VeriFone Holdings, Inc.	Lipman Electronic Engineering Ltd	Lipman Electronic Engineering Ltd
TRANSACTIONS GRANTED EARLY TERMINATION—09/07/2006			
20061646	SemGroup, L.P	Energy Spectrum Partners IV LP	Dornick Hills Midstream, Ltd.
20061667	Newco	Michaels Stores, Inc	Michaels Stores, Inc.
20061678	Morgan Stanley	Saxon Capital, Inc	Saxon Capital, Inc.
20061687	General Electric Company	Kinder Morgan, Inc	Administracion y Operacion de Infraestructura, S.A. de D.V.
			Kinder Morgan Retail Energy Services Company.
			KM Retail LLC.
			K N Energy International, Inc.
			K N Gas Supply Services, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/12/2006			
20061620	Pershing Square, L.P	McDonald's Corporation	McDonald's Corporation.
20061622	Pershing Square International, Lrd	McDonald's Corporation	McDonald's Corporation.
20061623	Pershing Square III, L.P.	McDonald's Corporation	McDonald's Corporation.
20061669	DQE Holdings LLC	Duquesne Light Holdings, Inc	Duquesne Light Holdings, Inc.
20061686	SCOR S.A	WINSOR Verwaltung-AG	Revios Ruckversicherung AG.
20061691	infoUSA Inc	Opinion Research Corpration	Opinion Research Corporation.
20061692	Lone Star Fund V (U.S.) L.P	Lone Star Steakhouse & Saloon, Inc	Lone Star Steakhouse & Saloon, Inc.
20061695	Transaction Systems Architects, Inc	P&H Solutions Inc	P&H Solutions Inc.
20061696	J.P. Morgan Chase & Company	Owens Corning.	Owens Corning.
20061698	Brentwood Associates Private Equity IV, L.P.	Thomas M. Rollins	The Teaching Company Limited Partnership.
20061707	Associated Hospital Holdings, Inc	LifePoint Hospitals, Inc	Lakeland Community Hospital, L.L.C.
			Lakeland Physician Practices, LLC.
			MRI Center of Northwest Alabama, LLC.
			Northwest Medical Center-Winfield, LLC.
			NWMC-Winfield Physician Practice, LLC.
			Russellville Hospital, LLC.
			Russellville Physician Practices, LLC.
20061708	Automatic Data Processing, Inc	Employease, Inc	Employease, Inc.

Trans. No.	Acquiring	Acquired	Entities
20061710	General Electric Company	John A. Williams and Carolyn S. Wiliams.	Invesco Enterprises, Inc. The Memphis Group, Inc.
20061711	Lone Star Fund V (U.S.), L.P	B-Line, LLC	B-Line, LLC.
20061712	Gryphon Partners III, L.P	George K. Baum Capital Partners, L.P	Staffing Now, Inc.
20061714	The Cleveland Clinic Foundation	Tenet Healthcare Corporation	TCC Partners.
20061722	Energy Capital Partners I, LP	Northeast Utilities	Holyoke Water Power Company. Northeast Generation Company. Northeast Generation Services Company. Northeast Utilities Services Company.
TRANSACTIONS GRANTED EARLY TERMINATION—09/13/2006			
20061666	Littlejohn Fund III, L.P	American Industrial Partners Capital Fund III, L.P.	AIP/SMC Holdings, Inc.
20061672	Kenneth D. Lewis	Bank of America Corporation	Bank of America Corporation.
20061715	Estate of Peter A. Bordes	Nassau Broadcasting Partners, L.P	Nassau Broadcasting II, LLC.
20061716	Nassau Broadcasting Partners, L.P	Estate of Peter A. Bordes	Charles River Broadcasting Company. Greater Boston Radio, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/14/2006			
20061673	Wind Point Partners VI, L.P	Ferro Corporation	Ferro Corporation.
20061688	Mitsubishi Steel Mfg. Co., Ltd	ArvinMeritor, Inc	Meritor Suspension Systems Company. Meritor Suspension Systems Company, U.S.
20061701	Strength Capital Partners II, L.P	John M. Postle	Postle Distributors, Inc.
20061703	Wintergames Acquisition LLC	Intrawest Corporation	Intrawest Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—09/18/2006			
20061571	Madison Dearborn Capital Partners IV, L.P.	Syufy Enterprises, LP	Century Theaters, Inc.
20061635	Trevor Lloyd	The Reynolds and Reynolds Company	The Reynolds and Reynolds Company.
20061639	Lockheed Martin Corporation	JA&A Holdings LLC	Pacific Architects and Engineers Incorporated.
20061657	AIF VI Euro Holdings LP	TNT N.V.	TNT Logistics (Australia) Pty Ltd. TNT Logistics Holdings B.V. TNT Transport Group Inc.
20061739	J.W. Childs Associates, L.P	CGW Southeast Partners IV, L.P	Employbridge Holding Company.
20061751	Tata Tea Limited	Energy Brands Inc	Energy Brands Inc.
20061757	HSBC Holdings plc	Solstice Capital Group, Inc	Solstice Capital Group, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/19/2006			
20061719	TPG Partners V, L.P	Aleris International, Inc	Aleris International, Inc.
20061737	BG Group Plc	Calpine Corporation	Dighton Power Associates Limited Partnership.
20061745	DST Systems, Inc.	Whitney V. L.P	Amisys Synertech, Inc.
20061756	Racecar Holdings, LLC	Blackstone UC Capital Partners L.P	Sigecom, LLC.
20061758	Pinnacle Entertainment, Inc	Carl C. Icahn	ACE Gaming, LLC. AREH MLK LLC. AREP Boardwalk Properties LLC. Mitre Associates LLC. PSW Properties LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—09/20/2006			
20061717	Graham Partners II, LP	Hirschi Nevada Trust	Hirschi Masonry, Inc.
20061753	PAETEC Corp	US LEC Corp	US LEC Corp.
20061754	US LEC Corp	PAETEC Corp	PAETEC Corp.
TRANSACTIONS GRANTED EARLY TERMINATION—09/21/2006			
20061648	ComVest Investment Partners II LLC	Zomax Incorporated	Zomax Incorporated.
20061729	Special Value Opportunities Fund, LLC	Radnor Holdings Corporation	Benchmark Holdings, Inc. Radnor Chemical Corporation. Radnor Holdings Corporation. Radnor Management Delaware, Inc. Radnor Management, Inc. StyroChem Delaware, Inc. StyroChem Europe Delaware, Inc. StyroChem GP, LLC. StyroChem LP, LLC.

Trans. No.	Acquiring	Acquired	Entities
			Styrochem U.S., Ltd.
			WinCup Europe Delaware, Inc.
			WinCup GP, LLC.
			Wincup Holdings, Inc.
			WinCup LP, LLC.
			WinCup RE, LLC.
			WinCup Texas, Ltd.
20061731	Blue Pearl Mining Ltd	F. Steven and Abigail S. Mooney	Thompson Creek Metals Company.
20061748	Brown-Forman Corporation	Jose Guillermo Romo de la Pena	Comercializadora Herradura, S.A. de C.V.
			Fabrica de Tequila Hacienda Las Norias S.A. de C.V.
			Grupo Industrial Herradura, S.A. de C.V.
			Sociedad Romo, S.A. de C.V.
			Tequila Herradura, S.A. de C.V.
			Transportes de Carga Millenium, S.A. de C.V.
			Valle de Amatitan, S.A. de C.V.
20061749	Brown-Forman Corporation	Luis Pedro Pablo Roma de la Pena	Comercializadora Herradura, S.A. de C.V.
			Fabrica de Tequila Hacienda Las Norias S.A. de C.V.
			Grupo Industrial Herradura, S.A. de C.V.
			Sociedad Romo, S.A. de C.V.
			Tequila Herradura, S.A. de C.V.
			Transportes de Carga Millenium, S.A. de C.V.
			Valle de Amatitan, S.A. de C.V.
20061750	Francisco Partners II, LP	Dover Corporation	Delaware Capital Formation, Inc.
			Hover-Davis, Inc.
			Universal Investments Corporation.
			Vitronics Soltec corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—09/22/2006			
20061057	Alon Israel Oil Company Ltd	Apex Holding Co.	Edgington Oil Company.
20061683	Casey's General Stores, Inc	David V. Nordstrom	Jet Transport Company.
			Nordco, L.L.C.
			Nordstrom Oil Company.
			Nordy's, L.L.C.
20061709	PetSmart, Inc	MMI Holdings, Inc	MMI Holdings, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/25/2006			
20061702	Oak Hill Capital Partners II, L.P	Walden's Machine, Inc	Walden's Machine, Inc.
20061759	Regent Communications, Inc	Sumner Redstone	CBS Radio Stations Inc.
20061777	WLR Recovery Fund, II, L.P	WLR Recovery Fund III, L.P	Safety Components International, Inc.
			SCI Merger Sub. Inc.
20061784	ArcLight Energy Partners Fund III, L.P	Thayer Equity Investors IV, LP	TC Asphalt Corporation.
20061788	Polski Koncern Naftowy Orlen S.A	Group Menatep LTC	AB Mazeikiu Nafta.
20061791	Warburg Pincus Private Equity IX L.P	NYFIX, Inc	NYFIX, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—09/26/2006			
20061654	Morgans Hotel Group Co	Peter A. Morton	Hard Rock Hotel, Inc.
20061697	4105818 Canada Inc	Intel Corporation	Intel Corporation.
20061704	Lindsay Goldberg & Bessemer L.P	Questor Partners Fund II, L.P	CS Bakery Holding, Inc.
20061721	AlpInvest Partners Direct Investments 2003 cv.	Air Products and Chemicals, Inc	Air Products and Chemicals, Inc.
20061725	Jesse C. Crawford	Tom T. Gores	Broadspire Management Services, Inc.
20061738	United Technologies Corporation	RHI Holding Corp	RHI Holding Corp.
20061760	Chesapeake Energy Corporation	Mark A. Fischer and Susan L. Fischer	Chaparral Energy, Inc.
20061764	Banque Federale des Banques Populaires.	Caisse Nationale des Caisses d'Epargne.	CEFI.
			Compagnie 1818.
			Foncier Assurance.
			GCE Affacturage.
			GCE Bail.
			GCE FS.
			GCE Garanties.
			Gestitres.
			Ixis, CIB; Ixis, AM; Caceis; CIFG.
20061767	JPMorgan Chase & Co	CCA Stragegies, LLC	CCA Strategies, LLC.
20061768	Affiliated Computer Services, Inc	Systech Integrators, Inc	Systech Integrators, Inc.

Trans. No.	Acquiring	Acquired	Entities
20061769	Alliance Data Systems Corporation	Kinderhook Capital Fund I, L.P	CPC Associates, Inc.
20061770	Chesapeake Energy Corporation	Altoma Energy	Chaparral Energy, Inc.
20061772	Vestar Capital Partners V, L.P	Santemedia Group Holding S.A.R.L	MediMedia USA, Inc.
20061779	Lindsay Goldberg & Bessemer L.P	Jardine Lloyd Thompson Group plc	Jardine Lloyd Thompson, LLC. JLT Services Corporation.
20061780	Wolseley plc	Joseph C. White	Castle Supply Company, Inc.
20061782	Riata Energy, Inc	Carl C. Icahn	NEG Oil & Gas LLC.
20061783	Carl C. Icahn	Riata Energy, Inc	Riata Energy, Inc.
20061785	Oak Investment Partners X, L.P	Visto Corporation	Visto Corporation.
20061786	Cobalt Holding Company	Integraph Corporation	Intergraph Corporation.
20061789	ArcLight Energy Partners Fund III	General Electric Company	EFS Cogen Holdings II, LLC. TC Cogen One, L.P.
TRANSACTIONS GRANTED EARLY TERMINATION—09/27/2006			
20061735	Glanbia Co-Operative Society Limited	Wayne T. Seltzer	Seltzer Companies, Inc.
20061766	GTCR Fund VIII, L.P	Bank of America Corporation	BA Merchant Services, LLC. Bank of America, N.A. Best Payment Solutions, Inc. National Processing Co. LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—09/28/2006			
20060959	Toshiba Corporation	Britsh Nuclear Fuels plc	BNFL USA Group, Inc. Westinghouse Electric UK Limited.
20061705	Emulex Corporation	Sierra Logic, Inc.	Sierra Logic, Inc.
20061793	Lafarge, S.A.	Lyle C. Sitterly, Jr	Aux Sable Stone Company, L.L.C. Quarry Properties, Inc. The Western Sand & Gravel Company. Utica Dock, Inc.

For Further Information Contact: Sandra M. Peay, Contact Representative or Renee Hallman, Contract Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 06–8572 Filed 10–6–06; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Biosurveillance Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the tenth meeting of the American Health Information Community Biosurveillance Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–4363, 5 U.S.C., App.).

DATES: October 20, 2006 from 1 p.m. to 5 p.m.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/bio_main.html.*

SUPPLEMENTARY INFORMATION: The workgroup will populate a matrix for a visioning exercise, and will review information on a Minimum Data Set from the Data Steering Group.

The meeting will be available via Web cast at *http://www.hhs.gov/healthit/ahic/bio_instruct.html.*

Dated: September 28, 2006.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 06–8541 Filed 10–6–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: State Title IV–D Agency Caseworkers On-line Survey

OMB No.: New Collection

Description: The Office of Child Support Enforcement (OCSE) plans to reach out to as many State child support enforcement caseworkers as possible to invite them to participate in a brief on-line survey. The responses will be used to determine if OCSE needs to modify the content and the means of communicating information and training materials used to process child support enforcement cases. All information will be treated confidentially and will not be identified by State or email address of respondents. Depending on the overall response rate to the outreach efforts through the title IV–D agencies, the actual number of respondents could be much lower than the nationwide estimate of 60,000 caseworkers used for the burden estimates.

Respondents: State Title IV–D Agency Caseworkers

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Invitation to participate in on-line survey	60,000	1	.1	6,000

Estimated Total Annual Burden Hours:: 6,000

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *grjohnson@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 3, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–8556 Filed 10–6–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Workshop on Sex Differences and the Food and Drug Administration Critical Path Initiative

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA), Office of Women's Health is announcing the following meeting: Workshop on Sex Differences and the FDA Critical Path Initiative. The topic to be discussed is the potential impact of sex and gender differences in the areas of biomarker development, pharmacogenetics, and bioinformatics. Presentations on the FDA Critical Path Initiative and relevant research areas will be given by key FDA staff and other experts. A working lunch will be provided and small group breakout sessions will be held to draft a list of priorities for each topic area. FDA senior staff members and other experts will facilitate these discussions.

Date and Time: The meeting will be held on November 13, 2006, from 9 a.m. to 5 p.m.

Location: The meeting will be held at the Mayflower Hotel, East Room, 1127 Connecticut Ave. NW, Washington, DC 20036.

Contact: Deborah Kallgren, Office of Women's Health (HF–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0350, FAX: 301–827–0926, e-mail: *deborah.kallgren@fda.hhs.gov*.

Registration: There is no fee, but preregistration is required. Seating is limited to 75 participants. Send registration information (including name, title, firm name, address, telephone, and fax number) to the contact person by November 6, 2006.

If you need special accommodations due to a disability, please contact Deborah Kallgren at least 7 days in advance (November 6, 2006).

Dated: October 2, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–16605 Filed 10–6–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Senior Executive Service Performance Review Board

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service Performance Review Boards for the Department of Homeland Security. The purpose of the Performance Review Board is to view and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of Senior Executive Service positions of the Department.

DATES: *Effective Dates:* This Notice is effective October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Carmen Arrowood, Office of the Chief Human Capital Office, telephone (202) 357–8348.

SUPPLEMENTARY INFORMATION: Each federal agency is required to establish one or more performance review boards (PRB) to make recommendations, as necessary, in regard to the performance of senior executives within the agency. 5 U.S.C. 4314(c). This notice announces the appointment of the members of the PRB for the Department of Homeland Security (DHS). The purpose of the PRB is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of SES positions within DHS.

The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. Composition of the specific PRBs will be determined on an ad hoc basis from among the individuals listed below:

Adamoli, Joseph
Aguilar, David G.
Ahern, Jayson P.
Allen, Charles E.
Arcos, Cresencio
Armstrong, Charles R.
Atwood, Cynthia J.
Aytes, Michael L.
Baldwin, William D.
Barth, Richard
Basham, W. Ralph
Bathurst, Donald G.
Beardsworth, Richard
Bergman, Cynthia
Bester-Markowitz, Margot
Bond, Debra J.
Boudreaux, Chad

Bowen, Bruce J.
Boyd, David G.
Brown, Dana A.
Buckingham, Patricia Ann
Buikema, Edward G.
Burhoe, Scott J. RDML
Byers, Robert F.
Carpenter, Dea
Caputo, Guy P.
Caverly, R. James
Chaparro, James M.
Charbo, L. Scott
Cooper, Bradford E.
Daitch, William
D'Araujo, John R.
Dayton, Mark R.
Dickinson, Charles
Difalco, Frank
DiGregorio, Elizabeth L.
Dinanno, Thomas G.
Dooher, John C.
Duke, Elaine C.
Dunham, Carol A.
Dunlap, James L.
Dunne, Julie A.
Essig, Thomas W.
Fagerholm, Eric N.
Falk, Scott
Faust, James
Flynn, William F.
Fonash, Peter M.
Forman, Marcy. M.
Hagan, William
Hall, Michael J.
Hanneld, Michael R.
Hardie, Sharon L.
Heffelfinger, William
Hill, Marcus L.
Hoelscher, Doug
Hooks, Robert R.
Hosenfeld, Robert W.
Howell, David R.
Gabbrielli, Tina W.
Giddens, Gregory
Gowadia, Huban
Grupski, Thomas F.
Irving, Paul D.
James, Ronald J.
Jamieson, Gil H.
Justice, Wayne E. RDML
Keene, Delma K.
Kent, Donald
Kerner, Francine
Kish, James R.
Koerner, Timothy J.
Kostelnik, Michael C.
Kraninger, Kathleen L.
Lang, Gary J.
Lederer, Calvin
Levy, Andrew
Lockwood, Thomas J.
Lumsden, Sheila M.
MacDonald, John R.
Maher, Joseph B.
Martinez-Fonts, Alfonso
McCarthy, Maureen I.
McCormack, Luke J.
McDermond, James E.
McGowan, Morris
Mitchell, Andrew T.
Mocny, Robert
Morris, Earl R.
Nagel, Brian K.
Nichols, Frederick A.
Nimmich, Joseph L. RDML
O'Melinn, Barry C.
Onieal, Denis G.
Oxford, Vayl
Paar, Thomas C.
Parent, Wayne
Parker, Robert C. RDML
Patrick, Connie L.
Pearson, Clifford, I. RADM
Peavy, Sandra H.
Pekoske, David P. RADM
Perez, Marta Brito
Personette, Donald B.
Philbin, Patrick
Pierson, Julia A.
Powell, Donald E.
Prewitt, Keith L.
Reichel, Howard
Reingold, Susan B.
Robles, Alfonso
Rogers, George D.
Rosenzweig, Paul
Rossides, Gale D.
Rufe, Roger
Runge, Jeffrey W.
Russell, Michael D.
Schied, Eugene H.
Schwien, Fred
Sexton, Eugenio O.
Shuback, Susan J.
Shingler, Wendell C.
Sposato, Janis A.
Stahlschmidt, Patricia K.
Stenger, Michael C.
Stephan, Robert
Sullivan, Daniel
Tomarchio, Jack T.
Tomsheck, James F.
Torrence, Donald
Torres, John P.
Trissell, David A.
Vanacore, Michael J.
Walker, Carmen H.
Walters, Thomas J.
Wheelbarger, Kathryn
Whitford, Richard A.
Williams, Dwight
Wood, John F.
Wright, Phlemon T.
Zitz, Robert

This notice does not constitute a significant regulatory action under section 3(f) of Executive Order 12866. Therefore, DHS has not submitted this notice to the Office of Management and Budget. Further, because this notice is a matter of agency organization, procedure and practice, DHS is not required to follow the rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553).

Dated: October 2, 2006.

Thomas Vieira,

Director, Executive Resources, Office of the Chief Human Capital Office.

[FR Doc. E6–16673 Filed 10–6–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25924]

Navigation Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The Navigation Safety Advisory Council (NAVSAC) will meet as required to discuss various issues relating to the safety of navigation. The meeting will be open to the public.

DATES: NAVSAC will meet on Tuesday, November 14, 2006, from 8:30 a.m. to 4 p.m.; Wednesday, November 15, 2006, from 8:30 a.m. to 4 p.m.; and Thursday, November 16, 2006, from 8:30 a.m. to 1 p.m. The meetings may close early if all business is finished. Written material for and requests to make oral presentations at the meeting should reach the Coast Guard on or before November 1, 2006. Requests to have a copy of your material distributed to each member of the Committee or working groups prior to the meeting should reach the Coast Guard on or before November 1, 2006.

ADDRESSES: NAVSAC will meet in the Marriott Courtyard Washington Capital Hill/Navy Yard Hotel, 140 L Street, SE., Washington, DC 20003. Send written material and requests to make oral presentations to Mr. John Bobb, Commandant (G–PWM–1), U.S. Coast Guard Headquarters, G–PW, Room 1406, 2100 Second Street, SW., Washington, DC 20593–0001. This notice and related documents are available on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. John Bobb, Executive Secretary, telephone 202–372–1532, fax 202–372–1929, or e-mail at: *john.k.bobb@uscg.mil*.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L.92–463, 86 Stat. 770, as amended).

Agenda of Committee Meeting

The agenda includes the following items to be discussed:

(1) Standard Navigational Bridge Design.

(2) Offshore Renewable Energy Installations.
(3) Navigation Aid Mix.
(4) Electronic Positioning and Timing Systems.
(5) Electronic Charts.
(6) National Oceanic and Atmospheric Administration Update (Right Whale Proposed regulations).

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at the meeting, please notify the Executive Secretary no later than November 1, 2006. Written material for distribution at a meeting should reach the Coast Guard no later than November 1, 2006. If you would like a copy of your material distributed to each member of the Committee or Working Groups in advance of a meeting, please submit 20 copies to the Executive Secretary no later than November 1, 2006. You may also submit this material electronically to the e-mail address in **FOR FURTHER INFORMATION CONTACT**, no later than November 1, 2006.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Secretary as soon as possible.

Dated: October 2, 2006.

Wayne A. Muilenburg,

Captain, U.S. Coast Guard, Acting Director of Waterways Management.

[FR Doc. E6–16667 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1660–DR]

Arizona; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arizona (FEMA–1660–DR), dated September 7, 2006, and related determinations.

DATES: *Effective Date:* September 29, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arizona is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 7, 2006:

Gila, Graham, Greenlee, and Navajo Counties, the tribal areas of the Hopi Tribe within Navajo County, the Navajo Nation within Navajo County, and the San Carlos Apache Tribe within Gila, Graham, and Pinal Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–16657 Filed 10–6–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Countywide Per Capita Impact Indicator

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: FEMA gives notice that the countywide per capita impact indicator under the Public Assistance program for disasters declared on or after October 1, 2006, will be increased.

DATES: *Effective Date:* October 1, 2006, and applies to major disasters declared on or after October 1, 2006.

FOR FURTHER INFORMATION CONTACT: James A. Walke, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: Response and Recovery Directorate Policy No. 9122.1 provides that FEMA will adjust the countywide per capita impact indicator under the Public Assistance program to reflect annual changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase in the countywide per capita impact indicator to $3.05 for all disasters declared on or after October 1, 2006.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 3.8 percent for the 12-month period ended in August 2006. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 15, 2006.

(Catalog of Federal Domestic Assistance No. 97.036, Public Assistance Grants.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–16661 Filed 10–6–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Disaster Grant Amounts

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: FEMA gives notice of an increase of the maximum amount for Small Project Grants to State and local governments and private nonprofit facilities for disasters declared on or after October 1, 2006.

DATES: *Effective Date:* October 1, 2006, and applies to major disasters declared on or after October 1, 2006.

FOR FURTHER INFORMATION CONTACT: James A. Walke, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), 42 U.S.C. 5121–5206, prescribes that FEMA must annually adjust the maximum grant amount made under section 422, Small Project Grants, Simplified Procedure, relating to the Public Assistance program, to reflect changes in the Consumer Price Index for

All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase of the maximum amount of any Small Project Grant made to the State, local government, or to the owner or operator of an eligible private nonprofit facility, under section 422 of the Stafford Act, to $59,700 for all disasters declared on or after October 1, 2006.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 3.8 percent for the 12-month period ended in August 2006. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 15, 2006.

(Catalog of Federal Domestic Assistance No. 97.036, Public Assistance Grants.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–16662 Filed 10–6–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Maximum Amount of Assistance Under the Individuals and Households Program, Notice of Maximum Amount of Repair Assistance, and Notice of Maximum Amount of Replacement Assistance

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: FEMA gives notice of the maximum amounts for assistance under the Individuals and Households Program for emergencies and major disasters declared on or after October 1, 2006.

DATES: *Effective Date:* October 1, 2006, and applies to emergencies and major disasters declared on or after October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Berl Jones, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–4235.

SUPPLEMENTARY INFORMATION: Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act), 42 U.S.C. 5174, prescribes that FEMA must annually adjust the maximum amounts for assistance provided under the Individuals and Households (IHP) Program. FEMA gives notice that the maximum amount of IHP financial assistance provided to an individual or household under section 408 of the Act with respect to any single emergency or major disaster is $28,200. The maximum amount of Repair Assistance is $5,600, and the maximum amount of Replacement Assistance is $11,300. The increases in award amounts as stated above are for any single emergency or major disaster declared on or after October 1, 2006.

FEMA bases the adjustments on an increase in the Consumer Price Index for All Urban Consumers of 3.8 percent for the 12-month period ended in August 2006. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 15, 2006.

(Catalog of Federal Domestic Assistance No. 97.048, Individuals and Households—Housing; 97.049 Individuals and Households—Disaster Housing Operations; 97.050, Individuals and Households—Other Needs)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–16658 Filed 10–6–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Statewide Per Capita Impact Indicator

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: FEMA gives notice that the statewide per capita impact indicator under the Public Assistance program for disasters declared on or after October 1, 2006, will be increased.

DATES: Effective Date: October 1, 2006, and applies to major disasters declared on or after October 1, 2006.

FOR FURTHER INFORMATION CONTACT: James A. Walke, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: 44 CFR 206.48 provides that FEMA will adjust the statewide per capita impact indicator under the Public Assistance program to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice that the statewide per capita impact indicator will be increased to $1.22 for all disasters declared on or after October 1, 2006.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 3.8 percent for the 12-month period ended in August 2006. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 15, 2006.

(Catalog of Federal Domestic Assistance No. 97.036, Public Assistance Grants.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–16656 Filed 10–6–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5044–N–19]

Notice of Proposed Information Collection for Public Comment; MTCS Family Reporting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 11, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000;

FOR FURTHER INFORMATION CONTACT: Aneita Waites, (202) 708–0713, extension 4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of

information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Family Report, MTW Family Report.

OMB Control Number: 2577–0083.

Description of the need for the information and proposed use: Collection of this information is authorized by the U.S. Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–19), section 214 of the Housing and Community Development Act of 1980, and section 206 of the 1996 HUD Appropriations Act. The information collected through the Form HUD–50058 and the Form HUD–50058 MTW will be used to monitor and evaluate Office of Public and Indian Housing programs including the public housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificates and Vouchers, Section 8 Moderate Rehabilitation and Moving to Work (MTW) Demonstration programs.

Agency form number, if applicable: Form HUD–50058, Form HUD–50058 MTW.

Members of affected public: Public Housing Agencies, State and local governments, individuals and households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Public housing agencies will need an average input time of 15 minutes per form. Public housing agencies that administer the Family Self Sufficiency (FSS) program will require an additional 15 minutes per form for completion of the information.

ESTIMATED BURDEN OF HOURS OF THE PROPOSED INFORMATION COLLECTION

Information Collection	Number of respondents	Responses per respondent	Total annual responses	Minutes per response	Total hours	Regulatory reference
HUD–50058	4,500	1,000	4,500,000	15	1,125,000	908.101, 960, 982, 984
HUD–50058 MTW	24	9,008	216,192	15	54,048	908.101, 960, 982, 984

Status of proposed information collection: Renewal of forms without changes.

Status of the proposed information collection: Extension of a currently approved collection—Form HUD–50058 and Form HUD–50058 MTW.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 29, 2006.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives.

[FR Doc. E6–16616 Filed 10–6–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4800-FA–18]

Announcement of Funding Awards—Fiscal Year 2003; Resident Opportunity and Self-Sufficiency Programs

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Fiscal Year 2003 (FY2003) Notice of Funding Availability (NOFA) for the Resident Opportunity and Self Sufficiency Programs for FY2003. This announcement contains the consolidated names and addresses of those award recipients selected for each state.

FOR FURTHER INFORMATION CONTACT: For questions concerning the FY2003 Resident Opportunities and Self Sufficiency (ROSS) awards, contact the Office of Public and Indian Housing's Grants Management Center, Director, Iredia Hutchinson, Department of Housing and Urban Development, Washington, DC 20410–5000, telephone (202) 358–0221. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at (800) 877–8339. (Other than the ''800'' TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The authority for $49.67 million in budget authority for use in the housing of elderly and non-elderly and disabled families is found in the Departments of Veteran Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, FY2003 (Pub.L. 108). The allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended.

These programs are intended to provide funding under the Resident Opportunities and Self-Sufficiency (ROSS) program, to link services to public housing residents by providing grants for supportive service, resident empowerment activities, and activities that assist residents in becoming economically self-sufficient. The FY2003 awards announced in this Notice were selected for funding as announced in a **Federal Register** NOFA published on April 25, 2003 (68 FR 21905). Applications were scored based on the selection criteria in that notice and funding selections were made based on the rating and ranking of applications within each state.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (013 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of a total of 204 awards—60 awards made under the Neighborhood Networks, 40 awards under the Homeownership Supportive Services,

55 awards under the Resident Service Delivery Models Elderly and Persons with Disabilities, and 49 awards under the Resident Service Delivery Models—Family competitions.

Dated: September 22, 2006.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

RESIDENT OPPORTUNITY AND SELF SUFFICIENCY—HOMEOWNERSHIP SUPPORTIVE SERVICES

Applicant Name:	Address:	City:	State	Zip	Amount
Mobile Housing Board	151 South Claiborne Street, P.O. Box 1345.	Mobile	Alabama	36602	$500,000
White Mountain Apache Housing Authority,.	P.O. Box 1270	Whiteriver	Arizona	85941	350,000
Housing Authority City of San Bernardino.	715 East Brier Drive	San Bernadino	California	92408–2841	350,000
Housing Authority of the City of Los Angeles.	2600 Wilshire Boulevard, 3rd Floor.	Los Angeles	California	90057	500,000
Hartford Housing Authority	475 Flatbush Avenue	Hartford	Connecticut	06106	250,000
Meriden Housing Authority	22 Church Street, P.O. Box 911	Meriden	Connecticut	06451	250,000
Housing Authority of the City of Fort Pierce.	707 North 7th Street	Fort Pierce	Florida	34950	250,000
Housing Authority of the City of Orlando, Florida.	300 Reeves Court	Orlando	Florida	32801	250,000
Lakeland Housing Authority	430 S. Hartsell Avenue	Lakeland	Florida	33815	250,000
Tallahassee Housing Authority	2940 Grady Road	Tallahassee	Florida	32312	250,000
Nez Perce Tribal Housing Authority.	P.O. Box 188	Lapwai	Idaho	83540	250,000
The Housing Authority of the City of East St. Louis.	700 North 20th Street	East St. Louis	Illinois	62205	350,000
Indianapolis Housing Agency	1919 North Meridian	Indianapolis	Indiana	46202	350,000
Lawrence-Douglas County Housing Authority.	1600 Haskell Ave	Lawrence	Kansas	66044	250,000
Housing Authority of the City of Annapolis.	1217 Madison Street	Annapolis	Maryland	21403	250,000
Housing Authority of the City of Jackson, MS.	2747 Livingston Road	Jackson	Mississippi	39213	249,685
Housing Authority Of Kansas City, Missouri.	301 East Armour	Kansas City	Missouri	64111	350,000
Lafayette (Saline) County Housing Authority.	1415 South Odell	Marshall	Missouri	65351	71,505
Truth or Consequences Housing Authority.	108 South Cedar Street	Truth or Consequences.	New Mexico	87901	250,000
City of Dunkirk Housing Authority	15 North Main Street	Dunkirk	New York	14048	114,592
Ithaca Housing Authority	800 South Plain Street	Ithaca	New York	14850	150,000
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue.	Gastonia	North Carolina	28053–2398	250,000
Greensboro Housing Authority	450 North Church Street, P.O. Box 21287.	Greensboro	North Carolina	27401	185,112
Lucas Metropolitan Housing Authority.	435 Nebraska Avenue	Toledo	Ohio	43602	350,000
Portage Metropolitan Housing Authority.	2832 State Route 59	Ravenna	Ohio	44266	250,000
Housing Authority of the City of Shawnee.	P.O. Box 3427	Shawnee	Oklahoma	74802–3427	250,000
Oklahoma City Housing Authority	1700 North East 4th Street	Oklahoma City	Oklahoma	73117	223,869
Umatilla Reservation Housing Authority.	P.O. Box 1658	Pendelton	Oregon	97801	211,600
Philadelphia Housing Authority	12 S. 23rd Street	Philadelphia	Pennsylvania	19103	861,366
Westmoreland County Housing Authority.	R.D. #6, P.O. Box 223, South Greengate Road.	Greensburg	Pennsylvania	15601–9308	217,412
Pawtucket Housing	214 Roosevelt Avenue	Pawtucket	Rhode Island	02860	250,000
Lakota Fund	P.O. Box 340, Pine Ridge Indian Reservation.	Kyle	South Dakota	57752	250,000
Oglala Sioux Tribe	P.O. Box 3001	Pine Ridge	South Dakota	57770	250,000
Partnership for Housing, Chattanooga Housing Authority.	P.O. Box 1486	Chattanooga	Tennessee	37401	500,000
Jackson Housing Authority	125 Preston Street	Jackson	Tennessee	38301	250,000
Housing Authority of the City of Dallas, Texas.	3939 N. Hampton Road	Dallas	Texas	75212	500,000
City of Roanoke Redevelopment and Housing Authority.	P.O. Box 6359, 2624 Salem Turnpike, NW..	Roanoke	Virginia	24017	250,000
Danville Redevelopment and Housing Authority.	P.O. Box 2669, 651 Cardinal Place.	Danville	Virginia	24541	250,000
Waynesboro Redevelopment & Housing Authority.	P.O. Box 1138, 1700 New Hope Road.	Waynesboro	Virginia	22980	250,000

RESIDENT OPPORTUNITY AND SELF SUFFICIENCY—HOMEOWNERSHIP SUPPORTIVE SERVICES—Continued

Applicant Name:	Address:	City:	State	Zip	Amount
Housing Authority of the City of Milwaukee.	809 North Broadway	Milwaukee	Wisconsin	53202	350,000
Resident Opportunity & Self Sufficiency—Neighborhood Networks					
Huntsville Housing	200 Washington Street	Huntsville	Alabama	35804–0486	100,000
Mobile Housing Board	P.O. Box 1345, 151 South Claiborne Street.	Mobile	Alabama	36633–1345	50,000
Sylacauga Housing	P.O. Box 539	Sylacauga	Alabama	35150	50,000
Tuscaloosa Housing Authority	2808 10th Avenue, P.O. Box 2281.	Tuscaloosa	Alabama	35403–2281	100,000
Housing Authority of the City of Los Angeles.	2600 Wilshire Boulevard, Third Floor.	Los Angeles	California	90057	250,000
Housing Authority of the County of San Bernardino.	715 East Brier Drive	San Bernardino	California	92408–2841	100,000
San Diego Housing Commission	1625 Newton Avenue	San Diego	California	92113–1038	100,000
The Housing Authority of the City and County of Denver.	777 Grant Street	Denver	Colorado	80203	250,000
Housing Authority of the City of Norwalk.	P.O. Box 508, 24 \1/2\ Monroe Street.	Norwalk	Connecticut	06856–0508	150,000
Meriden Housing Authority	P.O. Box 911, 22 Church Street	Meriden	Connecticut	06451	50,000
Howard University	600 W Street, N.W.	Washington	District of Columbia	20001	299,998
Housing Authority of the City of Fort Myers.	4224 Michigan Avenue	Ft. Myers	Florida	33916	150,000
Housing Authority of the City of Carrollton.	P.O. Box 627, 1 Roop Street	Carrollton	Georgia	30117	150,000
Housing Authority of the City of Jonesboro.	P.O. Box 458, 203 Hightower Street.	Jonesboro	Georgia	30236	150,000
Housing and Community Development Corporation of Hawaii.	677 Queen Street, Suite 300	Honolulu	Hawaii	96813	250,000
Manhattan Housing Authority	P.O. Box 1024, 300 N. 5th St.	Manhattan	Kansas	66505	50,000
Topeka Housing Authority	2010 SE. California Ave	Topeka	Kansas	66607	150,000
Campbellsville Housing and Redevelopment.	400 Ingram Avenue, P.O. Box 597.	Campbellsville	Kentucky	42719	50,000
Housing Authority of Bowling Green.	P.O. Box 116	Bowling Green	Kentucky	42102	150,000
Housing Authority of Henderson	111 South Adams Street	Henderson	Kentucky	42420	50,832
Housing Authority of Martin	P.O. Box 806	Martin	Kentucky	41649	150,000
Housing Authority of Murray	716 Nash Drive	Murray	Kentucky	42071	50,000
Housing Authority of Williamsburg.	600 Brush Arbor	Williamsburg	Kentucky	40769	50,000
Lebanon Housing Authority	P.O. Box 633, 100 Sunset Terrace.	Lebanon	Kentucky	40033	50,000
East Baton Rouge Parish Housing Authority.	4731 North Boulevard	Baton Rouge	Louisiana	70806	150,000
Housing Authority of the City of Monroe.	300 Harrison Street	Monroe	Louisiana	71201	244,598
Housing Authority of the City of Jackson, MS.	2747 Livingston Road	Jackson	Mississippi	39213	150,000
Natchez Housing Authority	2 Auburn Avenue	Natchez	Mississippi	39120	150,000
Housing Authority of Kansas City, Missouri.	301 East Armour	Kansas City	Missouri	64111	100,000
Omaha Housing Authority	540 S. 27th Street	Omaha	Nebraska	68105	250,000
Albany Housing Authority	200 South Pearl Street	Albany	New York	12203	150,000
Boys & Girls Club of Schenectady.	P.O. Box 466	Schenectady	New York	12301	253,275
Buffalo Municipal Housing Authority.	300 Perry Street	Buffalo	New York	14204	100,000
New York City Housing Authority	250 Broadway	New York	New York	10007	450,000
Syracuse Housing Authority	516 Burt Street	Syracuse	New York	13212	100,000
Utica Municipal Housing Authority.	509 Second Street	Utica	New York	13501	150,000
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue.	Gastonia	North Carolina	28053	150,000
Dayton Metropolitan Housing Authority.	400 Wayne Avenue	Dayton	Ohio	45410	250,000
Lucas Metropolitan Housing Authority.	435 Nebraska Avenue	Toledo	Ohio	43602	100,000
Housing Authority of the City of Tulsa.	P.O. Box 6369 415 E. Independence St..	Tulsa	Oklahoma	74148–0369	99,863

RESIDENT OPPORTUNITY AND SELF SUFFICIENCY—HOMEOWNERSHIP SUPPORTIVE SERVICES—Continued

Applicant Name:	Address:	City:	State	Zip	Amount
Oklahoma City Housing Authority	1700 Northeast Fourth Street	Oklahoma City	Oklahoma	73117	247,262
Housing Authority of Portland	135 SW. Ash Street	Portland	Oregon	97204	249,936
Salem Housing Authority	P.O. Box 808, 360 Church Street, SE..	Salem	Oregon	97308–0808	150,000
Housing Authority of the County of Butler.	114 Woody Drive	Butler	Pennsylvania	16001	50,000
Philadelphia Housing Authority	12 S. 23rd Street	Philadelphia	Pennsylvania	19103	450,000
Pawtucket Housing	214 Roosevelt Ave.	Pawtucket	Rhode Island	02862–1303	50,000
Providence Housing Authority	100 Broad Street	Providence	Rhode Island	02903	100,000
Woonsocket Housing Authority	679 Social Street	Woonsocket	Rhode Island	02895–2090	50,000
Chattanooga Housing Authority	P.O. Box 1486	Chattanooga	Tennessee	37401	250,000
Maryville Housing Authority	100 Broadway Towers	Maryville	Tennessee	37801	150,000
University of Memphis Foundation.	635 Normal Street	Memphis	Tennessee	38152	293,825
Belton Housing Authority	715 Saunders	Belton	Texas	76513	150,000
Housing Authority of the City of Dallas, Texas.	3939 N. Hampton Road	Dallas	Texas	75212	250,000
The Housing Authority of the City of San Antonio.	P.O. Box 1300, 818 S. Flores Street.	San Antonio	Texas	78204	250,000
Danville Redevelopment and Housing Authority.	651 Cardinal Place	Danville	Virginia	24541	150,000
Fairfax County Redevelopment and Housing Authority.	3700 Pender Drive, Suite 300	Fairfax	Virginia	22030	100,000
King County Housing Authority	600 Andover Park West	Tukwila	Washington	98188	100,000
Seattle Housing Authority	120 Sixth Avenue North	Seattle	Washington	98109–1028	250,000
Housing Authority of the City of Milwaukee.	809 North Broadway Street	Milwaukee	Wisconsin	53202	250,000
Silver Spring Neighborhood Center, Inc..	5460 N. 64th Street	Milwaukee	Wisconsin	53218	100,000
Resident Opportunity & Self Sufficiency—RSDM Elderly					
Selma Housing Authority	P.O. Box 950	Selma	Alabama	36702–0950	199,815
Tuscaloosa Housing Authority	2808 10th Avenue, P.O. Box 2281.	Tuscaloosa	Alabama	35403–2281	100,000
Housing Authority City of Santa Barbara.	808 Laguna Street	Santa Barbara	California	93101	200,000
Housing Authority of the City of Los Angeles.	2600 Wilshire Boulevard, 3rd Floor.	Los Angeles	California	90057	200,000
Housing Authority of the County of Los Angeles.	2 Coral Circle	Monterey Park	California	91755	300,000
Boulder Housing Partners, Inc.	3120 Broadway	Boulder	Colorado	80304	100,000
Gainesville Housing Authority	1900 SE. 4th Street	Gainesville	Florida	32602	200,000
Housing Authority of the City of Tampa.	1514 Union Street	Tampa	Florida	33607	300,000
The Housing Authority of the City of Orlando.	300 Reeves Court	Orlando	Florida	32801	200,000
Housing Authority of the City of Atlanta.	230 John Wesley Dobbs Avenue.	Atlanta	Georgia	30303	300,000
JWC Helping Hands, Inc	2050 Bolt Drive	Augusta	Georgia	30901	200,000
Housing and Community Development Corporation of Hawaii.	677 Queen Street Suite 300	Honolulu	Hawaii	96813	300,000
Housing Authority of Christian County.	P.O. Box 86, 202 S. Poplar	Pana	Illinois	62557	200,000
Housing Authority of Jefferson County.	1000 S. 9th Street, P.O. Box 1547.	Mount Vernon	Illinois	62864	100,000
Housing Authority of the City of New Albany, IN.	500 Scribner Drive, P.O. Box 11	New Albany	Indiana	47151–0011	177,469
City of Wichita	332 N. Riverview	Wichita	Kansas	67203	200,000
Newton Housing Authority	115 West 9th	Newton	Kansas	67114	200,000
Housing Authority of Corbin	1336 Madison Street	Corbin	Kentucky	40701	100,000
Housing Authority of Covington	2300 Madison Ave.	Covington	Kentucky	41014	200,000
Housing Authority of Horse Cave	990 North Dixie St., P.O. Box 8	Horse Cave	Kentucky	42749	59,836
Housing Authority of Martin	P.O. Box 806	Martin	Kentucky	41649	100,000
Housing Authority of Murray	716 Nash Drive	Murray	Kentucky	42071	100,000
Prince George's County Government, Maryland.	9400 Peppercorn Place, Suite 200.	Largo	Maryland	20774	200,000
Mission Main Resident	39 Smith Street	Roxbury	Massachusetts	02120–2701	100,000
Services Corp., Grand Rapids Housing Commission.	1420 Fuller Avenue, SE.	Grand Rapids	Michigan	49507	200,000
Melvindale Housing Commission	3501 Oakwood Blvd.	Melvindale	Michigan	48122	100,000

RESIDENT OPPORTUNITY AND SELF SUFFICIENCY—HOMEOWNERSHIP SUPPORTIVE SERVICES—Continued

Applicant Name:	Address:	City:	State	Zip	Amount
Natchez Housing Authority	2 Auburn Avenue	Natchez	Mississippi	39120	100,000
The Housing Authority of the City of Independence, Missouri.	210 South Pleasant	Independence	Missouri	64050	105,003
Housing Authority of the County of Scotts Bluff, NE.	89A Woodley Park Road	Gering	Nebraska	69341	100,000
Garfield Housing Authority	71 Daniel P. Conte Court	Garfield	New Jersey	07026	200,000
Housing Authority of the City of Linden.	1601 Dill Avenue	Linden	New Jersey	07036	100,000
Housing Authority of the Township of Woodbridge.	20 Bunns Lane	Woodbridge	New Jersey	07095	200,000
Truth or Consequences Housing Authority.	108 South Cedar Street	Truth or Consequences.	New Mexico	87901	100,000
Community Potential, Inc.	c/o Binghamton Housing Authority, 35 Exchange St..	Binghamton	New York	13902	100,000
Geneva Housing Authority	41 Lewis Street, P.O. Box 153	Geneva	New York	14456	100,000
New Rochelle Municipal Housing Authority.	50 Sickles Avenue	New Rochelle	New York	10801	200,000
Utica Municipal Housing Authority.	509 Second Street	Utica	New York	13501	100,000
Westchester Jewish Community Services.	845 North Broadway, Suite 2	White Plains	New York	10603–2427	100,000
Charlotte Housing Authority	1301 S. Blvd., P.O. Box 36795	Charlotte	North Carolina	28203	282,300
Housing Authority of the City of High Point.	Post Office Box 1779, 500 East Russell Avenue.	High Point	North Carolina	27260	199,998
Dayton Metropolitan Housing Authority.	400 Wayne Avenue	Dayton	Ohio	45410	199,992
Housing and Community Services Agency of Lane County.	177 Day Island Road	Eugene	Oregon	97401	200,000
Housing Authority of Clackamas County.	P.O. Box 1510	Oregon City	Oregon	97045	100,000
Church and Farnum Resident Organization.	Box D 33, Farnum Street, East	Lancaster	Pennsylvania	17602	100,000
Mercer County Housing Authority	80 Jefferson Avenue	Sharon	Pennsylvania	16146	200,000
Crossville Housing	67 Irwin Avenue, P.O. Box 425	Crossville	Tennessee	38557	100,000
Martin Housing Authority	134 East Heights Drive	Martin	Tennessee	38237	100,000
Rutland Housing Authority	5 Tremont Street	Rutland	Vermont	05701	100,000
Fairfax County RHA	3700 Pender Drive	Fairfax	Virginia	22030	100,000
Community Psychiatric Clinic	4319 Stone Way, North	Seattle	Washington	98103	300,000
Neighborhood House, Inc.	905 Spruce St., Suite 200	Seattle	Washington	98104	100,000
Wheeling Housing Authority	P.O. Box 2089	Wheeling	West Virginia	26003	200,000
Arlington Court Resident Organization.	1633 North Arlington Place	Milwaukee	Wisconsin	53202	100,000
Friends Of Housing Corporation	9141 W. Lisbon Ave.	Milwaukee	Wisconsin	53222	200,000
Highland Park Resident Organization.	1275 North 17th Street	Milwaukee	Wisconsin	53205	100,000
Resident Opportunity & Self Sufficiency—RSDM Family					
Mobile Housing Board	151 S. Claiborne Street	Mobile	Alabama	36602	500,000
White Mountain Apache Housing Authority.	P.O. Box 1270	Navajo	Arizona	85941	350,000
City of Los Angeles Housing Authority.	2600 Wilshire Boulevard	Los Angeles	California	90057	500,000
Housing Authority of the City of Oxnard.	Oxnard Housing Authority, 435 South D Street.	Oxnard	California	93030	250,000
San Diego Housing Commission	1625 Newton Avenue	San Diego	California	92113–1038	350,000
Housing Authority of the City and County of Denver.	777 Grant Street	Denver	Colorado	80203	350,000
Jefferson County Housing Authority.	6250 W. 38th Ave.	Wheat Ridge	Colorado	80033	95,709
Hartford Housing Authority	475 Flatbush Avenue	Hartford	Connecticut	06106	248,079
Housing Authority of the City of Norwalk.	24 ½ Monroe Street	Norwalk	Connecticut	06856–0508	250,000
Southfield Village Resident Council, Inc..	245 Selleck Street	Stamford	Connecticut	06902	100,000
Acorn Tenant Union—Training & Organizing Project.	739 8th Street, S.E.	Washington	District of Columbia	20003	278,636
Acorn Tenant Union-Training & Organizing Project.	739 8th St. SE	Washington District of Columbia.	20003	230,500	
Barry Farm Resident Council, Inc..	1326 Stevens Road, SE	Washington	District of Columbia	20020	100,000

RESIDENT OPPORTUNITY AND SELF SUFFICIENCY—HOMEOWNERSHIP SUPPORTIVE SERVICES—Continued

Applicant Name:	Address:	City:	State	Zip	Amount
Housing Authority of the City of Tampa.	1514 Union Street	Tampa	Florida	33607	350,000
Housing Authority Cordele	401 South Tenth Street	Cordele	Georgia	31015	250,000
Decatur Housing Authority	1808 East Locust Street	Decatur	Illinois	62521	250,000
Beechwood Gardens Resident Management Corporation.	2952 Priscilla	Indianapolis	Indiana	46218	100,000
Indianapolis Housing Agency	1919 North Meridian	Indianapolis	Indiana	46202	350,000
Iowa City Housing Authority	410 E. Washington Street	Iowa City	Iowa	52240	250,000
Housing Authority of Bowling Green.	P.O. Box 116	Bowling Green	Kentucky	42102	250,000
Housing Authority of Hopkinsville	400 North Elm Street, P.O. Box 437.	Hopkinsville	Kentucky	42241–0437	250,000
Housing Authority of Owensboro	2161 East 19th Street	Owensboro	Kentucky	42303	250,000
Housing Authority of Somerset	P.O. Box 449	Somerset	Kentucky	42502	250,000
Louisville Metro Housing Authority.	420 South Eighth Street	Louisville	Kentucky	40203	500,000
Cambridge Housing Authority	675 Massachusetts Avenue	Cambridge	Massachusetts	02139	350,000
Public Housing Agency of The City of St. Paul.	480 Cedar Street, Suite 600	Saint Paul	Minnesota	55101	350,000
St. Louis Housing Authority	4100 Lindell Boulevard	St. Louis	Missouri	63108	350,000
Omaha Housing Authority	540 South 27th Street	Omaha	Nebraska	68105	350,000
Housing Authority of the City of Perth Amboy.	881 Amboy Avenue, P.O. Box 390.	Perth Amboy	New Jersey	08862	245,280
Pojoaque Housing Corporation	5 W. Gutierrez, Suite 2–B	Sante Fe	New Mexico	87506	250,000
Albany Housing Authority	200 South Pearl Street	Albany	New York	12202	250,000
Binghamton Housing Authority	35 Exchange Street	Binghamton	New York	13902	250,000
Youngstown Metropolitan Housing Authority.	131 West Boardman Street	Youngstown	Ohio	44503–1399	349,920
Oklahoma City Housing Authority	1700 Northeast 4th Street	Oklahoma City	Oklahoma	73117–3800	348,652
Housing Authority of Clackamas	P.O. Box 1510	Oregon City	Oregon	97045	250,000
Housing Authority of Portland	135 SW. Ash Street	Portland	Oregon	97204	349,984
Housing Authority of the County of Beaver.	300 State Street	Beaver	Pennsylvania	15009	350,000
Housing Authority of the City of Providence.	100 Broad Street	Providence	Rhode Island	02903	350,000
Memphis Housing Authority	700 Adams Avenue	Memphis	Tennessee	38105	500,000
Fort Worth Housing Authority	1201 West 13th Street	Fort Worth	Texas	76102	350,000
Temple Housing Authority	700 West Calhoun	Temple	Texas	76501	250,000
Housing Authority of Salt Lake City.	1776 South West Temple	Salt Lake City	Utah	84115	250,000
Danville Redevelopment and Housing Authority.	651 Cardinal Place	Danville	Virginia	24541	250,000
Danville Resident Management Council, Inc..	651 Cardinal Place	Danville	Virginia	24541	300,000
Portsmouth Redevelopment & Housing Authority.	801 Water Street	Portsmouth	Virginia	23704	350,000
Kitsap County Consolidated Housing Authority.	9307 Bayshore Drive NW	Silverdale	Washington	98383–9113	250,000
Housing Authority of the City of Milwaukee.	809 North Broadway	Milwaukee	Wisconsin	53202	350,000
Lac Courte Oreilles Housing Authority.	134 16 W Trepania Road	Hayward	Wisconsin	54843	122,340
Eastern Shoshone Housing Authority.	PO Box 1250	Ft. Washakie	Wyoming	82514	250,000

[FR Doc. E6–16617 Filed 10–6–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1010–PO]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior, Montana, Billings and Miles City Field Offices.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Montana Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held November 15, 2006 in Miles City, MT beginning at 8 a.m. When determined, the meeting place will be announced in a News Release. The public comment

period will begin at approximately 11 a.m. and the meeting will adjourn at approximately 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, Miles City Field Office, 111 Garryowen Road, Miles City, Montana, 59301. Telephone: (406) 233–2831.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Montana.

At this meeting, topics to discuss include:

Field Manager Updates
The Miles City Field Office and Billings Field Office Updates
Subcommittee working sessions
—and other topics the council may raise.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided above.

Dated: October 3, 2006.

Theresa Hanley,

Field Manager.

[FR Doc. E6–16669 Filed 10–6–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on a proposed new collection of information (OMB # 1024–XXXX),

DATES: Public comments will be accepted on or before December 11, 2006.

ADDRESSES: Send comments to: Susan Johnson, National Park Service Air Resources Division, U.S. National Park Service, 12795 W. Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225; phone: (303) 987–6694; e-mail: *Susan_Johnson@nps.gov.*, or fax at 303/969–2822.

FOR FURTHER INFORMATION CONTACT: Megan McBride, National Park Service Social Science Program, 1201 ''Eye'' St., NW., Washington, DC 20016; phone: (202) 513–7190; e-mail: *Megan_McBride@contractor.nps.gov.*, or fax at 202/371–2131.

SUPPLEMENTARY INFORMATION: *Title:* Visibility Valuation in National Parks and Wilderness Areas: Pre-test and Pilot Test.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration Date: To be requested.

Type of Request: New collection.

Description of Need: The Clean Air Act includes provisions designed to maintain and enhance visibility at national parks and wilderness areas (Sections 169A, 169B, and 110(a)(2)(j)). The National Park Service is directed by its Organic Act to ''conserve the scenery * * * unimpaired for the enjoyment of future generations'' (16 U.S.C. a-1); and the Clean Air Act charges the NPS with an ''affirmative responsibility to protect air quality related values (including visibility)'' (42 U.S.C. 7475(d)(2)(B)). Therefore, the NPS believes it is imperative that the value of visibility changes is adequately represented in cost-benefit analyses related to state and federal efforts that may affect visibility (including the Regional Haze Rule, 40 CFR part 51). Although several studies were conducted to estimate visibility benefits in the 1970s and 1980s, methodologies for estimating the benefits of improvements in environmental goods have advanced significantly since that time. Furthermore, baseline visibility conditions in national parks and wilderness areas have changed significantly over the last few decades. As a result, updated estimates of visibility benefits are required.

NPS plans to conduct a nationwide stated-preference survey to estimate the value of visibility changes in national parks and wilderness areas. Stated-preference surveys use carefully designed questions to elicit respondents' willingness to pay for improvements in environmental quality. A general population stated-preference survey is required in this case, as many U.S. citizens may be willing to pay to improve or maintain visibility at national parks and wilderness areas, even if they do not use these areas. Stated-preference surveys are the only methodology available to estimate these non-market-based values. But to ensure that the nationwide survey is unbiased and readily understood by respondents and that the likely effect of non-response on benefit estimates is known, the pre-test and pilot test must first be conducted.

The pre-testing will be done through focus groups, which will be used to develop and refine a survey instrument for the pilot study. Twelve focus groups will be conducted, with approximately 10 participants in each group (120 in total). Thus, a sufficient number of responses will be gathered to evaluate the information presentation, reliability, internal consistency, response variability, and other properties of the draft survey. Results will be used to make improvements to the survey instrument. NPS will proceed iteratively, modifying the draft survey instrument after each focus group to ensure that the wording of the questions is clear and unbiased and effectively addresses the relevant issues.

The pilot study will be designed to account for the potential impact of mail survey non-response on benefit estimates. The pilot study will involve a split-sample comparison between a mail and an in-person survey. Respondents will be asked to complete the survey instrument developed during the pre-testing stage. The results will ultimately be used to adjust the benefit estimates obtained in the nationwide survey for potential non-response bias. The final content of the pilot survey instrument will depend on the pre-testing results. At a minimum, the survey will describe the characteristics of various visibility improvement programs and ask respondents to select a preferred program. The survey will also include socio-demographic questions and questions designed to evaluate the respondents' motivation in selecting a preferred program. Surveys will be conducted with approximately 800 individuals.

For this pilot study, 16 neighborhoods will be selected in two metropolitan areas (Phoenix, AZ and Syracuse, NY). Each neighborhood sample will be split into two groups, with 50 households assigned to a mail survey group and 50 households assigned to an in-person survey group. The in-person survey will be conducted in a manner that minimizes the differences between the two survey modes. NPS specifically requests comments on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the

quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

Automated data collection: No automated data collection will be used in this study.

Description of respondents: Pre-test—adults from Atlanta, GA, Sacramento, CA, and Chicago, IL who are contacted by telephone and agree to participate in focus groups in those cities. Pilot test—adult residents of 16 neighborhoods in Phoenix, AZ and Syracuse, NY who live in owner-occupied homes.

Estimated average number of respondents: 920 (120 for focus groups; 800 for pilot survey).

Estimated average number of responses: 920 (120 for focus groups; 800 for pilot survey).

Estimated average burden hours per response: 2.5 hours for focus group respondents, ⅓ hour for pilot survey respondents.

Frequency of response: 1 time per respondent.

Estimated annual reporting burden: 567 hours.

Dated: September 27, 2006.

Leonard E. Stowe,

NPS, Information Collection Clearance Officer.

[FR Doc. 06–8564 Filed 10–6–06; 8:45 am]

BILLING CODE 4312–52–M0

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Final Environmental Impact Statement for the General Management Plan, Abraham Lincoln Birthplace National Historic Site

SUMMARY: The National Park Service (NPS) announces the availability of the Final Environmental Impact Statement (FEIS) for the General Management Plan (GMP) for Abraham Lincoln Birthplace National Historic Site, Kentucky. This document will be available for public review pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and NPS policy in Director's Order Number 2 (Park Planning) and Director's Order Number 12 (Conservation Planning, Environmental Impact Analysis, and Decision-making). The authority for publishing this notice is 40 CFR 1506.6.

The document provides a framework for management, use, and development of the historic site by the NPS for the next 15 to 20 years. The document describes four management alternatives, including a No-Action Alternative and the NPS's preferred alternative. The anticipated environmental impacts of those alternatives are also analyzed. Public comment on the draft plan was considered when preparing the final.

DATES: The NPS will execute a Record of Decision no sooner than 30 days following the Environmental Protection Agency's notice in the **Federal Register**.

ADDRESSES: Copies of the FEIS and GMP are available from the Superintendent, Abraham Lincoln Birthplace National Historic Site, 2995 Lincoln Farm Road, Hodgenville, Kentucky 42748–9707; telephone: 270–358–3137. An electronic copy of the document is available on the Internet at *http://parkplanning.nps.gov/*.

FOR FURTHER INFORMATION CONTACT: The Superintendent, Abraham Lincoln National Historic Site, at the address and telephone number shown above, Matthew Safford at 303–969–2898, or Amy Wirsching at 404–562–3124, extension 607.

The responsible official for the FEIS is Patricia A. Hooks, Regional Director, Southeast Region, National Park Service, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: August 28, 2006.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. E6–16686 Filed 10–6–06; 8:45 am]

BILLING CODE 4310–5C–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement for General Management Plan; Olympic National Park; Notice of Extension of Public Comment Period

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Draft Environmental Impact Statement (DEIS), which will serve as the ''blueprint'' to guide management, research, and other activities in Olympic National Park, Washington, during the next 15–20 years. The park's Notice of Availability of the DEIS was published in the **Federal Register** on July 14, 2006, with the original public review period set to conclude on September 15, 2006. In response to public interest expressed to date and with regard for the timing of the original release, the public review period has been extended two additional weeks.

SUPPLEMENTARY INFORMATION: Interested individuals, organizations, and agencies are encouraged to provide written comments—to be considered any response must now be postmarked or transmitted no later than September 30, 2006. Persons wishing to comment may do so by one of several ways. Responses are encouraged online using the electronic comment form accessed at the NPS Park Planning website (*http://parkplanning.nps.gov*), or by e-mail to *olym_gmp@nps.gov*. Written comments can be mailed to Olympic National Park General Management Plan, National Park Service, Denver Service Center, P.O. Box 25287, Denver, Colorado 80225; or faxed to (303) 969–2736. Comments may be hand delivered during normal business hours to the headquarters office of Olympic National Park located at 600 East Park Avenue, Port Angeles, WA 98362. To obtain a copy of the DEIS please contact the park at the address noted above, or via telephone at (360) 565–3004.

Our practice is to make comments, including names, home addresses, home phone numbers, and email addresses of respondents, available for public review. Individual respondents may request that we withhold their names and/or home addresses, *etc.,* but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 24, 2006.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. E6–16664 Filed 10–6–06; 8:45 am]

BILLING CODE 4312–KY–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability for the Record of Decision on the Final Environmental Impact Statement and General Management Plan, Pea Ridge National Military Park, AR

AGENCY: National Park Service, Department of the Interior.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of the Record of Decision (ROD) on the final General Management Plan and Environmental Impact Statement (GMP/EIS), Pea Ridge National Military Park, Arkansas (Park). The NPS will implement the preferred alternative, Alternative 4, as described in the final GMP/EIS issued in August. The GMP sets forth a management philosophy for the Park and ensures the Park has a clearly defined direction for resource preservation and visitor use.

Under the selected action, visitors will have the opportunity to choose from the widest range of experiences available at the Park. Visitors will have opportunities to immerse themselves in Park resources associated with key battle areas and gain an understanding of the history of the Pea Ridge battle. Visitors will have many choices in the type, intensity, and duration of their experiences, guided by a variety of interpretive programs and media.

The preferred alternative (Alternative 4) best accomplishes protection of Park resources and maintenance of a wide range of quality visitor experiences. The preferred alternative will have positive impacts on the Park's natural resources related to the rehabilitation of the landscape to its 1862 appearance. The new management zones help ensure that visitors will have numerous and varied opportunities for understanding and appreciating the significance of the history of the Battle of Pea Ridge.

Four areas will be added to the Park under the selected action. The added lands will be feasible to administer by the NPS. There are no viable alternatives for adequate management and resource protection. The NPS will first consider alternate methods such as easements, right of way, or cooperative approaches that do not involve Federal acquisition of any interest in real property.

The ROD includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, the rationale for why the selected action is the environmentally preferred alternative, a finding of no impairment of site resources and values, and an overview of public involvement in the decisionmaking process.

FOR FURTHER INFORMATION CONTACT: Superintendent at Pea Ridge National Military Park, 15930 Highway 62, Garfield, Arkansas 72732. The document can be found on the World Wide Web at: *http://parkplanning.nps.gov/*.

Dated: September 5, 2006.

Ernest Quintana,

Regional Director, Midwest Region.

[FR Doc. E6–16688 Filed 10–6–06; 8:45 am]

BILLING CODE 4312–BX–P

DEPARTMENT OF THE INTERIOR

National Park Service

Plan of Operations, Categorical Exclusion, Big Thicket National Preserve, TX

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of a Plan of Operations and Categorical Exclusion for a 30-day public review at Big Thicket National Preserve.

SUMMARY: Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations, part 9, subpart B, that the National Park Service (NPS) has received from Cimarex Energy Co., a Plan of Operations to conduct the Sour Lake 3–D ''Cable-Only'' Seismic Survey within the Lance Rosier and Little Pine Island-Pine Island Bayou Corridor Units of Big Thicket National Preserve, in Hardin County, Texas. The NPS has prepared a Categorical Exclusion on this proposal.

DATES: The above documents are available for public review and comment through November 9, 2006.

ADDRESSES: The Plan of Operations and Categorical Exclusion are available for public review and comment at *http://parkplanning.nps.gov*, and in the Office of the Superintendent, Todd Brindle, Big Thicket National Preserve, 6044 FM 420, Kountze, Texas 77625. Copies of the Plan of Operations and Categorical Exclusion are available upon request from the contact listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Haigler ''Dusty'' Pate, Oil and Gas Program Manager, Big Thicket National Preserve, 6044 FM 420, Kountze, Texas 77625, Telephone: 409 951–6822, e-mail at *Haigler_Pate@nps.gov*.

SUPPLEMENTARY INFORMATION: If you wish to comment on the Plan of Operations and Categorical Exclusion, you may mail comments to the name and address above or post comments online at *http://parkplanning.nps.gov/*. The documents will be on public review for 30 days. Our practice is to make comments, including names, home addresses, home phone numbers, and e-mail addresses of respondents, available for public review. Individual respondents may request that we withhold their names and/or home addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 1, 2006.

Michael D. Snyder,

Director, Intermountain Region, National Park Service.

[FR Doc. E6–16689 Filed 10–6–06; 8:45 am]

BILLING CODE 4312–CB–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Third Public Meeting for Reclamation's Managing for Excellence Project

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of a public meeting and announcement of subsequent meetings to be held.

SUMMARY: The Bureau of Reclamation is holding a meeting to inform the public about the Managing for Excellence project. This meeting is the third of three previously noticed meetings to be held in 2006 to inform the public about the action items, progress, and results of the Managing for Excellence project and to seek broad feedback. Subsequent meetings will be held in 2007.

DATES: November 13, 2006, 1 p.m. to 6 p.m., and November 14, 2006, 8 a.m. to 5 p.m.

ADDRESSES: Doubletree Hotel Sacramento, 2001 Point West Way, Sacramento, California 95815, Garden and Terrace Rooms.

FOR FURTHER INFORMATION CONTACT: Miguel Rocha (303) 445–2841.

SUPPLEMENTARY INFORMATION: The Managing for Excellence Project will identify and address the specific 21st Century challenges Reclamation must meet to fulfill its mission to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. This project will examine Reclamation's core capabilities and the agency's ability to respond to both expected and unforeseeable future needs in an innovative and timely manner. This project will result in essential changes in a number of key areas, which are outlined in, Managing for Excellence—An Action Plan for the 21st Century Bureau of Reclamation. For more information regarding the Project, Action Plan, and specific actions being taken, please visit the Managing for Excellence Web page at *http://www.usbr.gov/excellence.*

Registration

Although you may register the first day of the conference starting at 10 a.m., we highly encourage you to register online at *http://www.usbr.gov/excellence,* or by phone at 303–445–2808.

Dated: September 27, 2006.

Brenda W. Burman,

Deputy Commissioner—External and Intergovernmental Affairs.

[FR Doc. 06–8539 Filed 10–6–06; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0220]

Bureau of Justice Assistance; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review; extension of currently approved collection.

Bureau of Justice Assistance Application Form: *Public Safety Officers Educational Assistance.*

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted for ''sixty days'' until December 11, 2006. If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact M. Pressley 1–866–859–2687, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the 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.

Overview of this information collection:

(1) *Type of information collection:* Extension of currently approved collection.

(2) *The title of the form/collection:* Public Safety Officers Educational Assistance.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Dependents of public safety officers who were killed or permanently and totally disabled in the line of duty.

Abstract: BJA's Public Safety Officers' Benefits (PSOB) division will use the PSOEA Application information to confirm the eligibility of applicants to receive PSOEA benefits. Eligibility is dependent on several factors, including the applicant having received or being eligible to receive a portion of the PSOB Death Benefit, or having a family member who received the PSOB Disability Benefit. Also considered are the applicant's age and the schools being attended. In addition, information to help BJA identify an individual is collected, such as Social Security number and contact numbers and e-mail addresses. The changes to the application form have been made in an effort to streamline the application process and eliminate requests for information that is either irrelevant or already being collected by other means.

Others: None.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond is as follows:* It is estimated that no more than 78 respondents will apply a year. Each application takes approximately 20 minutes to complete.

(6) *An estimate of the total public burden (in hours) associated with the collection is 26 hours. Total Annual Reporting Burden:* 78 × 20 minutes per application = 1560 minutes ÷ by 60 minutes per hour = 26 hours.

If additional information is required, please contact, Lynn Bryant, Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 3, 2006.

Lynn Bryant,

Clearance Officer, Justice Management Division, United States Department of Justice.

[FR Doc. E6–16623 Filed 10–6–06; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

October 2, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Ira Mills at the Department of Labor on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov.* This ICR can also be accessed online at *http://*

www.doleta.gov/OMBCN/OMBControlNumber.cfm.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

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 (ETA).

Type of Review: Revision of a currently approved collection.

Title: Financial and Program Reporting and Performance Standards System for Indian and Native American Programs Under Title I, Section 166 of the Workforce Investment Act (WIA).

OMB Number: 1205–0422.

Frequency: Quarterly.

Affected Public: State, Local or Tribal Government; not-for-profit institutions.

Type of Response: Recordkeeping and reporting.

Number of Respondents: 142.

Annual Responses: 20,197.

Average Response Time: 14 hours.

Total Annual Burden Hours: 83,510.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: This collection of information relates to the operation of employment and training programs for Indian and Native Americans under title I, Section 166 of the WIA. It also contains the basis of the new performance standards system for WIA section 166 grantees, which is used for program oversight, evaluation and performance assessment. Respondents are states and not-for-profit institutions.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–16633 Filed 10–6–06; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 9, 2006. (Note that the new time period for requesting copies has changed from 45 to 30 days after publication.) Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means: *Mail*: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001. *E-mail: request schedule@nara.gov*. Fax: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records

schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending (Note that the new time period for requesting copies has changed from 45 to 30 days after publication):

1. Department of the Army, Agency-wide (N1–AU–06–11, 1 item, 1 temporary item). Records relating to the counseling of military personnel on the care of dependent family members while fulfilling military assignments. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of Defense, Defense Intelligence Agency (N1–373–06–1, 2 items, 1 temporary item). Records of the Office of the Chief of Staff, consisting of agreements with external organizations detailing temporary assignments of agency personnel. Proposed for permanent retention are recordkeeping copies of agreements covering substantive provisions of services, products, or personnel to other organizations.

3. Department of Defense, National Reconnaissance Office (N1–525–06–4, 5 items, 3 temporary items). Records of the Office of the Inspector General including routine investigative case files that lack historical value, audit files, and copies of inspections, investigations, and audits held by other offices. Proposed for permanent retention are recordkeeping copies of general operating files and significant investigative and inspection files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

4. Department of Defense, National Security Agency (N1–457–06–1, 7 items, 3 temporary items). Raw data, procedural records, and collaboration and exchange records relating to signals intelligence. Proposed for permanent retention are recordkeeping copies of products, operational analysis, technical reports, and technical support documents. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of Defense, National Security Agency (N1–457–06–2, 9 items, 3 temporary items). Test and evaluation records and data that is duplicate, routine, or patent-related. Proposed for permanent retention are recordkeeping copies of research project case files and reports, data relating to accomplishments of continuing value, and various cryptologic mathematics files. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of Health and Human Services, Administration on Aging (N1–439–06–1, 3 items, 2 temporary items). Records of the Office of the Executive Secretariat including comments on statements of departmental policy relating to aging issues, grants-related records, responses to audits, draft documents submitted to other offices or agencies, and duplicate or working copies of the Assistant Secretary's speeches, policy interpretations of the Older Americans Act, and other records signed by the Assistant Secretary. Proposed for permanent retention are recordkeeping copies of the Assistant Secretary's speeches, policy interpretations of the Older Americans Act, and other documents of a substantive nature signed by the Assistant Secretary.

7. Department of Health and Human Services, Administration on Aging (N1–439–06–2, 8 items, 6 temporary items). Files maintained by the Assistant Secretary such as telephone logs, invitations and scheduling requests, reading files, and duplicate or working copies of meeting and activities files. Proposed for permanent retention are recordkeeping copies of meeting and activities files, and handwritten notes relating to agency policy.

8. Department of Homeland Security, U.S. Coast Guard (N1–26–06–6, 3 items, 3 temporary items). Records relating to the content of a Web portal which is used to verify personnel data relating to maritime workers, identify persons in need of assistance during disasters, and regulate portal use.

9. Department of the Interior, Minerals Management Service (N1–473–06–3, 2 items, 2 temporary items). Records created by the Offshore Minerals Management Program including the official record set and reference copies of files that document the operational transactions involved in well drilling. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

10. Department of Justice, Federal Bureau of Investigation (N1–65–06–6, 3 items, 3 temporary items). Inputs, master files, and system documentation associated with electronic information systems used by the agency laboratory to analyze evidence. For all items on this schedule except the master files, the agency is authorized to apply the proposed disposition instructions to any recordkeeping medium.

11. Department of Labor, Employment and Training Administration (N1–369–06–1, 14 items, 10 temporary items). Records maintained by the Office of Apprenticeship including program case files, occupation case files, and comments on regulatory proposals appearing in the **Federal Register** relating to Federal apprenticeship programs. Proposed for permanent retention are recordkeeping copies of National Guideline Standards case files, and bulletins and circulars.

12. Department of the Treasury, Office of the Comptroller of the Currency (N1–101–06–1, 3 items, 3 temporary items). Master files and documentation associated with an electronic information system used to maintain and track customer complaints and inquiries relating to national banks. Also included is an electronic database containing recordings of phone conversations with customers. For all items on this schedule except the master files, the agency is authorized to apply the proposed disposition instructions to any recordkeeping medium.

13. National Archives and Records Administration, Government-wide (N1–GRS–06–1, 8 items, 8 temporary items). Change to General Records Schedule 1, Civilian Personnel Records, to add inputs, master files, outputs, and documentation associated with an electronic information system for maintaining civilian personnel records.

14. National Endowment for the Arts, Office of Inspector General (N1–288–06–1, 7 items, 6 temporary items). Audit records that include audit and other review case files, records relating to the review of legislation, regulations, and indirect cost rate proposals, and guidelines for grantee reporting requirements. Proposed for permanent retention are recordkeeping copies of strategic planning activity files and oversight reporting.

Dated: October 3, 2006.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E6–16642 Filed 10–6–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel—Notice of Change

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92–463), as amended, notice is hereby given that, to accommodate scheduling issues, there has been a change in the times of the open sessions for two meetings of the Arts Advisory Panel to the National Council on the Arts, as follows:

Learning in the Arts (application review): October 10–13, 2006 in Room 716. The open session for this meeting was previously announced as 4:15 p.m. to 5 p.m. on October 13th. The open session will, instead, be held from 1 p.m. to 1:45 p.m.

Learning in the Arts (application review): October 26–27, 2006 in Room 716. The open session for this meeting was previously announced as 5:30 p.m. to 6 p.m. on October 27th. The open session will, instead, be held from 2:30 p.m. to 3 p.m.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 3, 2006.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E6–16639 Filed 10–6–06; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that 10 meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending times are approximate):

National Initiatives/The Big Read (application review): October 25, 2006 by teleconference. This meeting, from 2 p.m. to 4 p.m., will be closed.

Presenting (application review): October 30–31, 2006 in Room 716. This meeting, from 9 a.m. to 6 p.m. on October 30th and from 9 a.m. to 4 p.m. on October 31st, will be closed.

Presenting (application review): November 1–3, 2006 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on November 1st and 2nd, and from 9 a.m. to 3:45 p.m. on November 3rd, will be closed.

Media Arts (application review): November 1–3, 2006 in Room 730. This meeting, from 9 a.m. to 5:30 p.m. on November 1st, from 9 a.m. to 6 p.m. on November 2nd, and from 9 a.m. to 3 p.m. on November 3rd, will be closed.

Musical Theater (application review): November 2–3, 2006 in Room 714. This meeting, from 9 a.m. to 6 p.m. on November 2nd and from 9 a.m. to 5 p.m. on November 3rd, will be closed.

Music (application review): November 13–15, 2006 in Room 714. This meeting, from 9 a.m. to 6 p.m. on November 13th and 14th, and from 9 a.m. to 2:30 p.m. on November 15th, will be closed.

Local Arts Agencies (application review): November 14–15, 2006 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on November 14th and from 9 a.m. to 12 p.m. on November 15th, will be closed.

Learning in the Arts (application review): November 20–21, 2006 in Room 716. A portion of this meeting, from 1:30 p.m. to 2:15 p.m. on November 21st, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on November 20th and from 9 a.m. to 1:30 p.m. and from 2:15 p.m. to 3 p.m. on November 21st, will be closed.

Visual Arts (application review): November 28–December 1, 2006 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on November 28–30 and from 9 a.m. to 2 p.m. on December 1st, will be closed.

AccessAbility/Universal Design (application review): November 30, 2006 by teleconference. This meeting, from 2 p.m. to 4 p.m., will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 3, 2006

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E6–16640 Filed 10–6–06; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of membership of the National Science Foundation's Senior Executive Service Performance Review Board.

SUMMARY: This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESSES: Comments should be addressed to Director, Division of Human Resource Management, National Science Foundation, Room 315, 4201 Wilson Boulevard, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph F. Burt at the above address or (703) 292–8180.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows:

Kathie L. Olsen, Deputy Director, Chairperson.
Anthony A. Arnolie, Director, Office of Information and Resource Management and Chief Human Capital Officer.
Richard A. Behnke, Head, Upper Atmosphere Research Section.
Deborah L. Crawford, Deputy Assistant Director for Computer and Information Science and Engineering.
Penelope L. Firth, Deputy Director, Division of Environmental Biology.
Nathaniel Pitts, Director, Office of Integrative Activities.
Thomas A. Weber, Director, Office of International Science and Engineering.

Dated: October 3, 2006.

Joseph F. Burt,

Director, Division of Human Resource Management.

[FR Doc. 06–8540 Filed 10–06–06; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–06652]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 47–00260–02, for the Unrestricted Release of Building B–747 and an Associated Storage Shed Located at the Union Carbide Corporation Site in South Charleston, WV

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for license amendment.

FOR FURTHER INFORMATION CONTACT: Betsy Ullrich, Senior Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, (610) 337–5040; fax number (610) 337–5269; or by e-mail: *exu@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 47–00260–02. This license is held by Union Carbide Corporation (the Licensee), located at 3200 Kanawha Turnpike in South Charleston, West Virginia. Issuance of the amendment would authorize release of Building B–747 and an associated storage shed (together identified herein as the Facility) at the South Charleston site for unrestricted use. The Licensee requested this action in a letter dated August 3, 2006. 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 August 3, 3006, license amendment request, resulting in release of the Facility for unrestricted use. License No. 47–00260–02 was issued on August 15, 1956, pursuant to 10 CFR part 30, and has been amended periodically since that time. This license authorized the Licensee to use unsealed hydrogen-3 (tritium) and carbon-14, and various sealed sources, for purposes of conducting research and development activities on laboratory bench tops and in hoods.

The Facility is situated on 600 acres and is surrounded by multiple buildings containing office space and laboratories. The Facility is located in a commercial area. Use of licensed materials occurred throughout the Facility, an area totaling 1,536 square feet.

In 2001, the Licensee ceased licensed activities within the Facility and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in subpart E of 10 CFR part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities in the Facility and seeks the unrestricted use of the 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 unsealed radionuclides with half-lives greater than 120 days: tritium and carbon-14. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey on July 27, 2006. The final status survey report was attached to the Licensee's amendment request dated August 3, 2006. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in subpart E of 10 CFR part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey

report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Although the Licensee will continue to perform licensed activities at other areas of the South Charleston site, the Licensee must ensure that this decommissioned area does not become recontaminated. Before the license can be terminated, the Licensee will be required to show that its entire site, including previously-released areas, complies with the radiological criteria in 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this EA to the State of West Virginia for review on August 28, 2006. On September 15, 2006, the State of West Virginia Radiological Health program responded by electronic mail. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. Letters dated August 3, 2006 [ML062220617], June 19, 2006 [ML061720331], and January 27, 2006 [ML060320507].
2. Facsimile dated January 31, 2006 [ML060320519].
3. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance.''
4. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination.''
5. Title 10, Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''
6. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities.''

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 475 Allendale Road, King of Prussia, Pennsylvania this 29th day of September 2006.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E6–16647 Filed 10–6–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 15, 2006, to September 28, 2006. The last biweekly notice was published on September 26, 2006 (71 FR 56189).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration.

Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the

Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: May 30, 2006.

Description of amendment request: The proposed amendment would revise technical specification (TS) Definitions 1.14, ''LEAKAGE'', and 1.16, ''PRESSURE BOUNDARY LEAKAGE''; revise TS 3/4.6.2, ''Reactor Coolant System Operational Leakage''; add a new TS 3/4.4.5, ''Steam Generator (SG) Tube Integrity;'' add a new TS 6.8.4.g, ''Steam Generator (SG) Program;'' and add a new TS 6.9.1.12, ''Steam Generator Tube Inspection Report''; as well as administrative and editorial changes. These changes are consistent with the NRC-approved Revision 4 to TS Task Force (TSTF) Standard TS change traveler, TSTF–449, ''Steam Generator Tube Integrity.'' The proposed changes are necessary in order to implement the guidance for the industry initiative on Nuclear Energy Institute (NEI) 97–06, ''Steam Generator Program Guidelines.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on March 2, 2005 (70 FR 10298), on possible amendments concerning TSTF–449, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 6, 2005 (70 FR 24126). The licensee affirmed the applicability of the following NSHC determination in its application dated May 30, 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change requires a SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A[n] SGTR [SG tube rupture] event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of a[n] SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed.

For other design basis accidents such as [an] MSLB [main steam line break], rod ejection, and reactor coolant pump locked rotor[,] the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs is 1 gallon per minute or increases to 1 gallon per minute as a result of accident induced stresses. The accident induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design basis accidents. The accident induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change[s] to the TS[s] to identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design basis accident. The performance criteria are only a part of the SG Program required by the proposed change[s] to the TS[s]. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design basis accidents are, in part, functions of the DOSE EQUIVALENT 1[I]–131 in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT 1[I]–131 in primary coolant to ensure the plant is operated within its analyzed condition. The typical analysis of the limiting design basis accident assumes that primary to secondary leak rate after the accident is 1 gallon per minute with no more than [500 gallons per day or 720 gallons per day] in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT 1[I]–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of a[n] SGTR accident and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB, rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed performance based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce

any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the [a] Margin of Safety

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TSs.

For the above reasons, the margin of safety is not changed and overall plant safety will be enhanced by the proposed change to the TS.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop A–GO–18, 76 South Main Street, Akron, OH 44308.

NRC Branch Chief: Daniel S. Collins.

Tennessee Valley Authority (TVA), Docket No. 50–259 , Browns Ferry Nuclear Plant (BFN), Unit 1, Limestone County, Alabama

Date of amendment request: September 22, 2006 (TS–431).

Description of amendment request: The proposed amendment supplements a June 28, 2004, request to increase the licensed thermal power from 3293 megawatt thermal (MWt) to 3952 MWt, an approximate 20 percent increase in thermal power. This supplement requests interim approval of an increase in licensed thermal power from 3293 MWt to 3458 MWt with an attendant 30-psi increase in reactor pressure. This represents an approximate 5 percent increase above the original licensed thermal power (OLTP) of 3293 MWt. An interim approval would provide for operation at 105 percent power until such time as certain steam dryer analyses can be completed. The NRC staff's review of the remainder of the June 2004 application would resume upon receipt of the satisfactorily completed steam dryer analyses.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The probability (frequency of occurrence) of Design Basis Accidents occurring is not affected by the increased power level, because BFN Unit 1 continues to comply with the regulatory and design basis criteria established for plant equipment. An evaluation of the Boiling Water Reactor probabilistic risk assessments concludes that the calculated core damage frequency does not significantly change due to operation at 105% OLTP.

Scram setpoints (equipment settings that initiate automatic plant shutdowns) are established such that there is no significant increase in scram frequency due to operation at 105% OLTP. No new challenges to safety-related equipment result from operation at 105% OLTP.

The probability of Design Basis Accidents occurring is not affected by taking credit for containment overpressure in ensuring adequate NPSH [Net Positive Suction Head] for the BFN Unit 1 low pressure ECCS pumps. NRC Bulletin 96–03 requested that BWR [Boiling-Water Reactors] owners implement appropriate measures to minimize the potential clogging of the Emergency Core Cooling System (ECCS) suppression chamber strainers by potential debris generated by a LOCA [loss-of-coolant accident]. TVA installed new, high-capacity passive strainers on BFN Unit 1 of the same design as BFN Units 2 and 3. In addition, TVA's proposed resolution of NRC Bulletin 96–03 for BFN Unit 1 takes credit for containment overpressure to maintain adequate ECCS pump Net Positive Suction Head (NPSH). Containment pressure will increase following a pipe break occurring inside containment. Crediting containment overpressure in the analysis of the consequences of the Loss of Coolant Accident (LOCA) does not affect the precursors for the LOCA, nor does it affect the precursors for any other accident or transient analyzed in Chapter 14 of the BFN Updated Final Safety Analysis Report (UFSAR). Therefore, there is no increase in the probability of any accident previously evaluated.

The changes in consequences of hypothetical accidents, which would occur from 102% of the stretch power uprate reactor thermal power compared to those previously evaluated, are in all cases insignificant. The stretch power uprate accident evaluations do not exceed any of their NRC-approved acceptance limits. The spectrum of hypothetical accidents and transients has been investigated, and are shown to meet the plant's currently licensed regulatory criteria. In the area of core design, for example, the fuel operating limits such as Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) and Safety Limit Minimum Critical Power Ratio (SLMCPR) are still met, and fuel reload analyses will show plant transients meet the criteria accepted by the NRC. Challenges to fuel (ECCS performance) are evaluated, and shown to continue to meet the criteria of 10 CFR 50.46.

Challenges to the containment have been evaluated at the increased power level, and the containment and its associated cooling systems continue to meet the design and licensing criteria. Radiological release events (accidents) have been evaluated at the increased power level, and shown to be less than the limits of 10 CFR 50.67.

The radiological consequences of the design basis accident are not increased by taking credit for the post-LOCA suppression chamber airspace pressure. The containment will continue to function as designed. This proposed change only takes credit for containment pressure that would exist following a LOCA. Crediting this pressure in ensuring adequate ECCS NPSH will not result in an increase in containment leakage assumed in any analysis.

Therefore, the proposed amendment does not result in a significant increase in consequences or a significant increase in the probability or consequences of any accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Equipment that could be affected by operation at 105% OLTP has been evaluated. No new operating mode, safety-related equipment lineup, accident scenario or equipment failure mode was identified. The full spectrum of accident considerations has been evaluated and no new or different kind of accident has been identified. Operation at 105% OLTP uses developed technology, and applies it within the capabilities of existing plant safety related equipment in accordance with the regulatory criteria, including NRC approved codes, standards and methods. No new power dependent accidents have been identified.

The BFN Unit 1 TS [Technical Specifications] require revision to implement

operation at 105% OLTP. All revisions have been assessed, and it has been determined that the proposed change will not introduce a different accident than that previously evaluated.

The proposed use of the post-LOCA suppression chamber airspace pressure in the calculation of NPSH for the ECCS pumps does not introduce any new modes of plant operation or make physical changes to plant systems. Rather, the post-LOCA suppression chamber airspace pressure is a consequence of the conditions that would exist in the containment following a large pipe break inside containment. The proposed amendment does not introduce new equipment which could create a new or different kind of accident. No new external threats, release pathways, or equipment failure modes are created.

Therefore, the change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The calculated loads on all affected structures, systems and components will remain within their design allowables for all design basis event categories. No NRC acceptance criterion is exceeded. Because the BFN Unit 1 configuration and reactions to transients and hypothetical accidents does not result in exceeding the presently approved NRC acceptance limits, operation at 105% OLTP does not involve a significant reduction in a margin of safety.

The post-LOCA suppression chamber airspace pressure is a byproduct of the conditions that will exist in the containment after a line break inside containment. Conservative analyses have been performed that demonstrate that sufficient post-accident suppression chamber airspace pressure will be available to meet the NPSH requirements for the low pressure ECCS pumps. By enabling credit of these conditions for the low pressure ECCS pumps, adequate NPSH margin will be ensured, and accordingly, the ECCS pumps will meet their performance requirements. Therefore, the credit for containment overpressure does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Branch Chief: L. Raghavan.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 2, 2005.

Brief description of amendment: The amendment revised the Oyster Creek Nuclear Generating Station Technical Specifications (TSs) to increase the allowable as-found main steam safety valve code safety function lift setpoint tolerance from ±1% to ±3%.

Date of Issuance: September 13, 2006.

Effective date: As of the date of Issuance to be implemented within 60 days.

Amendment No.: 261.

Facility Operating License No. DPR–16: The amendment revised the TSs.

Date of initial notice in ***Federal Register:*** January 17, 2006 (71 FR 2588).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 13, 2006.

No significant hazards consideration comments received: No.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: June 7, 2005, as supplemented on May 12, 2006.

Brief description of amendments: The amendments revise the Technical Specifications (TSs) to eliminate the use of the defined term Core Alterations. The amendments incorporate the changes reflected in TS Task Force (TSTF) Travelers 471-T (TSTF–471-T), ''Eliminate use of term CORE ALTERATIONS in ACTIONS and Notes,'' and TSTF–51-A, ''Revise containment requirements during handling irradiated fuel and core alterations.'' In addition, the amendments revise TS 3.9.2, ''Nuclear Instrumentation,'' by replacing ''Core Alterations'' with ''positive reactivity additions'' in the Required Action for an inoperable source range monitor during refueling operations. The limiting conditions for operation in TS 3.9.4, ''Shutdown Cooling (SDC) and Coolant Recirculation—High Water Level,'' are also revised by replacing ''core alterations'' with ''movement of fuel assemblies within containment.''

Date of issuance: September 21, 2006

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment Nos.: 279 and 256.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** July 5, 2005 (70 FR 38716).

The May 12, 2006, letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated September 21, 2006.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: March 3, 2005, as supplemented by letter dated July 6, 2006.

Brief description of amendment: The amendment revises the requirements of Technical Specification (TS) 5.6.5, ''Core Operating Limits Report (COLR).''

Date of issuance: September 20, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No. 209.

Renewed Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 24, 2005 (70 FR 29787). The supplemental letter provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 2006.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: August 20, 2004, as supplemented by letters dated June 22, 2005, June 26, 2006, and September 18, 2006.

Brief description of amendment: The amendment revises Table 3.3.1–1, Functions 3, 14, 17.a., 20, and the footnote related to Function 20.

Date of issuance: September 22, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No. 210.

Renewed Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 23, 2004 (69 FR 68182). The letters dated June 22, 2005, June 26, 2006, and September 18, 2006, provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 2006.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: May 27, 2004, as supplemented September 27, 2004, October 20, 2004, March 23, 2005, January 30, 2006 and May 25, 2006.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) to incorporate a full-scope application of an alternate source term methodology in accordance with 10 CFR 50.67.

Date of issuance: September 15, 2006.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 232.

Facility Operating License No. NPF–49: The amendment revised the TSs.

Date of initial notice in ***Federal Register:*** September 14, 2004 (69 FR 55468). The supplements contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 15, 2006.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: September 13, 2005, as supplemented by letters dated June 13 and August 14, 2006.

Brief description of amendment: The amendment revised the Technical Specification (TS) surveillance requirements for the recirculation spray system.

Date of issuance: September 20, 2006.

Effective date: As of the date of issuance and shall be implemented prior to entering Mode 1 following refueling outage 3R11.

Amendment No.: 233.

Facility Operating License No. NPF–49: The amendment revised the TSs.

Date of initial notice in ***Federal Register:*** October 25, 2005 (70 FR 61657). The supplements dated June 13 and August 14, 2006, provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the application beyond the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 2006.

No significant hazards consideration comments received: No.

Duke Power Company LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: June 29, 2005, as supplemented May 1, 2006, and September 8, 2006.

Brief description of amendments: The amendments requested authorization to revise the Updated Final Safety Analysis Report and the emergency operating procedures to allow an additional operator action to manually start one containment air return fan in the air return system in response to Nuclear Regulatory Commission Bulletin 2003–01, ''Potential Impact of Debris Blockage on Emergency Sump Recirculation at Pressurized-Water Reactors,'' June 6, 2003.

Date of issuance: September 25, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 231 and 227.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the licenses.

Date of initial notice in ***Federal Register:*** October 25, 2005 (70 FR 61657).

The supplement dated May 1, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 2006.

No significant hazards consideration comments received: No.

Duke Power Company LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: July 25, 2005, as supplemented July 28, 2005, and August 1, 2005.

Brief description of amendments: The amendments revised the Technical

Specifications temperature limit for the standby nuclear service water pond from 91.5 °F to 95 °F.

Date of issuance: September 25, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance September 25, 2006.

Amendment Nos.: 232 and 228.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** August 4, 2005 (70 FR 44946).

The supplements dated July 28, 2005, and August 1, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 2006.

No significant hazards consideration comments received: No.

Duke Power Company LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: September 13, 2005, as supplemented March 20, 2006.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) to correct a nonconservative TS associated with spent fuel storage in the spent fuel pool. The licensee identified the nonconservative TS while comparing results from spent fuel pool criticality codes.

Date of issuance: September 27, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance September 27, 2006.

Amendment Nos.: 233 and 229.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the license and the technical specifications.

Date of initial notice in ***Federal Register:*** November 21, 2005 (70 FR 70104). The supplement dated March 20, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission (NRC) staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 27, 2006.

No significant hazards consideration comments received: No.

Duke Power Company LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: June 29, 2005, as supplemented May 1, 2006.

Brief description of amendments: The amendments requested authorization to revise the Updated Final Safety Analysis Report and the emergency operating procedures to allow an additional operator action to manually start one containment air return fan in the air return system in response to Nuclear Regulatory Commission Bulletin 2003–01, ''Potential Impact of Debris Blockage on Emergency Sump Recirculation at Pressurized-Water Reactors,'' June 6, 2003.

Date of issuance: September 25, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 234 and 216.

Renewed Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the licenses.

Date of initial notice in ***Federal Register:*** October 25, 2005 (70 FR 61657).

The supplement dated May 1, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 2006.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: June 29, 2005, as supplemented by letter dated May 18, 2006.

Brief description of amendment: By letter dated June 29, 2005, Entergy Operations, Inc., the licensee for Arkansas Nuclear One, Unit 2 (ANO–2), requested a license amendment to relocate the shutdown cooling (SDC) open permissive interlock (OPI) license condition from the operating license to the licensee's technical requirements manual. The license condition to maintain OPI operability was previously accepted by the NRC staff in a letter to the licensee, dated March 30, 2005, and incorporated into ANO–2's operating license. The OPI prevents the two SDC suction isolation valves from opening above a selected set point to separate the high-pressure reactor coolant system from the low-pressure SDC system.

Date of issuance: September 13, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 267.

Renewed Facility Operating License No. NPF–6: Amendment revised the Facility Operating License.

Date of initial notice in ***Federal Register:*** December 6, 2005 (70 FR 72671). The supplement dated May 18, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 13, 2006.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: December 14, 2004, revised by letter dated August 30, 2006.

Brief description of amendment: The Technical Specification amendment relocates structural integrity requirements to the Final Safety Analysis Report.

Date of issuance: September 14, 2006.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 224.

Facility Operating License No. DPR–35: The amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** March 1, 2005 (70 FR 9991).

The licensee originally requested for additional TS relocations in their submittal dated December 14, 2004. The NRC staff found these unacceptable. Therefore, the licensee revised the original application by letter dated August 30, 2006, reducing the scope of the application as originally noticed. Hence, there is no change to the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated September 14, 2006.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 2, 2005, supplemented by letter dated June 14, 2006.

Brief description of amendment: The amendment revised the Technical Specification (TS) reactor coolant system leakage detection instrumentation requirements and actions.

Date of issuance: September 20, 2006.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 225.

Facility Operating License No. DPR–35: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 23, 2006 (71 FR 29676). The supplement dated June 14, 2006, provided additional information that did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 2006.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit No. 2, Beaver County, Pennsylvania

Date of application for amendment: April 11, 2005, as supplemented December 2, 2005, and January 27, April 14, August 16, and September 1, 2006.

Brief description of amendment: The amendment revised the scope of the steam generator tubesheet inspections and subsequent repair using the F* inspection methodology.

Date of issuance: September 27, 2006.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No: 160.

Facility Operating License No. NPF–73: The amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** June 7, 2005 (70 FR 33214). The supplements dated December 2, 2005, and January 27, April 14, August 16, and September 1, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination. The Commission's issuance of Amendment No. 158 to Facility Operating License NPF–73 for BVPS–2, regarding steam generator tube integrity (Technical Specification Task Force (TSTF) Item 449) on September 7, 2006, resulted in renumbering and rewording the requirements as originally proposed by the licensee to fit the TSTF–449 format, but did not change the scope of the application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 2006.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2), Beaver County, Pennsylvania

Date of application for amendments: November 7, 2005, as supplemented April 25, June 1, and August 3, 2006.

Brief description of amendments: The amendments include changes to the definition of leakage, changes to the primary-to-secondary leakage requirements, changes to the steam generator (SG) tube surveillance program (SG tube integrity), and changes to the SG reporting requirements.

Date of issuance: September 7, 2006.

Effective date: As of the date of issuance to be implemented within 90 days for BVPS–1 and prior to entry into Mode 4 following the fall 2006 refueling outage for BVPS–2.

Amendment Nos.: 276 and 158.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications and Licenses.

Date of initial notice in ***Federal Register:*** December 20, 2005 (70 FR 75491). The supplements dated April 25, June 1, and August 3, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 7, 2006.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2), Beaver County, Pennsylvania

Date of application for amendments: February 17, 2005, as supplemented May 12 and August 22, 2006.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) 3.7.7.1 (BVPS–1), ''Control Room Emergency Habitability Systems,'' and 3.7.7 (BVPS–2), ''Control Room Emergency Air Cleanup and Pressurization System,'' by dividing these TSs into two specifications, addressing control room emergency ventilation and control room air cooling functions separately. The amendments also improved consistency with the Standard TSs and improved consistency between the units.

Date of issuance: September 25, 2006

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment Nos.: 277 and 159

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 26, 2005 (70 FR 21458). The supplements dated May 12 and August 22, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 2006.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of application for amendments: February 1, 2006.

Brief description of amendments: The amendments revise the Technical Specification (TS) testing frequency for the Surveillance Requirements in TS 3.1.4, ''Control Rod Scram Times,'' based on the TS Task Force (TSTF) change traveler TSTF–222, Revision 1.

Date of issuance: September 12, 2006.

Effective date: As of the date of issuance and to be implemented within 60 days.

Amendment Nos.: 237 and 214.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the License and TSs.

Date of initial notice in Federal Register: May 9, 2006 (71 FR 27001).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 12, 2006.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: June 30, 2005, as supplemented July 21, 2006.

Brief description of amendment: The amendment revises the Virgil C. Summer Nuclear Station Technical Specifications to permit the use of a best estimate methodology in performing loss-of-coolant accident analyses.

Date of issuance: September 7, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No. 176.

Renewed Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: October 11, 2005 (70 FR 59087). The supplemental letter provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 2006.

No significant hazards consideration comments received No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: November 30, 2005, as supplemented by letter dated May 30, 2006.

Brief description of amendments: The proposed amendments revised the Technical Specification (TS) requirements related to steam generator tube integrity, based on the NRC-approved Revision 4 to TS Task Force (TSTF)-449, ''Steam Generator Tube Integrity.'' Date of issuance: September 19, 2006.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: Unit 2—204; Unit 3—196.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the TSs.

Date of initial notice in Federal Register: February 14, 2006 (71 FR 7812). The May 30, 2006, supplemental letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 19, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–259 Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendment: March 9, 2004 (TS–434) as supplemented on November 15, 2004, and March 7, 2006.

Brief description of amendment: The amendment reduced the Allowable Value used for Reactor Vessel Water Level—Low, Level 3, for several instrument functions.

Date of issuance: September 18, 2006.

Effective date: September 18, 2006.

Amendment No.: 258.

Renewed Facility Operating License No. DPR–33: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 13, 2004 (69 FR 19575). The supplements dated November 15, 2004, and March 7, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–259, Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendments: November 3, 2003, as supplemented May 6, 2004, and August 1, 2006.

Description of amendment request: The amendment revised Technical Specification (TS) Table 3.3.1.1 –1, Reactor Protection system Instrumentation, Function 7.b.

Date of issuance: September 19, 2006.

Effective date: Date of issuance, to be issued within 60 days.

Amendment No.: 259.

Renewed Facility Operating License No. DPR–33: Amendment revised the TSs.

Date of initial notice in Federal Register: April 13, 2004 (69 FR 19575). The supplements dated May 6, 2004, and August 1, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendments: August 16, 2004, as supplemented by letters dated March 11, 2005, November 4, 2005, and April 14, 2006.

Description of amendment request: To extend the channel calibration frequency requirements for instrumentation in the high-pressure coolant injection, reactor core isolation cooling, and reactor water core isolation cooling systems.

Date of issuance: September 21, 2006.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment Nos.: 260, 297 and 255.

Renewed Facility Operating License Nos. DPR–33, DPR–52, and DPR–68: Amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** May 23, 2006 (71 FR 29680). The supplemental letters provided clarifying information that did not expand the scope of the original application or change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–259, Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama

Date of application for amendment: July 9, 2004 (TS 436).

Brief description of amendment: The amendment revised Technical Specification (TS) Surveillance Requirement 3.6.1.3.10 to increase the

allowed main steam isolation valve (MSIV) leak rate from 11.5 standard cubic feet per hour (scfh) per valve to 100 scfh for individual MSIVs with a 150 scfh combined leakage for all four main steam lines.

Date of issuance: September 27, 2006.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment No.: 261.

Facility Operating License No. DPR–33: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** May 23, 2006 (71 FR 29680).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 27, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 14, 2004, as supplemented on April 11, 2005, and July 11, 2006 (TS–02–01).

Brief description of amendments: The amendments revise Technical Specifications (TSs) relating to the reactor protection system and engineered safety features instrumentation. The Trip Setpoint column of TS Tables 2.2–1 and 3.3–4 will be renamed Nominal Trip Setpoint; inequality signs in TS Tables 2.2–1 and 3.3–4 will be removed; the trip setpoint and allowable value for the Intermediate Range Neutron Flux P–6 permissive will be revised; Minimum Channels Operable in TS Table 3.3–3 will be revised; editorial changes will be made to TS Table 3.3–4 to replace ± signs with inequalities; and a correction will be made to an alarm/trip setpoint in TS Table 3.3–6.

Date of issuance: September 13, 2006.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos. 310 and 299.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the technical specifications.

Date of initial notice in ***Federal Register:*** October 12, 2004 (69 FR 60688). The supplemental letters provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 13, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 30, 2004, as supplemented on May 25, 2006.

Brief description of amendments: The amendments revise the technical specifications to relocate the requirements for the emergency diesel generator start loss of power instrumentation and associated actions in the engineering safety features tables to a new limiting condition for operation (LCO). In addition, an upper allowable value limit has been added to the voltage sensors for loss of voltage and degraded voltage consistent with Technical Specification Task Force (TSTF) Item, TSTF–365, along with a lower allowable value limit for the degraded voltage diesel generator start and load shed timer. The auxiliary feedwater loss of power start setpoints and allowable values have been relocated to this new LCO.

Date of issuance: September 14, 2006.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos. 311 and 300.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the technical specifications.

Date of initial notice in ***Federal Register:*** January 18, 2005 (70 FR 2900). The supplemental letter provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 14, 2006.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: June 29, 2006.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.4.15, ''RCS [Reactor Coolant System] Leakage Detection Instrumentation.'' The TS changes delete the containment atmosphere gaseous radioactivity monitor from TS 3.4.15 and revise the existing conditions, required actions, completion times, and surveillance requirements in TS 3.4.15 to account for the monitor being deleted. The June 29, 2006, letter superceded the license amendment request in the August 26, 2005, letter to authorize changes to the Final Safety Analysis Report.

Date of issuance: September 26, 2006.

Effective date: As of its date of issuance, and shall be implemented within 90 days from the date of issuance.

Amendment No.: 175.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 24, 2006 (71 FR 41843). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 2006.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 26, 2006.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.4.15, ''RCS [Reactor Coolant System] Leakage Detection Instrumentation.'' The TS changes delete the monitor from TS 3.4.15 and revise the existing conditions, required actions, completion times, and surveillance requirements in TS 3.4.15 to account for the monitor being deleted. The June 26, 2006, letter superceded the license amendment request in the August 26, 2005, letter to authorize changes to the Updated Safety Analysis Report.

Date of issuance: September 26, 2006.

Effective date: As of its date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 166.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 24, 2006 (71 FR 41848).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 2006.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 2nd day of October 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–16560 Filed 10–6–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Solicitation of Public Comments on the Implementation of the Reactor Oversight Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comment.

SUMMARY: The NRC is soliciting comments from members of the public, licensees, and interest groups related to the implementation of the Reactor Oversight Process (ROP). An electronic version of the survey questions may be obtained from *http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/rop2006survey.pdf.* This solicitation will provide insights into the self-assessment process and a summary of the feedback will be included in the annual ROP self-assessment report to the Commission.

DATES: The comment period expires on December 1, 2006. The NRC will consider comments received after this date if it is practical to do so, but is only able to ensure consideration of comments received on or before this date.

ADDRESSES: Completed questionnaires and/or comments may be e-mailed to *nrcrep@nrc.gov* or sent to Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Office of Administration (Mail Stop T–6D59), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. If you choose to send your response using email, please include appropriate contact information so the NRC can follow-up on the comments. Comments may also be hand-delivered to Mr. Lesar at 11545 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Documents created or received at the NRC after November 1, 1999, are available electronically through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm.html.* From this site, the public can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. For more information, contact the NRC's Public Document Room (PDR) reference staff at 301–415–4737 or 800–397–4209, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Bart Fu, Office of Nuclear Reactor Regulation (Mail Stop: OWFN 7H2), U.S. Nuclear Regulatory Commission, Washington DC 20555–0001. Mr. Fu can also be reached by telephone at 301–415–2467 or by e-mail at *ZBF@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

Program Overview

The mission of the NRC is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. This mission is accomplished through the following activities:

- License nuclear facilities and the possession, use, and disposal of nuclear materials.
- Develop and implement requirements governing licensed activities.
- Inspect and enforce licensee activities to ensure compliance with these requirements and the law.

While the NRC's responsibility is to monitor and regulate licensees' performance, the primary responsibility for safe operation and handling of nuclear materials rests with each licensee.

As the nuclear industry in the United States has matured, the NRC and its licensees have learned much about how to safely operate nuclear facilities and handle nuclear materials. In April 2000, the NRC began to implement more effective and efficient inspection, assessment, and enforcement approaches, which apply insights from these years of regulatory oversight and nuclear facility operation. Key elements of the Reactor Oversight Process (ROP) include NRC inspection procedures, plant performance indicators, a significance determination process, and an assessment program that incorporates various risk-informed thresholds to help determine the level of NRC oversight and enforcement. Since ROP development began in 1998, the NRC has frequently communicated with the public by various initiatives: conducted public meetings in the vicinity of each licensed commercial nuclear power plant, issued FRNs to solicit feedback on the ROP, published press releases about the new process, conducted multiple public workshops, placed pertinent background information in the NRC's Public Document Room, and established an NRC Web site containing easily accessible information about the ROP and licensee performance.

NRC Public Stakeholder Comments

The NRC continues to be interested in receiving feedback from members of the public, various public stakeholders, and industry groups on their insights regarding the calendar year 2006 implementation of the ROP. In particular, the NRC is seeking responses to the questions listed below, which will provide important information that the NRC can use in ongoing program improvement. A summary of the feedback obtained will be provided to the Commission and included in the annual ROP self-assessment report.

This solicitation of public comments has been issued each year since ROP implementation in 2000. Although written responses are encouraged, there are specific choices to best describe your experience to enable us to more objectively determine your level of satisfaction.

Questions

In responding to these questions, please consider your experiences using the NRC oversight process.

Shade in the circle that most applies to your experiences as follows:

(1) Strongly Agree (2) Agree (3) Neutral (4) Disagree (5) Strongly Disagree

If there are experiences that are rated as unsatisfactory, or if you have specific thoughts or concerns, please elaborate in the ''Comments'' section that follows the question and offer your opinion for possible improvements. If there are experiences or opinions that you would like to express that cannot be directly captured by the questions, document that in the last question of the survey.

Questions Related to Specific Reactor Oversight (ROP) Program Areas

(As appropriate, please provide specific examples and suggestions for improvement.)

(1) The Performance Indicator Program provides useful insights to help ensure plant safety.

1	2	3	4	5
○	○	○	○	▯▯▯○

Comments:

(2) Appropriate overlap exists between the Performance Indicator Program and the Inspection Program.

1	2	3	4	5
○	○	○	○	▯▯▯○

Comments:

(3) NEI 99–02, ''Regulatory Assessment Performance Indicator Guideline'' provides clear guidance regarding Performance Indicators.

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Comments:

(4) The Performance Indicator Program, including the Mitigating Systems Performance Index, can effectively identify performance outliers based on risk-informed, objective, and predictable indicators.

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Comments:

(5) The Inspection Program adequately covers areas important to safety, and is effective in identifying and ensuring the prompt correction of any performance deficiencies.

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Comments:

(6) The information contained in inspection reports is relevant, useful, and written in plain English.

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Comments:

(7) The Significance Determination Process yields an appropriate and consistent regulatory response across all ROP cornerstones.

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Comments:

(8) The NRC takes appropriate actions to address performance issues for those plants outside of the Licensee Response Column of the Action Matrix.

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Comments:

(9) The information contained in assessment reports is relevant, useful, and written in plain English.

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Comments:

Questions Related to the Efficacy of the Overall ROP

(As appropriate, please provide specific examples and suggestions for improvement.)

(10) The ROP oversight activities are predictable (*i.e.*, controlled by the process) and reasonably objective (*i.e.*, based on supported facts, rather than relying on subjective judgement).

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Comments:

(11) The ROP is risk-informed, in that the NRC's actions and outcomes are appropriately graduated on the basis of increased significance.

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Comments:

(12) The ROP is understandable and the processes, procedures and products are clear and written in plain English.

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Comments:

(13) The ROP provides adequate regulatory assurance, when combined with other NRC regulatory processes, that plants are being operated and maintained safely.

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Comments:

(14) The ROP safety culture enhancements help identify licensee safety culture weaknesses and focus licensee and NRC attention appropriately.

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Comments:

(15) The ROP is effective, efficient, realistic, and timely.

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Comments:

(16) The ROP ensures openness in the regulatory process.

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Comments:

(17) The public has been afforded adequate opportunity to participate in the ROP and to provide inputs and comments.

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Comments:

(18) The NRC has been responsive to public inputs and comments on the ROP.

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Comments:

(19) The NRC has implemented the ROP as defined by program documents.

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Comments:

(20) The ROP minimizes unintended consequences.

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Comments:

(21) You would support a change in frequency of the ROP external survey from annually to every other year, consistent with the internal survey, as proposed in SECY–06–0074.

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Comments:

Please provide any additional information or comments related to the Reactor Oversight Process.

Dated at Rockville, Maryland, this 2nd day of October, 2006.

For the U.S. Nuclear Regulatory Commission.

Stuart A. Richards,

Division of Inspection & Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. E6–16641 Filed 10–6–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–267]

WTO Dispute Settlement Proceeding Regarding United States Subsidies to Upland Cotton

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that Brazil has requested the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement''). That request may be found at *http://www.wto.org* contained in a document designated as WT/DS267/30. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before November 1, 2006, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) Wlectronically, to *FR0630@ustr.gov,* Attn: ''United States—Subsidies on Upland Cotton'' in the subject line, or (ii) by fax, to Sandy McKinzy (Attn: United States—Subsidies on Upland Cotton) at 202–395–3640, with a confirmation copy sent electronically to the e-mail address above.

FOR FURTHER INFORMATION CONTACT: Behnaz L. Kibria, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–9589.

SUPPLEMENTARY INFORMATION: If a dispute settlement panel is established, such panel, which would hold its meetings in Geneva, Switzerland, may issue a report on its findings and recommendations within 90 days after referral of the matter to it.

Major Issues Raised by Brazil

In its panel request, Brazil alleges that the United States has not fully complied with the recommendations and rulings of the Dispute Settlement Body from the original dispute. The recommendations and rulings stem from the panel and Appellate Body reports which may be found at *http://www.wto.org* designated as WT/DS267/R and WT/DS267/AB/R, respectively.

Specifically, Brazil alleges that ''the United States has failed to take appropriate steps to remove the adverse effects or withdraw the subsidies found to cause adverse effects.'' According to Brazil, ''[t]he United States'' failure to take these steps results in U.S. subsidies for upland cotton causing serious prejudice to the interests of Brazil, within the meaning of Articles 5(c) and 6.3 of the [*Agreement on Subsidies and Countervailing Measures ('SCM Agreeement')*].'' Brazil contends that the U.S. subsidies at issue are ''the U.S. marketing loan, counter-cyclical and Step 2 payment programs under the [Farm Security and Rural Investment Act ('FSRI Act')] of 2002, as amended, taken alone and/or considered together, as well as payments made under these programs. * * *'' Noting the repeal of the Step 2 program effective August 1, 2006, Brazil contends, in the alternative, that the U.S. subsidies at issue are ''the U.S. marketing loan and counter-cyclical payment programs under the FSRI Act of 2002, as amended, as well as payments made under these programs. * * *''

Brazil also claims that ''the United States threatens to cause serious prejudice to the interests of Brazil, within the meaning of Articles 5(c) and 6.3 of the SCM Agreement, and footnote 13 thereto,'' in the sense of threat of significant price suppression ''in the world market for upland cotton in marketing years 2006 and until the expiry of [the marketing loan and counter-cyclical payment] programs.''

In addition, Brazil presents claims relating to the ''prohibited [export credit guarantee program (''ECG'')] related export subsidies.'' Brazil alleges that the United States has taken ''no action'' with respect to guarantees provided prior to July 1, 2005, the deadline for implementation, under the three programs at issue in the original dispute—GSM–102, GSM–103, and the Supplier Credit Guarantee Program (''SCGP''). Brazil also alleges that, with respect to GSM–102, the SCGP, and guarantees provided thereunder after the date for implementation, the U.S. measures taken to comply are inconsistent with Articles 10.1 and 8 of the *Agreement on Agriculture,* Articles 1, 3.1(a), and 3.2 of the *SCM Agreement,* and item (j) to the Illustrative List of Export subsidies in Annex I to the *SCM Agreement.*

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *FR0630@ustr.gov.eop,* with ''United States—Subsidies on Upland Cotton'' in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE''at the top and bottom of each page of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel and; if applicable, the report

of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative, for Monitoring and Enforcement.

[FR Doc. E6–16682 Filed 10–6–06; 8:45 am]

BILLING CODE 3190–W7–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–343]

WTO Dispute Settlement Proceeding Regarding United States—Antidumping Measures on Shrimp From Thailand

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on September 15, 2006, Thailand requested the establishment of a panel under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement''). That request may be found at *http://www.wto.org* contained in a document designated as WT/DS343/7. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before November 30, 2006 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) Electronically, to *FR0619@ustr.eop.gov*, Attn: ''Thailand Shrimp Zeroing/Bond Dispute (DS343)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

FOR FURTHER INFORMATION CONTACT: Elissa Alben, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–9622.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that a dispute settlement panel has been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). The panel will hold its meetings in Geneva, Switzerland.

Major Issues Raised by Thailand

On August 4, 2004, the Department of Commerce published in the **Federal Register** notice of its affirmative preliminary less-than-fair-value (''LTFV'') determination in an investigation concerning certain frozen and canned warm water shrimp from Thailand (69 FR 47,100). On December 23, 2004, the Department of Commerce published notice of its affirmative final LTFV determination (69 FR 76,918), and on February 1, 2005, the Department of Commerce published an amended final LTFV determination, along with an antidumping duty order, covering only certain frozen warm water shrimp from Thailand (70 FR 5145). The latter notice contains the final margins of LTFV sales, as provided in section 733 of the Tariff Act of 1930, as amended.

In its request for the establishment of a panel, Thailand alleges that the United States used ''the practice known as 'zeroing' to calculate dumping margins for each investigated Thai exporter'' and that ''[t]he effect of the use of this practice was 'artificially' to create margins of dumping where none would otherwise have been found or, at a minimum, to inflate margins of dumping and hence to impose inaccurate definitive antidumping measures on imports of shrimp from Thailand,'' in violation of Articles 2.4.2, 2.1, 2.4, and 9.3 of the AD Agreement. In addition, Thailand alleges that the United States has imposed on importers of shrimp from Thailand a requirement to maintain a continuous entry bond in the amount of the applicable anti-dumping duty margin multiplied by the value of imports of shrimp imported by the importer in the preceding year, and that the imposition of the continuous bond requirement on importers of shrimp from Thailand ''constitutes specific action against dumping'' not in accordance with Article 18.1 of the AD Agreement. Thailand also states that the imposition of the continuous bond requirement on importers of shrimp from Thailand is inconsistent with GATT Article IV:2 and Note 1, paragraphs 2 and 3 to *Ad Article VI* of the GATT, as well as Articles 7.2, 7.4, 7.5, 9.1, 9.2, and 9.3 of the AD Agreement, that it ''constitutes a restriction on importation prohibited under Article XI:1'' or alternately is inconsistent with Article I:1 or Article II:1(a) and (b) of the GATT, and that by applying the continuous bond requirement to shrimp from Thailand and five other countries, the United States fails to administer its customs laws, regulations, and administrative rulings in a uniform, impartial, or reasonable manner, in violation of GATT Article X:3(a). Thailand also states that the continuous bond requirement is not justified under Article XX(d) of the GATT, in particular because it is not necessary to secure compliance with U.S. laws and regulations and has been applied in a manner constituting arbitrary and unjustifiable discrimination and a disguised restriction on international trade.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit their comments either (i) Electronically, to *FR0619@ustr.eop.gov*, Attn: ''Thailand Shrimp Zeroing/Bond Dispute (DS343)'' in the subject line, or (ii) by fax to Sandy McKinzy at (202) 395–3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C.

2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–343, Thailand Shrimp Zeroing/Bond Dispute) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative, for Monitoring and Enforcement.

[FR Doc. E6–16692 Filed 10–6–06; 8:45 am]

BILLING CODE 3190–W7–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–340]

WTO Dispute Settlement Proceeding Regarding China—Measures Affecting Imports of Automobile Parts

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on September 15, 2006, in accordance with the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement''), the United States requested the establishment of a dispute settlement panel regarding China's treatment of imported motor vehicle parts, components, and accessories (''auto parts''). That request may be found at *http://www.wto.org* contained in a document designated as WT/DS340/8. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before November 30, 2006 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) Electronically, to *FR0615@ustr.eop.gov*, with ''China Auto Parts (DS340)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: Jim Kelleher, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–3858.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that the United States has requested the establishment of a WTO dispute settlement panel pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). Such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by the United States

China's regulations on imported auto parts appear to penalize manufacturers for using imported auto parts in the manufacture of vehicles in China. Although China bound its tariffs for auto parts at rates significantly lower than its tariff bindings for complete vehicles, China assesses a charge on imported auto parts equal to the tariff on complete vehicles, if the imported parts are incorporated into a vehicle that contains imported parts in excess of specified thresholds.

USTR believes that China's regulations are inconsistent with China's obligations under:

(1) Article III:2 of the *General Agreement on Tariffs and Trade 1994* (''GATT 1994''), by imposing a charge on imported auto parts but not on domestic auto parts, and otherwise applying internal charges so as to afford protection to domestic production;

(2) Article III:4 of the GATT 1994, by treating imported auto parts less favorably than like domestic auto parts by imposing additional administrative burdens and additional charges upon manufacturers that use imported parts in excess of specified thresholds, thereby affecting the internal sale, offering for sale, purchase, transportation, distribution, or use of imported auto parts;

(3) Article III:5 of the GATT 1994, by requiring that a specified amount or proportion of the auto parts assembled into a complete motor vehicle be supplied from domestic sources, and otherwise applying internal quantitative regulations so as to afford protection to domestic production;

(4) Article 2.1 and paragraphs 1(a) and 2(a) of Annex 1 of the *Agreement on Trade-Related Investment Measures* (''TRIMs Agreement''), by requiring motor vehicle manufacturers in China to purchase or use domestic auto parts in order to obtain advantages such as the avoidance of administrative burdens and the payment of additional charges and by imposing restrictions which generally restrict the importation by a manufacturer of auto parts used in or related to its local production;

(5) Article II:1(a) and (b) of the GATT 1994, by according imported auto parts less favorable treatment than that provided for in its Schedule of Concessions and Commitments annexed to the GATT 1994 and imposing charges in excess of those set forth and provided therein;

USTR also considers that China's regulations are inconsistent with China's obligations under: Article 3 of the *Agreement on Subsidies and Countervailing Measures*, Article XI of the GATT 1994, and Parts I.1.2 and I.1.7 of the Protocol on the Accession of the People's Republic of China, including paragraphs 93 and 203 of the Working Party Report.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) Electronically, to *FR0615@ustr.eop.gov*, with ''China Auto Parts (DS340)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters;

information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and ''BUSINESS CONFIDENTIAL'' must be marked at the top and bottom of the cover page and each succeeding page. Persons who submit confidential business information are encouraged to also provide a non-confidential summary of the information.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel and, if applicable, the report of the Appellate Body. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the public file (Docket WTO/DS–340, China Auto Parts Dispute) may be made by calling the USTR Reading Room at (202) 395–6186.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E6–16694 Filed 10–6–06; 8:45 am]

BILLING CODE 3190–W7–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form N–6; SEC File No. 270–446; OMB Control No. 3235–0503.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

The title for the collection of information is ''Form N–6 (17 CFR 239.17c and 274.11d) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) registration statement of separate accounts organized as unit investment trusts that offer variable life insurance policies.'' Form N–6 is the form used by insurance company separate accounts organized as unit investment trusts that offer variable life insurance contracts to register as investment companies under the Investment Company Act of 1940 and/or to register their securities under the Securities Act of 1933. The primary purpose of the registration process is to provide disclosure of financial and other information to investors and potential investors for the purpose of evaluating an investment in a security. Form N–6 also permits separate accounts organized as unit investment trusts that offer variable life insurance contracts to provide investors with a prospectus containing information required in a registration statement prior to the sale or at the time of confirmation of delivery of securities. The form also may be used by the Commission in its regulatory review, inspection, and policy-making roles.

The Commission estimates that there are approximately 241 separate accounts registered as unit investment trusts and offering variable life insurance policies that file registration statements on Form N–6. The Commission estimates that there are 32 initial registration statements on Form N–6 filed annually. The Commission estimates that approximately 641 registration statements (609 post-effective amendments plus 32 initial registration statements) are filed on Form N–6 annually. The Commission estimates that the hour burden for preparing and filing a post-effective amendment on Form N–6 is 67.5 hours. The total annual hour burden for preparing and filing post-effective amendments is 41,107.5 hours (609 post-effective amendments annually times 67.5 hours per amendment). The estimated hour burden for preparing and filing an initial registration statement on Form N–6 is 770.25 hours. The estimated annual hour burden for preparing and filing initial registration statements is 24,648 hours (32 initial registration statements annually times 770.25 hours per registration statement). The frequency of response is annual. The total annual hour burden for Form N–6, therefore, is estimated to be 65,755.5 hours (41,107.5 hours for post-effective amendments plus 24,648 hours for initial registration statements).

The information collection requirements imposed by Form N–6 are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson 6432 General Green Way,

Alexandria, Virginia, 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: September 29, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–16624 Filed 10–6–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 206(3)–2; SEC File No. 270–216; OMB Control No. 3235–0243.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 206(3)–2, (17 CFR 275.206(3)–2) which is entitled ''Agency Cross Transactions for Advisory Clients,'' permits investment advisers to comply with section 206(3) of the Investment Advisers Act of 1940 (the ''Act'') (15 U.S.C. 80b–6(3)) by obtaining a client's blanket consent to enter into agency cross transactions (*i.e.*, a transaction in which an adviser acts as a broker to both the advisory client and the opposite party to the transaction), provided that certain disclosures are made to the client. Rule 206(3)–2 applies to all registered investment advisers. In relying on the rule, investment advisers must provide certain disclosures to their clients. Advisory clients can use the disclosures to monitor agency cross transactions that affect their advisory account. The Commission also uses the information required by Rule 206(3)–2 in connection with its investment adviser inspection program to ensure that advisers are in compliance with the rule. Without the information collected under the rule, advisory clients would not have information necessary for monitoring their adviser's handling of their accounts and the Commission would be less efficient and effective in its inspection program.

The information requirements of the rule consist of the following: (1) Prior to obtaining the client's consent appropriate disclosure must be made to the client as to the practice of, and the conflicts of interest involved in, agency cross transactions; (2) at or before the completion of any such transaction the client must be furnished with a written confirmation containing specified information and offering to furnish upon request certain additional information; and (3) at least annually, the client must be furnished with a written statement or summary as to the total number of transactions during the period covered by the consent and the total amount of commissions received by the adviser or its affiliated broker-dealer attributable to such transactions.

The Commission estimates that approximately 693 respondents use the rule annually, necessitating about 32 responses per respondent each year, for a total of 22,176 responses. Each response requires an estimated 0.5 hours, for a total of 11,088 hours. The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or representative survey or study of the cost of Commission rules and forms.

This collection of information is found at (17 CFR 275.206(3)–2) and is necessary in order for the investment adviser to obtain the benefits of Rule 206(3)–2. The collection of information requirements under the rule is mandatory. Information subject to the disclosure requirements of Rule 206(3)–2 does not require submission to the Commission; and, accordingly, the disclosure pursuant to the rule is not kept confidential. Commission-registered investment advisers are required to maintain and preserve certain information required under Rule 206(3)–2 for five (5) years. The long-term retention of these records is necessary for the Commission's inspection program to ascertain compliance with the Advisers Act.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within sixty 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson 6432 General Green Way, Alexandria, Virginia, 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: October 2, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–16646 Filed 10–6–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Pretory USA, Inc. (n/k/a Sunrise Petroleum Resources, Inc.); Order of Suspension of Trading

October 5, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pretory USA, Inc. (n/k/a Sunrise Petroleum Resources, Inc.) because it has not filed any periodic reports since it filed an amended Form 10–SB on February 18, 2000.

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 from 9:30 a.m. EDT on October 5, 2006, through 11:59 p.m. EDT on October 18, 2006.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 06–8597 Filed 10–5–06; 11:50 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54552; File No. SR–Amex–2005–104]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving a Proposed Rule Change and Amendments No. 1, 2, 3, 4, and 5 Thereto, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 6, To Establish a New Hybrid Trading System Known as AEMI[SM]

September 29, 2006.

I. Introduction

On October 17, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement a new hybrid market structure for equities and exchange-traded funds (''ETFs'') known as the ''Auction & Electronic Market Integration'' (''AEMI''). Amex amended the proposal on January 19, 2006; [3] March 10, 2006; [4] March 14, 2006; [5] July 3, 2006; [6] and July 13, 2006.[7] The proposed rule change, as amended, was published for comment in the **Federal Register** on July 21, 2006.[8] The Commission received no comments on the proposal. On September 29, 2006, Amex filed Amendment No. 6 to the proposal.[9] This order approves the proposed rule change, as amended by Amendments No. 1, 2, 3, 4, and 5, grants accelerated approval to Amendment No. 6, and solicits comments from interested persons on Amendment No. 6.

II. Description of Proposal

Utilizing AEMI, Amex proposes to implement a new hybrid market structure to integrate automated and floor-based trading for equities and ETFs. The Exchange has designed AEMI to enable it to comply with Regulation NMS,[10] particularly Rules 610 (the Access Rule) and 611 (the Order Protection Rule),[11] and to operate as an automated trading center [12] whose quotes would be protected by Rule 611. Although AEMI includes many new features, many of Amex's existing floor-based rules are being incorporated into the new AEMI rules.

A. General Overview of AEMI

Central to the AEMI system is the electronic order book where marketable trading interest will automatically execute. AEMI by default will publish an automated best bid and offer for the Exchange (also referred to as the ''Amex Published Quote'' or ''APQ''), and the default state of operation will be automatic execution (''auto-ex''). Generally, if an incoming order is marketable, it would automatically execute against any contra-side interest on the AEMI Book until its limit price, if any, is reached. Any remainder would be displayed on the AEMI Book as part of the new APQ. Market participants also can use the ''hit or take'' functionality to trade immediately against the APQ. Notwithstanding the foregoing, if an incoming order locks or crosses a protected quotation of another trading center and that protected quotation is better priced than the APQ, AEMI would send an intermarket sweep order (''ISO'') for the displayed quantity of the protected quotation. Any remaining size could execute on the AEMI system or be displayed in the AEMI Book, as appropriate. Executions would occur according to the Exchange's rules of parity and priority, discussed in more detail below.

Amex will retain a physical trading floor, although verbal bids and offers have no standing until entered into the AEMI system.[13] A trade negotiated on the floor, when entered into the system, can be broken up by electronic orders at the same price on the AEMI Book or by better-priced protected quotations at other trading centers. In addition, auto-ex will be disabled in certain limited circumstances where Amex believes that an auction market is appropriate to seek additional liquidity or to dampen volatility in the market.

In its new hybrid market, Amex will continue to have Specialists, Registered Traders, Floor Brokers, and off-floor members.[14] Every equity security traded on the Exchange will be assigned to a Specialist. Like today, Specialists will have affirmative and negative obligations to maintain a fair and orderly market in the securities in which they are registered. Registered Traders will act as supplemental market makers in ETFs. Floor Brokers can trade in the crowd or submit orders directly to the book. Off-floor members can send orders directly to the book or to Floor Brokers for representation in the crowd. In addition, Amex proposes to create a number of new order types and retain or revise certain existing order types. Generally, all AEMI order types will be available to all members, except for reserve orders and percentage orders which may be used only by Floor Brokers.

B. Regulation NMS Compliance

1. Automated Trading Center

Amex intends to operate AEMI as an automated trading center under Regulation NMS whose default state will be to disseminate automated quotations.[15] However, Amex has designed AEMI to revert to an auction market to provide additional liquidity and price discovery, or to dampen volatility in the market, as determined by market conditions. Thus, the AEMI rules contemplate situations where the system would disable auto-ex and mark the Amex quotation as non-firm. The Exchange intends to continuously monitor the frequency and cause of automatic execution being disabled, and has represented that it would, as necessary and with the appropriate

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b–4 dated January 19, 2006, which replaced the original filing in its entirety (''Amendment No. 1'').

[4] *See* Form 19b–4 dated March 10, 2006, which replaced Amendment No. 1 in its entirety (''Amendment No. 2'').

[5] *See* Form 19b–4 dated March 14, 2006, which replaced Amendment No. 2 in its entirety (''Amendment No. 3'').

[6] *See* Form 19b–4 dated July 3, 2006, which replaced Amendment No. 3 in its entirety (''Amendment No. 4''). Amendment No. 4, among other things: (1) Removed the Passive Price Improvement order type from the proposal; (2) stated the Exchange's commitment to make AEMI's depth-of-book information broadly available; (3) added additional size and value requirements for certain cross orders; (4) distinguished two quote indicators that may be disseminated in connection with the Exchange's publishing of non-firm quotes; (5) revised the procedures regarding the receipt of a partial fill or no response to an outgoing intermarket sweep order; and (6) made various other minor corrections and clarifications to the proposed rule change.

[7] *See* Partial Amendment to Form 19b–4 dated July 13, 2006. (''Amendment No. 5''). In Amendment No. 5, the Exchange, among other things: (1) Set forth a timeframe for the availability of depth-of-book data; (2) clarified when Specialists may charge commissions; (3) clarified when the Exchange will send intermarket sweep orders to other markets; and (4) acknowledged that the Exchange's rules would not obviate or invalidate any trade made pursuant to another market's rules.

[8] *See* Securities Exchange Act Release No. 54145 (July 14, 2006), 71 FR 41654 (''Notice'').

[9] *See* Partial Amendment to Form 19b–4 dated September 29, 2006 (''Amendment 6''). *See infra* Section III.

[10] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495 (June 29, 2005) (''Regulation NMS Release'').

[11] 17 CFR 242.610 and 242.611.

[12] *See* 17 CFR 242.600(b)(3) (defining ''automated trading center'').

[13] *See* Rule 123–AEMI(a).

[14] In a separate filing, Amex also has proposed rules relating to Registered Equity Market Makers (''REMMs''). *See* File No. SR–Amex–2006–35.

[15] *See* 17 CFR 242.600(b)(3) (defining ''automated quotation'') and 242.600(b)(4) (defining ''automated trading center'').

regulatory approvals, adjust the conditions under which auto-ex could be disabled to maintain market quality for investors and retain its status as an automated trading center.[16]

a. Integration of Floor Trading

The AEMI system will be augmented by a traditional trading floor. Verbal bids and offers in the crowd do not have standing in the AEMI Book. A trade negotiated in the crowd cannot be consummated until entered into the AEMI system, and such a trade could potentially be broken up by existing interest in the AEMI Book or by protected quotations at other trading centers. Negotiated trades are one-to-one trades between two crowd members (possibly including the Specialist) and are allowed only while auto-ex is enabled. Auction trades, on the other hand, may take place while auto-ex is enabled or while auto-ex is disabled. In the latter case, an auction trade may occur for the sole purpose of resolving the condition that caused auto-ex to be disabled.

An auction trade is: (1) A trade executed between or among members on the floor by open outcry (which could incorporate orders on the AEMI Book); or (2) a cross trade executed by a member on the floor by open outcry.[17] A Specialist would immediately enter an auction trade into AEMI if it participates in the trade. If the Specialist is not part of an auction trade, the member who initiates the trade would immediately be required to report the trade to the Specialist for input into AEMI. Upon input, AEMI would: (1) Send a report of the trade to the tape, less the size of any outbound ISOs;[18] (2) execute any orders on the AEMI Book that could be executed at the price of the auction trade; (3) generate outbound ISO(s), as necessary; and (4) if auto-ex had been disabled, re-enable auto-ex and disseminate a new automated APQ. Auction trades could not take place outside the APQ when auto-ex is enabled.

The Specialist would confirm and conduct the post-trade allocation for trades with more than one contra-side member, and AEMI would then send notification of individual trades to active crowd participants. The Specialist is required to confirm the initial post-trade allocation (which is an estimate computed by AEMI based on assumed participation by all of the active crowd participants and the Exchange's priority and parity rules) to allow the active crowd participants to verbally confirm whether they participated. AEMI would compute any necessary adjustments in the Specialist's allocation. If the allocation is not confirmed by the Specialist within a three-minute period following the trade, AEMI's estimated allocation to the Specialist and the active crowd participants would be used.[19]

b. Disabling Auto-Ex

Automatic execution on AEMI would be disabled, resulting in the dissemination of a non-firm quote, in six enumerated circumstances generally relating to a large order imbalance, high volatility, or a systems malfunction. When auto-ex is disabled under the six circumstances, members may not trade in the open outcry market, other than to consummate an auction trade to remove the condition that caused auto-ex to be disabled. While auto-ex is disabled, market participants may enter or cancel bids, offers, and orders in AEMI.[20]

i. Spread Tolerance

The spread tolerance would be breached and auto-ex disabled if an inbound order walks the book beyond a predefined price level relative to the price of the security at the time of the initial execution against the order.[21] The spread tolerance is designed to mitigate volatility caused by the entry of a large order if there is no natural contra-interest on the book. The spread tolerance is an Exchange-set parameter per security and would be dynamically applied according to the first execution price of the security against the incoming order, based on the table below:

Stock price	Tolerance (cents)
Less Than $5	5
$5 to $15	15
More Than $15	25

ii. Momentum Tolerance

The momentum tolerance would be breached, and auto-ex disabled, if multiple orders moved the price of a security in one direction beyond a pre-defined boundary in a 30-second time period.[22] The momentum tolerance is designed to mitigate volatility caused by a rapid succession of small orders in a short time frame. The Exchange designed the spread and momentum tolerances to work together to prevent excessive volatility. Thus, while a series of small orders might not individually trigger the spread tolerance, their combined effect could trigger the momentum tolerance.

iii. Gap Trade Tolerance

A gap trade tolerance would be breached if the gap between the current quotation and the last sale exceeded the parameters of the Exchange's ''1%, 2, 1, ½'' point rule.[23]

iv. Delayed Opening, Gap Quote, or Trading Halt

AEMI also would disable auto-ex if the opening is delayed, Amex is disseminating a gap quote, or trading is halted in a security.[24]

A specialist may ''gap the quote'' when an order imbalance exists.[25] A Specialist could gap the quote when either: (1) A large order has been represented in the crowd; or (2) an incoming electronic order has swept the book, disabled auto-ex, and left a large imbalance. If the Specialist gaps the quote, auto-ex would be disabled and a non-firm quote disseminated to reflect the order imbalance. If auto-ex had already been disabled by a tolerance breach, it would remain disabled and the existing non-firm quote would be updated with a non-firm gapped quote. After publishing the gapped quote, the Specialist would be required to ask a Senior Floor Official or an Exchange Official to supervise the process.

In such a situation, the Specialist would display on the imbalance side a bid or offer equal to the price of the automated NBBO on the same side corresponding to the order causing the imbalance and show the full size of the electronic imbalance or the order represented in the crowd. The Specialist would display one round lot for the contra-side size. If the gapped quote were the result of an order represented in the crowd, the Floor Broker whose order imbalance caused the quote to be gapped would be required to enter his order into AEMI immediately. The price of the contra-side of the quotation would represent the Specialist's determination of the price at which the stock would trade if no contra-interest develops or no cancellations occur as a result of the gapped quotation. A gapped quote could be displayed up to two minutes or until offsetting interest is received electronically, such that the Specialist could pair off the imbalance and re-enable auto-ex. Auto-ex would be

[16] *See* Amendment No. 4, at 12.

[17] *See* Rule 128B–AEMI.

[18] *See infra* Section II(B)(2)(b) (discussing use of ISOs).

[19] *See* Rule 128B–AEMI(b).

[20] *See* Amendment No. 6, *supra* note 9.

[21] *See* Rule 128A–AEMI(f)(i).

[22] *See* Rule 128A–AEMI(f)(ii).

[23] *See* Rule 128A–AEMI(f)(iv); Rule 154–AEMI(e). These rules do not apply to ETFs.

[24] *See* Rule 128A–AEMI(f)(iii).

[25] *See* Rule 170–AEMI(f).

disabled until the Specialist performs a pair-off trade and the APQ is updated and re-automated. While the quotation is gapped, orders, cancellations, and other messages would continue to enter AEMI, but would not update the APQ and no trades would occur. In addition, commitments received via the Intermarket Trading System (''ITS'') during a gapped quote would be canceled.

The Senior Floor Official or Exchange Official supervising the process will determine whether: (1) To execute the orders immediately and terminate the gapped quote; (2) direct the Specialist to maintain the gapped quotation to allow time for contra-side interest to develop or cancellations to occur (but in any event not more than two minutes); or (3) halt trading in the stock. At the end of the two minutes from the initiation of the gapped quote, the Specialist, in consultation with the supervising Senior Floor Official or Exchange Official, must either: (1) Conduct an auction trade and disseminate an automated quotation; or (2) halt trading in the stock.

The size of an imbalance suitable for gapped quoting is at least 10,000 shares or a quantity of stock having a value of $200,000 or more. However, ''depending on the trading characteristics of the security, the appropriate conditions for gapped quoting may be higher.''[26]

v. Unusual Market Conditions

AEMI also will disable auto-ex when the Exchange determines that unusual market conditions exist in one or more securities.[27] If the Exchange is unable to accurately collect, process, and/or disseminate quotation data in one or more securities due to a high level of trading activity or the existence of unusual market conditions, AEMI would immediately disable auto-ex and disseminate the indicator ''N'' to indicate that Amex's quotation, if a trading halt has not been declared and quotations are being published for such security or securities, is not firm. An unusual market condition affecting the Exchange's ability to disseminate quotation data would include, but not be limited to, situations where the equipment used to collect, process, and disseminate quotation data becomes inoperable.[28]

If a Specialist were unable to update its quotation on a timely basis due to the high level of trading activity or the existence of an unusual market condition, it would be required to promptly notify a Floor Official.[29] Once the Floor Official, with the involvement of a member of the Amex regulatory staff, promptly verifies the existence of the unusual market activity or condition, the Floor Official would notify Amex's Market Operations Division, which would then promptly disable auto-ex and disseminate the indicator ''N'' to indicate that Amex's quotation, if a trading halt has not been declared and quotations are being published for such security or securities, is not firm. The Floor Official also would consult with Amex's Market Operations Division to determine whether to declare a non-regulatory halt in such security or securities if the ability of the Specialist to promptly communicate quotation data is adversely affected. In the absence of such a non-regulatory halt, incoming orders would continue to execute against orders for the security or securities in the AEMI Book.

vi. Cash-Close Pair-Off in ETFs

For automatic execution eligible securities that trade until 4 p.m., auto-ex would be disabled one second prior to 4 p.m. if there were any on-close orders in the AEMI Book. However, for ETFs that trade until 4:15 p.m., auto-ex would be disabled: (1) One second prior to 4 p.m., if there were any cash close orders in the AEMI Book, and resume immediately after the Specialist performed the cash close; and/or (2) one second prior to 4:15 p.m., if there were on-close orders in the AEMI Book.[30]

vii. Re-Enabling Auto-Ex

If auto-ex were disabled due to any tolerance breach, the Specialist would have ten seconds to attempt to re-enable auto-ex and disseminate a new automated APQ.[31] Thereafter, AEMI would periodically attempt to resume auto-ex and disseminate a new automated APQ. If the remainder of the aggressing order causing the breach expires or cancels, or if the AEMI Book is not locked or crossed, the Specialist could re-enable auto-ex prior to the expiration of the ten-second period through a ''front end'' device. If the order imbalance remains or if the AEMI Book remains locked or crossed, the Specialist could conduct an auction for the imbalance, and the action of printing the auction trade or performing a pair-off would automatically re-enable auto-ex and publish an automated quote. If the Specialist does not take such action or gap the quote by the end of the ten-second period, auto-ex would automatically resume if the AEMI Book is not locked or crossed. If the AEMI Book is still locked or crossed after the initial ten-second period and the Specialist has not acted, AEMI would attempt to re-enable auto-ex in ten-second intervals. When auto-ex is disabled due to the breach of a spread or momentum tolerance or a gap trade, orders and quotations (with the exception of the Specialist's quotation) that enter the AEMI Book and are priced better than the contra-side of the APQ would participate in the auction trade to eliminate the locked or crossed market. Once the pair-off is completed, AEMI would automatically disseminate a new automated APQ.

2. Compliance with Rule 611 of Regulation NMS

a. Generally

AEMI would generate an ISO to clear the displayed size of any better-priced protected quotation of another automated trading center before executing a trade at an inferior price, except as set forth below.[32] ISOs may be sent or received through ITS or private linkages.[33] However, AEMI would not generate an ISO when one of the exceptions in Rule 611 applies.

b. Intermarket Sweep Orders

The AEMI rules contemplate both inbound and outbound ISOs.[34] An inbound ISO is a limit order for an NMS stock received by AEMI from a member which is to be executed: (1) Immediately at the time such order is received in the AEMI Book; (2) without regard for better-priced protected quotations displayed at one or more other trading centers; and (3) at prices equal to or better than the limit price, with any portion not so executed to be treated as canceled. An inbound ISO could trade at multiple prices on AEMI up to its limit price, except for an inbound ISO received through the ITS or any successor thereto, which would trade only at a single price, the Amex best bid or offer.[35]

An outbound ISO would be generated by AEMI to execute against all better-priced protected quotations displayed by other trading centers up to their displayed size.[36] An ISO would be marked as such to inform the receiving trading center that it can be executed immediately without regard to protected

[26] Rule 170–AEMI(f).

[27] *See* Rule 128A–AEMI(f)(vi).

[28] *See* Rule 115–AEMI, Commentary .01(2).

[29] *See* Rule 115–AEMI, Commentary .01(1)(a) and .01(1)(b).

[30] *See* Rule 131–AEMI, Commentary .03.

[31] *See* Rule 128A–AEMI(g).

[32] *See* Rule 126A–AEMI.

[33] *See* Amendment No. 4, at 111.

[34] *See* Rule 131–AEMI(j).

[35] *See id.*

[36] *See id.*

quotations in other trading centers. Unless an appropriate exception applied, AEMI would send ISOs for the full displayed size of any better-priced protected quotation of another trading center before executing a trade at a worse price.[37] An outbound ISO also would be generated if an order entered into the AEMI system would lock or cross a protected quotation in an away market.[38]

Each outbound ISO would be designated as immediate-or-cancel and carry an expiration delay timer.[39] If AEMI receives a no-fill or partial fill in response to the outbound ISO and the quotation at the away market is not updated, AEMI would release the corresponding order that had been suspended so that it may re-aggress the AEMI Book (and generate new ISOs to other trading centers, if necessary). AEMI would, however, continue to route ISOs to that particular trading center's protected quotation in that security.[40]

If AEMI receives no response at all to an outbound ISO and assuming no system errors have been detected, AEMI would issue a cancellation at the expiration of the delay timer. This action would release the corresponding order that had been suspended on the AEMI Book pending the response to the ISO.[41] The released order would then re-aggress the AEMI Book (and generate new ISOs to other away markets, if necessary). Amex has acknowledged that, if it ultimately receives a trade report from the away market, it will be bound by the away market's rules regarding such trades.[42]

c. Trade Reporting of Rule 611 Exceptions

Following the ''Trading Phase Date'' of Regulation NMS (February 5, 2007),[43] the Exchange will identify all trades executed pursuant to an exception or exemption from Rule 611 of Regulation NMS in accordance with specifications approved by the operating committee of the relevant national market system plan for an NMS stock.[44] If a trade is executed pursuant to both the intermarket sweep order exception of Rule 611(b)(5) or (6)[45] and the self-help exception of Rule 611(b)(1),[46]such trade shall be identified as executed pursuant to the ISO exception.

d. Self Help

The AEMI rules also provide that the Exchange may invoke ''self help'' in certain circumstances and thereby disregard what appears to be a protected quotation of another trading center. In Amendment No. 6, Amex added new language to Rule 126A–AEMI to provide that, in accordance with Rule 611(a) of Regulation NMS,[47] the Exchange may, pursuant to objective industry-wide established interpretations and policies, determine to bypass the quotations displayed by another trading center if such trading center repeatedly fails to respond within one second to orders attempting to access such trading center's protected quotations, provided such failures are attributable to such trading center and are not attributable to transmission outside the control of such trading center. In connection with any such determination, the Exchange will immediately notify the non-responding trading center of such determination.

e. Order Routing

Amex would route orders to other trading centers under certain circumstances. Such routing services would occur pursuant to three separate agreements: (1) An agreement between the Exchange and each member on whose behalf orders would be routed; (2) an agreement between the Exchange and each third-party broker-dealer that would serve as a ''give-up'' on an away trading center when the member on whose behalf an order is routed is not also a member or subscriber of the away trading center; and (3) an agreement between the Exchange and a third-party service provider pursuant to which the Exchange licenses the routing technology used by the Exchange for its routing services.[48]

With respect to these routing services, Amex would establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange (including its facilities) and the third-party service provider. To the extent the provider reasonably receives confidential and proprietary information, its use of such information would be restricted to legitimate business purposes necessary for the licensing of routing technology.

f. Locked and Crossed Markets

Amex has proposed rules regarding locked and crossed markets, as required by Rule 610(d) of Regulation NMS.[49] Exchange members shall reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross a protected quotation, and any manual quotations that lock or cross a quotation previously disseminated pursuant to an effective national market system plan,[50] except if one of the following exceptions applies:[51]

- The locking or crossing quotation was displayed at a time when the trading center displaying the locked or crossed quotation was experiencing a failure, material delay, or malfunction of its systems or equipment.
- The locking or crossing quotation was displayed at a time when a protected bid was higher than a protected offer in the NMS stock.
- The locking or crossing quotation was an automated quotation, and the member displaying such automated quotation simultaneously routed an ISO to execute against the full displayed size of any locked or crossed protected quotation.
- The locking or crossing quotation was a manual quotation that locked or crossed another manual quotation, and the member displaying the locking or crossing manual quotation simultaneously routed an ISO to execute against the full displayed size of the locked or crossed manual quotation.

The rule addresses intentional locks and crosses by requiring that all locks and crosses of protected quotations be reasonably avoided and prohibiting a pattern or practice of locks or crosses. The rule also restricts the display of manual quotations that would lock or cross any type of quotation, whether automated or manual. There is no restriction on the display of automated quotations that lock or cross manual quotations.[52]

g. MPV

The minimum price variation (''MPV'') on AEMI for quotations and

[37] *See* Rule 126–AEMI.

[38] *See* Rule 126A–AEMI.

[39] The expiration delay timer would control how long AEMI would wait before attempting to cancel the ISO. *See id.*

[40] *See id.*

[41] *See id. See also* Rule 128B–AEMI(c) (describing similar procedure when Amex does not receive a response to an outbound ISO generated by an auction trade).

[42] *See* Amendment No. 4, Item 9.

[43] By no later than February 5, 2007, all trading centers intending to qualify their quotations for trade-through protection must bring a Regulation NMS-compliant trading system into full operation for all NMS stocks intended to be traded during the phase-in period (*i.e.*, through October 8, 2007). *See* Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006) (extending compliance dates for Rules 610 and 611 of Regulation NMS).

[44] *See* Rule 126A–AEMI(a).

[45] 17 CFR 242.611(b)(5) or (6).

[46] 17 CFR 242.611(b)(1).

[47] 17 CFR 242.611(a).

[48] *See* Rule 126B–AEMI.

[49] 17 CFR 242.610(d).

[50] *See* Rule 128C–AEMI(b).

[51] *See* Rule 128C–AEMI(d).

[52] *See* Rule 128C–AEMI, Commentary .01.

orders priced above $1.00 per share is $0.01.[53] For quotations and orders priced below $1.00 per share, the MPV on AEMI is $0.0001.

h. AEMI Implementation

Rule 1A–AEMI describes the roll-out of the AEMI system. AEMI's anticipated roll-out would commence prior to the Trading Phase Date for Regulation NMS (February 5, 2007). By the Trading Phase Date, all ETFs, equities, and securities that trade like equities that are traded on the Exchange would be on the AEMI platform. During the roll-out period, while the Exchange has securities trading on its legacy and AEMI platforms, the Exchange's current rules (as amended from time to time) would apply to those securities continuing to trade on the legacy platform. The AEMI rules would apply to those securities trading on the new trading platform. When a security transfers to AEMI, the AEMI rules will govern trading in that security and the corresponding legacy rule would no longer have any applicability. When all securities have transferred off the legacy platform, Amex will submit a proposed rule change to delete any unnecessary legacy rules.

The AEMI rules would cover the operation of the AEMI platform to become effective on and after the Trading Phase Date. However, Amex intends to operate a modified early version of the AEMI platform to operate prior to the Trading Phase Date. Amex has submitted a separate rule change for this interim system, which would be referred to as ''AEMI–One.'' That proposal makes minor modifications to the AEMI rules to account for the fact that other trading centers may not have fully implemented their Regulation NMS-compliant trading systems.[54]

C. Other Rules

1. Role of Specialists

Amex would have a Specialist for each security traded on AEMI. A Specialist is required ''to engage in a course of dealings for its own account to assist in the maintenance, insofar as reasonably practicable, of a fair and orderly market on the Exchange.'' [55] The Specialists must, among other things, maintain a two-sided quotation in every security in which it is registered.[56] To facilitate the Specialists' obligation to maintain a continuous two-sided quotation, AEMI would provide an emergency quote function. If the Specialist's quote were exhausted or decremented below a specified size, and a new quote were not automatically generated, AEMI would generate an emergency quote based on the parameters programmed by the Specialist.

a. Openings

At the opening, the Specialist is required to perform a pair-off of orders in the AEMI Book.[57] AEMI will permit the opening pair-off session to last no more than three seconds. During the opening pair-off session, the Specialist must select a single opening pair-off price at which AEMI will execute all market and marketable limit orders. Incoming orders, cancellations, and other messages will be held in a Message Queue and not included in the opening pair-off. If the Specialist has not completed the opening pair-off within three seconds, the pair-off session will terminate, all messages in the Message Queue will enter the AEMI Book, and the Specialist will have to reinitiate the opening pair-off session to open the security. During the actual pair-off, orders that are being processed as part of the pair-off cannot be altered or canceled. If no orders on the AEMI Book are eligible for execution on the open, the Specialist will open the security on a quotation without a trade.

b. Closings

The Specialist also will conduct a pair-off session at the closing. In both UTP and listed securities, an on-close imbalance of 25,000 shares or more would be automatically published to the tape at 20 and then at ten minutes before the market close at 4 p.m.[58] In all securities, the closing pair-off session would commence automatically at the official closing time and disable auto-ex. To participate in the close, all orders must have been entered electronically. The Specialist will manually close each security.

The Specialist would execute any imbalance at an auction price in accordance with auction market procedures and pair off and execute the remaining executable orders at that closing price. Percentage orders and stop orders elected at the closing price could be included in the close. The Specialist would conduct a post-trade allocation with respect to the shares necessary to offset the imbalance, as with a regular auction. Until this post-trade allocation process is completed, the Specialist would be responsible for the contra-side of the imbalance traded. If there are no on-close orders, the closing price would be the last sale in the security. If at the close the imbalance is too large for the Specialist and the crowd to offset, the Exchange would declare a trading halt and there would be no closing rotation for that security.

In the case of certain ETFs that trade until 4:15 p.m., the Specialist could perform a ''cash close'' pair-off during the regular trading session at 4 p.m. prior to the official closing session on the Exchange. This would be an added service for investors wishing to mark positions to the cash close. In the event there are ''market at 4 p.m. cash close'' orders for an ETF, auto-ex would be disabled for that security at 4 p.m. Once the pair-off is concluded, auto-ex would resume until it is disabled for the official closing pair-off at 4:15 p.m.

c. Stabilization

Because of the AEMI automated environment, Amex proposes to modify certain existing rules related to Specialist obligations, in particular its existing requirements for certain transactions for the Specialist's own account involving destabilizing ticks requiring Floor Official approval.[59] In Rule 170–AEMI, Commentary .01, Amex proposes to ease the restrictions relating to a Specialist effecting transactions for its own account for the purpose of establishing or increasing a position. The following types of transactions generally would be prohibited, except with the approval of a Floor Official:

- A purchase on the offer at a price above the last regular way trade in the same trading session, or a sale short to the bid at a price below the last regular way trade in the same trading session where permitted by the Commission's short sale regulations;
- The purchase of all or substantially all of the stock offered on the AEMI Book on a zero plus tick, when the stock

[53] *See* Rule 127–AEMI.

[54] *See* Securities Exchange Act Release No. 54413 (September 8, 2006), 71 FR 54318 (September 14, 2006) (''AEMI–One Notice'').

[55] Rule 170–AEMI(b). Thus, a Specialist's quotation in an ETF or other derivatively priced security should bear a proper relation to the value of underlying or related securities. *See* Rule 170–AEMI, Commentary .03.

[56] Specialists would have a variety of ways to submit quotations into AEMI. They could: (1) Stream two-sided quotes up to five price points on each side (one quote per price point) of the AEMI Book; (2) generate automatic quotes (''auto-quotes'') within AEMI based on user-specified parameters relating to size, ticks, and underlying market data; or (3) physically enter single, two-way quotes into AEMI (''solo quotes''). A Specialist could enter solo quotes at any time, which would override the best existing auto-quote or streaming quote.

[57] *See* Rule 108–AEMI(d).

[58] The imbalances would be published to Consolidated Tape Association (''CTA'') Tape B for Amex listed securities. Amex is working with the Nasdaq SIP to publish the imbalances in Nasdaq UTP securities to Tape C.

[59] *See* Rule 170–AEMI.

so offered represents all or substantially all the stock offered in the market;

• The supplying short of all or substantially all the stock bid for on the AEMI Book on a zero minus tick where permitted by the Commission's short sale regulations, when the stock so bid for represents all or substantially all the stock bid for in the market; and

• Failing to re-offer or re-bid where necessary after effecting the transactions described above.

A Specialist may also effect an auto-ex transaction on a destabilizing tick without the approval of a Floor Official in the situations described above if: (1) The buy is on the APQ (which must be equal to the Specialist's bid) when its bid is accessed by a sell order; or (2) the sale is on the APQ (which must be equal to its offer) when its offer is accessed by a buy order.[60]

In addition, Amex proposes to ease the restrictions relating to a Specialist's transactions for its own account in liquidating or decreasing a position in a registered stock.[61] Unless such transactions are reasonably necessary in relation to the Specialist's overall position and prior approval of a Floor Official has been obtained, a position may not be liquidated by selling stock to the bid on a direct minus tick or by purchasing stock on the offer on a direct plus tick. The Specialist would be permitted to effect an auto-ex transaction on a destabilizing tick without Floor Official approval if: (1) The buy is on the Amex Published Bid (which must be equal to its bid) when its bid is accessed by a sell order; or (2) the sale is on the Amex Published Offer (which must be equal to its offer) when the offer is accessed by a buy order. Furthermore, a Specialist's quotation should be such that a transaction effected at its quoted price or within the quoted spread, whether having the effect of reducing or increasing the Specialist's position, ''would bear a proper relation to preceding transactions and anticipated succeeding transactions.'' [62] In the case of ETFs or other derivatively priced securities, the Specialist's quotation should bear a proper relation to the value of the underlying or related securities.[63]

d. Duty to Yield

A Specialist must give precedence to orders in the Specialist Order Book, which is a subset of the AEMI Book, in any security in which it is registered before executing at the same price any trade in the same security in which it has an interest.[64] Three types of trades are excepted from that general rule:

• The member entering a percentage order has permitted the Specialist to be on parity.

• In ETFs, the Specialist may be on parity with a broker-dealer order pursuant to Rule 126–AEMI.

• The Specialist need not give precedence to an order that has been suspended in AEMI because an outbound ISO has been routed to another trading center on its behalf.

The Exchange anticipates allowing a Specialist to charge commissions under AEMI for orders that require special handling or for which the Specialist otherwise provides a service as agent for the order (*e.g.*, percentage orders).[65] However, existing Amex Rule 152(c) prohibits the Specialist from charging a commission if it is a party to the trade. Furthermore, Amex has represented that the Specialist will not be allowed to charge a commission on any transaction in AEMI to which the Specialist's proprietary position is not required to yield by AEMI rules or the Specialist's agency responsibility. For instance, an ETF Specialist will be allowed to trade on parity with, but not charge a commission for, a broker-dealer order in that ETF.

2. Role of Registered Traders

Registered Traders will act as supplemental market makers in ETFs and certain other related securities.[66] The functions of a Registered Trader would essentially remain the same as today,[67] although its quote would not be imbedded in the Specialist's quote.[68] Instead, a Registered Trader would be required to maintain a quote that is competitive and separate from the Specialist. Registered Traders and Specialists are required to compete with each other to improve the quoted markets in all securities in which they trade.[69]

A Registered Trader's transactions should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no Registered Trader should enter into transactions to make bids or offers that are inconsistent with such a course of dealings.[70] Whenever a Registered Trader enters the trading crowd in other than a floor brokerage capacity, or is called upon by a Floor Official or a Floor Broker, the Registered Trader is required to make competitive bids and offers as reasonably necessary to contribute to the maintenance of a fair and orderly market and shall engage, to a reasonable degree under the circumstances, in dealings for its own account when there exists a lack of price continuity in, or a temporary disparity between the supply of and demand for, the security it is trading.[71] A Registered Trader must meet certain trading thresholds in the securities it trades to be designated a specialist under the Act.[72]

3. Role of Floor Brokers

Floor Brokers on AEMI would be able to participate in automatic execution while continuing to represent orders in the crowd.[73] To represent a crowd order, a Floor Broker would have to be physically present. Upon leaving a crowd or logging out, a Floor Broker would be required to: (1) Cancel all crowd orders in the AEMI Book for securities in the crowd it is leaving; (2) electronically submit the orders in the form of percentage or limit orders to the Specialist for handling; or (3) electronically route the crowd orders to another Floor Broker in the crowd, via a hand-held terminal. In addition, as described in greater detail below, Floor Brokers would have exclusive use of percentage orders and reserve orders.

4. Priority and Parity

As a general matter, the highest bid and the lowest offer shall have priority on AEMI.[74] Among orders and quotations at the same price, execution priority depends on a number of factors, including time priority, whether the order is public (*i.e.*, it is submitted the Specialist Book) or crowd (*i.e.*, it is represented by a Floor Broker in the crowd), whether it is a customer or broker-dealer order, and whether the order is deemed to be ''in parity.''

a. Parity Generally

Orders in parity are deemed to have been received by the AEMI system

[60] *See* Rule 170–AEMI, Commentary .01.

[61] *See* Rule 170–AEMI, Commentary .02.

[62] Rule 170–AEMI, Commentary .03.

[63] *See id.*

[64] *See* Rule 155–AEMI. *See also* Rule 126–AEMI(2)(a)(iv)(A)(I) (requiring an in-parity Specialist quotation to yield to any public order at the same price).

[65] *See* Amendment No. 5, Item 3.

[66] *See* Rule 1A–AEMI(g) (defining ''Registered Trader''); Rule 110–AEMI(o).

[67] *See* Rule 110–AEMI.

[68] Like a Specialist, a Registered Trader could: (1) Stream two-sided quotes up to five price points on each side (one quote per price point) of the AEMI Book; (2) auto-quote within AEMI based on user-specified parameters relating to size, ticks, and underlying market data; or (3) manually enter solo quotes. The entry of a Registered Trader's solo quotes would override its best existing auto-quote or streaming quote.

[69] *See* Rule 110–AEMI(u).

[70] *See* Rule 110–AEMI(r).

[71] *See* Rule 110–AEMI(s).

[72] *See* Rule 110–AEMI, Commentary .02 and .03.

[73] *See* Amendment No. 4, at 6.

[74] *See* Rule 126–AEMI(1).

simultaneously. Therefore, an order in parity generally cannot have time priority over another order in parity. By allowing later-arriving orders to be deemed in parity, Amex seeks to mitigate the effects of minute differences in processing time or latency between competing order routing systems. Parity can be established in the following circumstances: [75]

- If a bid (offer) in a security establishes a new highest bid (lowest offer), any bid (offer) in that security communicated to AEMI within two seconds of AEMI's receipt of the original bid (offer) shall be in parity with the original bid (offer) for the next trade.
- If AEMI effects a trade in a security, all visible bids and offers in that security at each price point shall be in parity for the next trade, as well as any bid (offer) in that security communicated to AEMI within two seconds of the original trade.
- If all bids (offers) at the APQ are canceled, all visible bids (offers) at each lower (higher) price point shall be in parity for the next trade, as well as any bid (offer) in that security communicated to AEMI within two seconds of the cancellation of the last remaining bid (offer).[76]

There are some exceptions to these rules for establishing parity. In ETFs, a broker-dealer (including the Specialist) whose order is in parity must yield to any customer order at the same price (regardless of whether it is a public or crowd customer order).[77] In equities, the Specialist whose order is in parity must yield to a public order at the same price, regardless of when the public order was entered into the AEMI system.[78]

b. Allocation Rules for ETFs

For a transaction in an ETF, all customer orders (regardless of whether they are crowd customer orders or public customer orders) will be filled ahead of all broker-dealer orders at the same price.[79] Any customer orders in parity will be filled ahead of any customer orders not in parity at that price. In determining the allocation for all in-parity orders, AEMI will count all of the crowd customer orders in parity at that price point, deeming all public customer orders in parity on the Specialist Order Book as a single crowd customer order for this purpose.[80] AEMI will then allocate the remaining size of the aggressing order pro rata between the ''crowd bucket'' and the ''public bucket.'' If there are multiple public customer orders in the public bucket, they will be filled from the allocation given to the public bucket in time priority.[81] In-parity crowd customer orders in the crowd bucket will be distributed pursuant to an ''allocation wheel.'' [82] If any size remains to the aggressing order, any crowd customer orders and public customer orders not in parity will then be filled based on time priority.[83]

If any size remains to the aggressing order after any remaining customer orders have been filled, or if there were no customer orders to begin with, AEMI will give execution priority to crowd broker-dealer orders and public broker-dealer orders (including the Specialist's quote) in a manner similar to its handling of crowd customer order and public customer orders. However, if the Specialist quote is in parity with the broker-dealer orders, AEMI will first provide an allocation to the Specialist based on the following table set forth in Rule 126–AEMI(2)(d)(vi)(B):

Number of crowd participants	Specialist allocation (percent)	Crowd/Public allocation (percent)
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16+	20	80

Regardless of whether or not there are any customer orders, replenished reserve size will be executed after any visible size at that price. Any percentage orders elected by the trade event will have last priority at that price point.[84]

c. Allocation Rules for Equity Securities

For transactions in a non-ETF equity securities, execution priority under the AEMI rules depends to a greater extent on whether the order is crowd or public rather than, in ETFs, whether it is customer or broker-dealer. If there are no public orders, the crowd orders and Specialist quote could be in parity. Any such in-party orders would be distributed pursuant to an allocation wheel.[85] Any crowd orders or the specialist quote not in parity would then trade based on time priority.[86]

If there are public orders, execution priority would depend on whether the public orders are in parity or not in parity, or whether some public orders are in parity and some not. If there are any public orders not in parity, the Specialist—even if its quote is in parity—will not receive any allocation until all public orders are filled.[87] For orders that are in parity, AEMI will divide the aggressing order into allocations for the ''crowd bucket'' and the ''public bucket,'' similar to the process for ETFs. All of the public orders and the Specialist's quote together count as a single crowd order for purposes of this allocation.[88] For distribution within the public bucket, the Specialist quote must yield to all public orders, regardless of the Specialist's time priority.[89] Any orders not in parity, regardless of whether they are crowd orders or public orders, will be filled in time priority, with the exception of the not-in-parity Specialist quote, which must yield to all public orders regardless of time priority.[90] As with ETFs, replenished reserve size would be executed after any visible size at that price. Any percentage orders elected by the trade event would have last priority at that price point.[91]

5. Order Types

Amex proposes to retain several of its current order types in AEMI, including market orders, limit orders, stop orders, stop limit orders, good-til-canceled orders, fill-or-kill orders, and immediate-or-cancel orders.[92] In addition, Amex would eliminate certain order types that exist in its current equity trading rules.[93] Amex also proposes to create, or modify, the following order types.

[75] *See* Rule 126–AEMI(2)(a).

[76] However, priority and parity of orders on one side of the book shall not be affected by the cancellation of orders at the APQ on the other side. *See* Rule 126–AEMI(2)(a)(iii).

[77] *See* Rule 126–AEMI(2)(a)(iv)(B)(I).

[78] *See* Rule 126–AEMI(2)(a)(iv)(A)(I).

[79] *See* Rule 126–AEMI(2)(c).

[80] *See* Rule 126–AEMI(2)(d)(v)(A).

[81] *See* Rule 126–AEMI(2)(d)(v)(B).

[82] *See* Rule 126–AEMI(2)(d)(vii). In general, the allocation wheel works by ranking the orders participating in the wheel in time priority. The system distributes round lots of the incoming order against the orders in the wheel through successive ''rounds'' until it is executed in full.

[83] *See* Rule 125–AEMI(2)(c)(i)(C).

[84] *See* Rules 126–AEMI(2)(c)(i) and 126–AEMI(2)(c)(ii).

[85] *See* Rule 126–AEMI(2)(d)(i).

[86] *See* Rule 126–AEMI(2)(b)(i)(B).

[87] *See* Rules 126–AEMI(2)(b)(iii)(C) and 126–AEMI(2)(b)(iv)(C).

[88] *See* Rule 126–AEMI(2)(d)(ii)(A).

[89] *See* Rule 126–AEMI(2)(d)(ii)(B).

[90] *See* Rules 126–AEMI(2)(b)(iii)(B) and 126–AEMI(2)(b)(iv)(B).

[91] *See* Rule 126–AEMI(b).

[92] *See* Rule 131–AEMI.

[93] The AEMI system would not accept the following order types, although such orders would still be acceptable on the floor: not held orders, company buy-back orders in conformity with the safe harbor provisions of Commission Rule 10b–18, and stabilizing orders entered pursuant to Rule 104 of Regulation M in connection with purchases of a security in distribution. The following order types would no longer be permitted on the Exchange generally: ''alternative'' or ''either/or'' orders, ''all-or-none orders,'' ''good until a specified time'' orders, ''scale'' orders, ''switch'' or ''contingent'' orders, ''time'' orders, and ''G'' orders.

a. Electronic Cross Orders

The Exchange proposes to introduce the following types of electronic cross orders exclusively for ETFs and Nasdaq securities admitted to dealings on an unlisted basis: (1) Cross; (2) cross only; (3) mid-point cross; (4) IOC cross; (5) PNP cross; and (6) auction cross.[94] The electronic cross order type selected by the market participant would dictate whether the cross order could be broken up by orders on the AEMI Book, whether price improvement is being sought for the cross order, and how any residual of the cross order would be handled. For instance, ''cross'' and ''cross only'' orders are differentiated by their interaction with the book. A cross order could interact with orders in the AEMI Book at the cross price whereas a cross only order would not. Thus, if there were interest on the AEMI Book at the proposed price of a cross only transaction, AEMI would cancel the proposed cross.

An auction cross order would actively seek price improvement, and the sender of the order would designate which side (or sides) of the cross is eligible for price improvement. AEMI would display the selected side(s) for a three-second ''Auction Cross Duration.'' The side(s) of the cross selected for price improvement would be displayed one minimum trading increment worse than the proposed cross price (*i.e.*, the buy side of the cross must be displayed one tick below the proposed cross price and/or the sell side of the cross must be displayed one tick above the proposed cross price). During the three second Auction Cross Duration, the displayed order could be price improved by new bids, offers, or orders entering the AEMI Book. If the cross price is equal to or better than the automated NBBO and is between the APQ at the end of the Auction Cross Duration, AEMI would execute the auction cross at the cross price. If not, the order would be cancelled to avoid trading through the automated NBBO or at or through the APQ. If one or both sides selected for display were executed in part during the Auction Cross Duration, the unfilled balance would continue to be displayed and be executed at the end of the Auction Cross Duration at the cross price, so long as it continues to be equal to or better than the automated NBBO and between the APQ. Any remainder would be canceled at the end of the Auction Cross Duration unless the order were designated Cross and Post (''CNP''), in which case the unexecuted balance would be added to the AEMI Book. If a side selected for display is executed in full during the Auction Cross Duration, the other side of the auction cross order would be canceled unless the order is designated CNP. AEMI would reject an auction cross order if the proposed cross price were at or outside the APQ or outside the automated NBBO.

b. Floor Crosses

A cross with size precedence[95] could not be broken up at the cross price by resting bids, offers or orders in the AEMI Book. In executing a cross trade by open outcry, members would be required to follow the crossing procedures set forth in Rule 152–AEMI (if a member or member organization is taking or supplying stock to fill a customer's order) or Rule 151–AEMI (in all other situations). A clean agency cross, satisfying the size and value parameters in Commentaries .02 and .03 to Rule 126–AEMI, could not be broken up at the cross price by resting orders on the book. Only the member who executed the cross would receive a trade notification from AEMI in the event that the cross is not broken up at the cross price by the crowd (verbally) or by resting orders on the book.

c. Reserve Orders

AEMI would accept the reserve order, which is a limited price order submitted to AEMI by a Floor Broker standing in the crowd consisting of both a visible and an undisplayed (reserve) size.[96] The Floor Broker would specify the visible size of the order subject to a visible size minimum established by the Exchange. If the visible size of a reserve order is decremented, AEMI would replenish the displayed size from the order's reserve quantity up to the lesser of the displayed size or the remainder of the reserve size. The reserve size would not be visible to market participants—and thus not would not be included in the APQ—but the cumulative reserve size at each price point would be visible to the Specialist. The Specialist would not be allowed to disclose reserve size in response to a market probe by a member or in response to an inquiry from a representative of the security's issuer.

d. Hit or Take Orders

AEMI would have a ''hit or take'' order, which would trade against the APQ and could be entered by any member on or off the floor of the Exchange.[97] Members who wish to use the hit or take functionality must specify the price and quantity of the hit or take order. A hit or take order would expire if not immediately executed, but unlike an IOC order it is capable of generating ISOs to clear better away markets before executing on the Exchange. A hit or take order could be specified as ''sell short.''

e. Percentage Orders

AEMI would support percentage orders, which are limited price, day orders to buy (or sell) 50% of the Amex volume of a specified stock after entry into the Specialist Order Book.[98] Such orders may be entered only with ''last sale'' or buy-minus/sell-plus election instructions. Only a Floor Broker may enter a percentage order. A percentage order is a public order represented by the Specialist. For ETFs, a percentage order must be for a customer as opposed to a broker-dealer. Percentage orders would be executed after a ''trade event'' through ''election'' or ''conversion.'' Every execution due to an aggressing order is considered to be a trade event by AEMI. The elected portion of every percentage order would be executed immediately in whole or in part at the price of the electing transaction, or better. Any elected portion not so executed would revert to an unelected percentage order and could subsequently be elected or converted.

A percentage order could also be automatically converted into an IOC order or manually converted into either an IOC order (active manual conversion) or a regular limit order (passive manual conversion). Automatic conversions could occur during an opening, a re-opening, or the closing pair-off, and would be governed by conditions in the AEMI Book. The parameters triggering automatic conversions would be configurable. The automatically converted portion of a percentage order would be executed immediately, in whole or in part, at the price of the conversion, or better. Any portion not so executed would revert to its status as an unelected percentage order and be subject to subsequent election or conversion. The Specialist would manually convert percentage orders depending on the instruction on the percentage order. A manually converted percentage order would become an IOC order and immediately aggress the AEMI Book. A passive, manually converted percentage order would become a limit order at the APQ, and could set a new APQ or join the existing APQ.

Amex proposes to remove the current restriction requiring a 5,000 share

[94] *See* Rule 131–AEMI(r).

[95] *See* Rule 126–AEMI, Commentary .01.

[96] *See* Rule 131–AEMI(s).

[97] *See* Rule 131–AEMI(t).

[98] *See* Rule 131–AEMI(m).

minimum order size for certain conversions. Because the average trade size at the Amex is substantially less than 5,000 shares, Amex believes that eliminating this restriction would increase the execution opportunities for percentage orders.

6. Trade Nullification and Revision

Rule 135–AEMI sets forth procedures for revising the terms of a transaction or cancelling it entirely if both parties agree to the revision or cancellation. A transaction may not be canceled or revised unless it was made in error or the cancellation or revision is made for another proper reason, and prior approval of the cancellation or revision is obtained from a Floor Official.[99]

The AEMI rules also provide that a Floor Official can cancel or revise a trade, even when one party does not agree to doing so, if the transaction is clearly erroneous.[100] The terms of a transaction are clearly erroneous when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. In reviewing a trade that is claimed to be clearly erroneous, the Floor Official shall have a view toward maintaining a fair and orderly market and the protection of investors and the public interest. A member of the Exchange's regulatory staff shall advise and participate in all steps of the Floor Official's review of the transaction. If the Floor Official determines to revise the terms of the transaction, he or she shall seek equitable rectification of the error that would place the parties in the same position, or as close as possible to the same position, as they would have been in had the error not occurred. The AEMI rules also set out procedural requirements for requesting review of a trade on the grounds that it is clearly erroneous and a procedure for appealing the Floor Official's determination.

7. Policy Regarding Communication to and on the Floor

Amex has proposed to update its policy regarding communications to and on the floor in light of AEMI implementation.[101] These changes, among other things, would require Registered Traders to develop, or secure for use, hand-held terminals that would allow: (1) Communication of their bids and offers to AEMI; (2) execution of trades against orders in AEMI; and (3) notifications from the Specialist regarding the Registered Trader's post-trade allocation. Members, their employees, and their approved persons would be required to maintain a record of each transmission to or from a hand-held terminal. In addition, members would be required to implement firewalls to ensure that inappropriate communications are not sent to the floor. All clock sources would be required to be synchronized to a Stratum-1 time source using millisecond increments. The Exchange would use industry standard radio frequencies for the wireless portion of the data communications infrastructure. Amex would eliminate the current restriction on image transmission through the data communications infrastructure.

8. Carry-Over Rules

Rule 1A–AEMI(d) provides that, except to the extent governed by the AEMI rules or unless the context otherwise requires, the provisions of the Amex Constitution, the current Amex Rules, and the policies of the Board of Governors would be applicable to securities traded on AEMI. Rule 1A–AEMI(d) also expressly notes that certain current Amex rules would be applicable to trading on AEMI, including Rule 117 (relating to trading halts), Rule 190 (relating to Specialist transactions with public customers), and Rules 230 through 236 (relating to the ITS Plan). The following other rules, principally applicable to floor transactions, would continue to apply after AEMI is implemented: Rules 100, 101, 102, 103, 104, 105, 120, 122, 125, 128, 129, 153A, 171, 172, 173, 175, 176, 177, 183, 184, 185, 186, 191, 192, 193, 208, 221, and 222.

III. Amendment No. 6

In Amendment No. 6, Amex proposed the following:

- To replace an old Amex rule with a new Rule 24–AEMI to place limitations on proprietary trading by members and member organizations if the person entering the order has knowledge of an unexecuted customer order that could be executed at the same price;[102]
- To add Commentary .01, paragraph 1(b) to Rule 115–AEMI providing for the prompt disabling of auto-ex and the dissemination of a non-firm quote indicator if a Specialist or Registered Trader is unable to update its quotations on a timely basis due to a high level of trading activity or an unusual market condition;
- To amend Rule 126A–AEMI requiring the Exchange to identify all trades executed pursuant to an exception or exemption from Rule 611 of Regulation NMS;
- To amend Rule 126A–AEMI providing that the Exchange may invoke ''self-help'' under Rule 611(a) of Regulation NMS, pursuant to objective industry-wide established interpretations and policies;
- To add Rule 126B–AEMI relating to agreements that govern the routing of orders to away markets;[103]
- To delete certain rule text in Rule 126–AEMI relating to the Specialist allocation table;
- To delete Commentaries .08 and .09 to Rule 170–AEMI;
- To make minor, technical or clarifying changes to Rules 115–AEMI, 118–AEMI, Rule 128A–AEMI, 128B–AEMI, 131–AEMI, 131A–AEMI, 170–AEMI (Commentary .02(b)), and 170B–AEMI;
- To make minor changes to Rule 128A–AEMI to clarify that members may not trade in the open outcry market but may enter and cancel bids, offers, and orders in AEMI under all six of the specified circumstances in the rule when auto-ex is unavailable; and
- To confirm that, during the period when the Specialist is performing a pair-off under the proposed AEMI rules, the Specialist has agency responsibility to orders on the AEMI Book and is subject to traditional agency obligations and to further confirm that, when the Specialist is performing a pair-off, the Specialist may participate at the pair-off price but only after all other orders at the pair-off price trade first and that participation by the Specialist is for the

[99] *See* Rule 135–AEMI(a).

[100] *See* Rule 118–AEMI(k) (clearly erroneous transactions in Nasdaq securities); Rule 135A–AEMI (clearly erroneous transactions non-Nasdaq securities).

[101] *See* Rule 220–AEMI.

[102] The new Rule 24–AEMI is substantially similar to NYSE Rule 92.

[103] The Commission recently noticed another Exchange proposal to establish a modified initial version of AEMI that the Exchange expects to become operational prior to the Trading Phase Date. *See* AEMI–One Notice, *supra* note 54. The routing arrangements specified in the AEMI–One Notice are the same routing arrangements that the Exchange has described in Amendment No. 6, to which the Commission is granting accelerated approval. Thus far, the Commission has received one comment letter on the AEMI–One filing. *See* Letter to Nancy M. Morris, Secretary, Commission, from Michael A. Barth, Senior Vice President, Exchange and Market Centers, Order Execution Services, Inc., dated September 22, 2006. The commenter asserts that Amex will inappropriately perform duties required to be performed by a broker-dealer, such as making decisions on when, how, and where orders are routed. Rule 611(a) of Regulation NMS requires trading centers to adopt policies and procedures reasonably designed to prevent trade-throughs on that trading center of protected quotations in NMS stocks displayed by other trading centers. In addition, an exception in Rule 611(b) requires that ISOs be routed to other market's better priced protected quotations. *See* Regulation NMS Release, 70 FR at 37501–02. The Exchange has developed its outbound routing functionality to facilitate its compliance with Regulation NMS. The Commission believes that the Exchange's arrangements for providing this functionality are consistent with the Act.

purpose of absorbing the imbalance of shares that cannot participate in the pair-off.

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) of the Act.[104] Specifically, the Commission finds that approval of the proposal is consistent with Section 6(b)(5) of the Act [105] in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also finds that the proposal is consistent with Section 6(b)(8) of the Act,[106] which prohibits an exchange's rules from imposing a burden on competition that is not necessary or appropriate in furtherance of the Act. Finally, the Commission believes that the proposal is consistent with Section 11A(a)(1)(C) of the Act,[107] in which Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) Economically efficient execution of securities transactions; (2) fair competition among brokers and dealers and among exchange markets, and between exchange markets, and markets other than exchange markets; (3) the availability to brokers, dealers, and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors' orders in the best market; and (5) an opportunity for investors' orders to be executed without the participation of a dealer. This Order approves the proposed rule change, as amended, in its entirety, although only certain more significant aspects of the proposed rules governing AEMI are discussed below.[108]

A. Rules Designed To Comply With Regulation NMS Requirements

1. Automated Quotations/Automated Trading Center

Amex has designed the AEMI system to display automated quotations and qualify the Exchange as an automated trading center under Rule 600(b)(3) of Regulation NMS.[109] Amex has stated that the visible size of the top of book for each security traded on AEMI will by default be marked as an automated quotation, and auto-ex will be the default state of operation. The AEMI platform will accept electronic bids and offers from both the Specialist and Registered Traders and include them in the AEMI Book. The AEMI platform also will accept Crowd Orders from Floor Brokers standing in the crowd and other off-floor orders transmitted to AEMI electronically, and file all such orders in the AEMI Book. On the basis of this input of bids, offers, and orders, AEMI will disseminate the Amex best quote, together with the associated visible size, to the tape. Members in the crowd can make verbal bids and offers, but these would have no standing in the AEMI Book. A trade negotiated on the floor could not be consummated until it were entered into the AEMI system.

Orders sent to the AEMI system will be processed immediately and automatically without human intervention, except in certain limited circumstances. As described in Section II(B)(1)(b) above, four of these situations involve trading circumstances that could otherwise result in price volatility in an individual security. Of the four trading situations, three relate to breaching predefined tolerance levels held within the system, namely ''spread tolerance,'' ''momentum tolerance,'' and a ''gap trade tolerance.'' In the fourth circumstance (''gapping the quote''), the Specialist would manually take certain steps to address a large order imbalance. The fifth situation is the ''cash close'' for certain ETFs, and the sixth situation is when unusual market conditions (as defined in Rule 602 of Regulation NMS) occur.

The Commission believes that Amex's general approach to integrating auto-ex with a traditional floor is reasonable and consistent with the Act. The Commission previously has found similar hybrid trading rules of another exchange, the NYSE, to be consistent with the Act.[110] The increased availability of auto-ex should facilitate the efficient execution of orders on the Exchange and enhance the opportunity for executions to occur without the participation of a dealer.

Amex believes that disabling auto-ex under certain specific and published circumstances—such as where market volatility results in a breach of a spread, momentum, or gap trade tolerance—would balance the demand for speed of execution with the need to provide a stable and fair marketplace. In such circumstances, no execution, automatic or manual, would be available, except to consummate an auction trade to remove a condition that caused auto-ex to be disabled.[111] NYSE's Hybrid rules contemplate the disabling of auto-ex in similar circumstances.[112] As the Commission stated in the NYSE Hybrid Approval Order, a hybrid market model—where auto-ex is disabled in limited circumstances to reduce market volatility—is within the realm of judgment generally left to the discretion of individual markets and is consistent with the Act.[113] Accordingly, the Commission finds that Amex's use of the ''spread tolerance,'' ''momentum tolerance,'' and ''gap trade tolerance'' in the context of the Amex's hybrid market is consistent with the requirements of the Act.

Amex's proposed rule regarding ''gapping the quote'' is similar to a rule on NYSE's Hybrid trading system.[114] Under the proposed rule, an Amex Specialist would gap the quote when either: (1) A large order has been represented in the crowd; or (2) an incoming order has swept the book, disabled auto-ex, and left a large order imbalance in the security.[115] Similar to NYSE, Amex has sought to ensure that a Specialist does not frequently enter gapped quotations for the purpose of disabling auto-ex by requiring that, when the Specialist gaps the quote, it must follow certain procedures and

[104] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[105] 15 U.S.C. 78f(b)(5).

[106] 15 U.S.C. 78f(b)(8).

[107] 15 U.S.C. 78k–1(a)(1)(C).

[108] The Commission notes that certain of the proposed AEMI rules are substantially similar to existing Amex rules but with reasonable modifications for the new AEMI system. The Commission believes that these rules are reasonable and consistent with the Act. Some of these rules relate to the hours of business (Rule 1–AEMI; the authority of Floor Officials (Rule 3–AEMI); handling of odd lots (Rule 205–AEMI); and trade reporting (Rule 719–AEMI). Various rules relate to openings, closings, and states of operation, including: priority and parity at opening and reopenings (Rule 108–AEMI); trading in Nasdaq securities (Rule 118–AEMI); indications, openings, and reopenings (Rule 119–AEMI); manner of bidding and offering (Rule 123–AEMI); types of bids and offers (Rule 124–AEMI); and market-on-close policy and expiration procedures (Rule 131A–AEMI).

[109] 17 CFR 242.600(b)(3).

[110] *See* Securities Exchange Act Release No. 53539 (March 22, 2006); 71 FR 16353 (March 31, 2006) (''NYSE Hybrid Approval Order'').

[111] *See* Rule 128A–AEMI(f).

[112] *See* NYSE Rule 1000(a)(i)–(vi).

[113] *See* NYSE Hybrid Approval Order, 71 FR at 16377.

[114] *See* NYSE Rule 1000(a)(iv).

[115] Rule 170–AEMI(f) provides that the size of an imbalance suitable for gapped quoting must be at least 10,000 shares or a quantity of stock having a value of $200,000 or more, although depending on the trading characteristics of the security, the appropriate conditions for gapped quoting may be higher.

consult with a Senior Floor Official or an Exchange Official to supervise the process.[116] As it noted in the NYSE Hybrid Approval Order, the Commission believes that this limited ability to disable auto-ex is a reasonable approach for addressing the practical difficulties of integrating orders on the electronic book with large orders on the floor and addressing large order imbalances generally.[117]

The Commission also believes that the other limited instances when auto-ex will be turned off are reasonable and consistent with the Act. Auto-ex would be disabled to allow the Specialist to perform a ''cash close'' pair-off during the regular trading session at 4 p.m., which would occur prior to the official closing session on the Exchange and would be an added service for those investors who wish to mark positions to the cash close.

When auto-ex is disabled, whether due to a breach of a tolerance or any of the other events that cause the AEMI to revert to a manual market, the Amex quote would not be an ''automated quotation,'' and thus not entitled to protection under Rule 611 of Regulation NMS. When this occurs, Amex also would be required under Regulation NMS to immediately identify its quotation as a manual quotation if it is to be considered an ''automated trading center.'' [118] When the Amex quotation is not available for automatic execution because of a breach of a tolerance or gapped quotation, Amex would identify such quotes as non-firm.[119] Specifically, Rule 123–AEMI(h) provides that: (1) Bids and offers disseminated through AEMI, such as when the Exchange is conducting an auction or when the Exchange is unable to accurately collect, process, and/or make available quotations under certain circumstances, are non-firm; [120] and (2) AEMI will disseminate a specified indicator [121] whenever the APQ is not firm. In addition, the Specialist is required by Rule 128A–AEMI to take steps to re-enable auto-ex and could be subject to discipline for not acting appropriately. The Commission believes that these rules are reasonably designed to minimize the frequency and length of auto-ex unavailability and are consistent with the Act. The Commission also believes that Amex's procedures for marking its quotations as automated or non-firm are reasonable and consistent with the Act.

2. Means of Protecting of Protected Quotations

The AEMI platform and rules were designed to enable Amex to comply with Rule 611 of Regulation NMS, which requires, among other things, that the Exchange adopt and enforce written policies and procedures that are reasonably designed to prevent trade-throughs of protected quotations.[122] Therefore, when the APQ is not at the automated NBBO, AEMI would first determine whether a trade-through may nevertheless occur pursuant to one of eight enumerated circumstances stated in Rule 126A–AEMI.[123] If there is no applicable exception, AEMI would generate an ISO, consistent with the requirements of Rule 611 of Regulation NMS, to any trading center displaying better-priced protected quotations simultaneously with the execution of any transaction on Amex that would constitute a trade through.[124]

a. Intermarket Sweep Orders

To implement the requirements of Rule 600(b)(30) of Regulation NMS,[125] the Exchange is adopting Rule 131–AEMI(k) that sets out the requirements for ISOs. An ISO is a limit order designated for automatic execution in an NMS stock that is: (1) Received on the Exchange by AEMI from a member or another market center which is to be executed: (a) Immediately at the time such order is received in the AEMI Book, (b) without regard for better-priced protected quotations displayed at one or more other trading centers, and (c) at prices equal to or better than the limit price, with any portion not so executed to be treated as canceled; [126] or (2) generated by AEMI in connection with the execution of an order by AEMI and routed to one or more trading centers to execute against all better-priced protected quotations displayed by the other trading centers up to their displayed size. An ISO would have to be marked as such to inform the receiving trading center that it could be immediately executed without regard to protected quotations in other markets. The Commission believes that Amex's definition of ISO is consistent with the Act because it is reasonably designed to meet the requirements of Regulation NMS. The Commission notes that it previously approved similar provisions for ISOs.[127]

The rules governing the usage of ISOs are reasonably designed to meet the requirements of Rule 611 and, thus, are consistent with the Act. For example, Rule 126A–AEMI provides that the system would generate an ISO to any away market displaying a protected quotation simultaneously with the execution of a trade on Amex that would constitute a trade-through. Similarly, Rule 128A–AEMI(d) provides that an ''[a]utomated execution will not occur without protected quotations in away markets being satisfied through the issuance of intermarket sweep orders'' and proposed Rule 128B–AEMI includes provisions to generate ISOs to away markets.

b. Routing of Orders

As described in Section II(B)(2)(e) above, Amex would enter into agreements that govern the routing of an order to away markets with automated quotations displaying better prices. Rule

[116] *See* NYSE Info Memo 04–27 (June 9, 2004) (specifying that the size of an imbalance suitable for gap quoting is at least 10,000 shares or a quantity of stock having a value of $200,000 or more although, depending on the conditions, these levels could be higher).

[117] *See* NYSE Hybrid Approval Order, 71 FR at 16377.

[118] *See* 17 CFR 242.600(b)(4)(iii).

[119] *See* Notice, 71 FR at 41655. The Commission also notes that proposed Rule 115–AEMI addresses situations where Amex has reason to believe it is not capable of displaying automated quotations, including communicating to members its procedures concerning a change from automated to manual quotations. *See* Rule 115–AEMI.

[120] On the other hand, automated bids and offers disseminated through AEMI are firm until revised or withdrawn. Rule 123–AEMI(h).

[121] The Exchange has represented that it will use: (1) The indicator ''N'' to denote a non-firm quote when the Exchange is unable to accurately collect, process, and/or make available quotations; and (2) the indicator ''U'' to denote a non-firm quote (and that the Specialist is arranging an auction) when (a) auto-ex has been disabled due to the breach of a tolerance, and auto-ex and the dissemination of an automated quotation have not yet resumed, or (b) a gap quote situation exists due to an order imbalance. These quote indicators are not to be confused with the indicators ''A,'' ''B'' and ''H,'' which are for firm quotes and denote that a trading center is not meeting the Regulation NMS definition of an automated trading center even though auto-ex is on. *See* Rule 123–AEMI(h).

[122] The Exchange has filed separate rules with the Commission for a modified version of the AEMI platform to be in effect during the roll-out period and prior to the Trading Phase Date. *See* Securities Exchange Act Release No. 54413 (September 7, 2006), 71 FR 54318 (September 14, 2006) (noticing SR–Amex–2006–72). Prior to the Trading Phase Date, the Exchange would still be required to comply with the applicable provisions of the ITS Plan unless and until appropriate exemptions are obtained.

[123] The Commission notes that each of these eight enumerated circumstances corresponds to one of the trade-through exceptions listed in Rule 611(b) of Regulation NMS.

[124] However, if the incoming order is designated IOC, AEMI would cancel it and not route it to another market. *See* Rules 126A–AEMI and 131–AEMI.

[125] 17 CFR 242.600(b)(30).

[126] However, if an order is received through the communications network operated pursuant to the ITS Plan or any successor to the ITS Plan, the order would trade only at a single price. *See* Rule 131–AEMI(k).

[127] *See, e.g.*, NYSE Hybrid Approval Order, 71 FR at 16383.

126B–AEMI describes the arrangement between the Exchange and a third-party non-facility provider of routing services. The Commission believes that engaging such a provider is a reasonable means of assuring compliance with Rule 611 of Regulation NMS. The Commission notes that the Exchange would retain control of the routing logic, which would help the Exchange assure compliance with Rule 611.[128] The Commission also notes that the rule provides for the establishment and maintenance of procedures and internal controls designed to protect confidential and proprietary information, which should help ensure that the third party does not use such information for purposes other than legitimate business purposes necessary for the licensing of routing technology. In addition, the rule provides for the equitable allocation of reasonable dues, fees, and other charges among Exchange members and issuers and other persons using the Exchange's facilities.

c. Self Help

Rule 611 of Regulation NMS protects only quotations that are immediately and automatically available and, as such, includes exceptions designed to assure that marketable orders are routed only to well-functioning trading centers displaying automated quotations. In this regard, Rule 611(b)(1) of Regulation NMS permits a trade through of a protected quotation if the trading center displaying the protected quotation were experiencing a failure, material delay, or malfunction of its systems or equipment when the trade-through occurred. The Commission stated in the Regulation NMS Adopting Release that this exception ''gives trading centers a self-help remedy if another trading center repeatedly fails to provide an immediate response (within one second) to incoming orders attempting to access its quotes.'' [129] The Commission believes that the self-help provisions of Rule 126A–AEMI—stating that the Exchange may, pursuant to objective, industry-wide established interpretations and policies and subject to certain conditions, bypass the quotations displayed by another trading center if such trading center repeatedly fails to respond within one second to orders attempting to access such trading center's protected quotations—is reasonably designed to allow Amex to invoke self-help in a manner consistent with Rule 611 of Regulation NMS. The Commission believes, therefore, that these provisions are consistent with the Act.

d. Trade Reporting of Permissible Trade-Throughs

Following the Trading Phase Date, one provision of Rule 126A–AEMI would require the Exchange to identify all trades executed pursuant to an exception or exemption from Rule 611 in accordance with specifications approved by the operating committee of the relevant national market system plan.[130] This provision of Rule 126A–AEMI is designed to create uniformity across the markets regarding how permissible trade-throughs are reported, and should create more transparency for investors and regulators. The Commission believes, therefore, that this provision of Rule 126A–AEMI furthers the public interest and is consistent with the Act.

3. Access Rule

Paragraph (a) of the Access Rule [131] prohibits a national securities exchange from imposing unfairly discriminatory terms that prevent or inhibit any person from obtaining efficient access through a member of the exchange to a quotation in an NMS stock displayed through the SRO quoting facility. The Commission believes that the AEMI rules and the AEMI platform have been reasonably designed to meet the standard in paragraph (a) of the Access Rule.

In addition, paragraph (d) of the Access Rule [132] requires a national securities exchange to establish, maintain, and enforce rules that generally require its members to avoid displaying quotations that lock or cross any protected quotation in an NMS stock and that are reasonably designed to assure the reconciliation of locked or crossed quotations in an NMS stock. Rule 128C–AEMI requires members of the Exchange, as of the Trading Phase Date of Regulation NMS, to reasonably avoid displaying, and to not engage in a practice of displaying, any quotations that lock or cross a protected quotation, and any manual quotations that lock or cross a quotation previously disseminated pursuant to an effective national market system plan, subject to certain limited exceptions.[133] The rule also requires that, if a member of the Exchange displays a manual quotation that locks or crosses a quotation previously disseminated pursuant to an effective national market system plan, the member must promptly either withdraw the manual quotation or route an ISO to execute against the full displayed size of the locked or crossed quotation. The Commission believes that this rule is consistent with Rule 610(d) of Regulation NMS.

4. Sub-Penny Rule

Paragraph (a) of the Sub-Penny Rule,[134] among other things, prohibits an exchange from displaying, ranking, or accepting a quotation or order in any NMS stock priced in an increment smaller than $0.01 if the quotation or order is priced equal to or greater than $1.00 per share. If the quotation or order is priced less than $1.00, the minimum permissible increment is $0.0001.[135] The AEMI rules require quotations and orders above $1.00 to be priced in increments of at least $0.01 and quotations and orders below $1.00 to be priced in increments of at least $0.0001.[136] The Commission believes that the AEMI rules relating to minimum increments are consistent with the Sub-Penny Rule and consistent with the Act.

5. Transitioning from Legacy System to NMS Environment

Amex intends a phased roll-out of AEMI beginning early in the fourth quarter of 2006. By the Trading Phase Date, all equities and ETFs traded by the Exchange would be on the AEMI platform. The Exchange has filed separate rules with the Commission for a modified version of the AEMI platform to be in effect during the roll-out period and prior to the Trading Phase Date.[137] The Commission believes that the Exchange's proposal for a phased roll-out of AEMI should provide it with time to test AEMI in a real trading environment with a limited number of securities. The Commission believes that this is a reasonable approach in light of the extension of the Regulation NMS compliance dates and should help ensure that the appropriate Amex rules are in place at the time that Regulation NMS compliance is required.

[128] *See supra* note 103.

[129] *See* Regulation NMS Adopting Release, 70 FR at 37535.

[130] In addition, if a trade is executed pursuant to both the ISO exception of Rule 611(b)(5) or (6) and the self-help exception of Rule 611(b)(1), such trade shall be identified as executed pursuant to the ISO exception. *See* Rule 126A–AEMI.

[131] 17 CFR 242.610(a).

[132] 17 CFR 242.610(d).

[133] Prior to the Trading Phase Date, the Exchange would still be required to comply with the applicable provisions of the ITS Plan relating to locks and crosses, unless and until appropriate exemptions are obtained.

[134] 17 CFR 242.612(a).

[135] *See* 17 CFR 242.612(b).

[136] *See* Rule 127–AEMI; Rule 1000–AEMI, Commentary .03(e); Rule 1000A–AEMI, Commentary .02(e).

[137] *See supra note* 122. The Commission has not taken any action on this proposal.

B. Other Rules

Amex has proposed a number of rule changes in addition to those designed to promote compliance with Regulation NMS. These other rule changes primarily reflect the Exchange's proposed shift from a floor-based auction market to a new hybrid market structure for equity products and ETFs.

1. Liquidity Available for Auto-Ex

To facilitate automatic executions, the Exchange proposes to increase the ability of Specialists and, for ETFs, Registered Traders, to provide liquidity to the marketplace. In addition, the Exchange proposes to allow Floor Brokers to participate in automatic executions by permitting them to enter Crowd Orders, Reserve Orders, and Percentage Orders. In general, the Commission believes that allowing greater electronic access to liquidity is consistent with Section 6(b)(5) of the Act in that it should help perfect the mechanism of a free and open market.[138]

a. Specialist and Registered Trader Liquidity

A Specialist would be required to continue to provide liquidity to meet its obligation to assist in the maintenance of a fair and orderly market and of price continuity with reasonable depth. Under the proposal, Specialists and Registered Traders (in ETFs) can add liquidity to the AEMI Book at multiple price levels. Registered Traders also are permitted to participate in auctions, provided they are actively quoting. The Commission finds that the provisions allowing both Specialists and Registered Traders to electronically participate in AEMI is consistent with the requirements of the Act. This capability generally should increase the liquidity available for auto-ex and improve the prices at which orders that access the AEMI system may execute.

b. Floor Broker Liquidity

Under the AEMI rules, off-floor members are permitted access to the electronic environment by sending orders directly to the AEMI Book or by directing orders to booths on the floor for representation by a Floor Broker. Floor Brokers are permitted to provide liquidity to the electronic environment in the form of Crowd Orders. In addition, Floor Brokers standing in the crowd would be able to enter Reserve Orders on behalf of their customers—which would consist of both a visible size and an undisplayed (reserve) size that would not be included in the APQ. As a Reserve Order receives executions, the displayed size would be replenished up to the maximum of the defined display size or the remainder of the order. A price point could not be traded through until all the reserve size has been exhausted. Amex also has proposed to allow Floor Brokers to use Percentage Orders.

The Commission previously approved substantially similar rules relating to Floor Brokers in the NYSE Hybrid proposal.[139] The Commission believes generally that Reserve Orders and Percentage Orders are consistent with the Act because they are designed to allow Floor Brokers to replicate in a more electronic environment the services they offer to customers today, and because they offer Floor Brokers a reasonable degree of flexibility in handling and working larger customer orders.

2. Role of Specialists and Registered Traders

a. Generally

In AEMI, Specialists—and for transactions in ETFs, Registered Traders—will continue to be required to perform their obligations to maintain a fair and orderly market.[140] For example, pursuant to Rule 170–AEMI, a Specialist must trade for its own account when there is a lack of price continuity, depth, or a disparity between supply and demand. In addition, the Specialist must continue to oversee the auction market; pair-off orders at openings, closings, and the conclusion of auctions; and play an active role when large orders are routed to the floor for execution. However, Amex proposes to grant the Specialist additional flexibility in engaging in certain transactions in its specialty securities, without the need to obtain the prior approval of a Floor Official. Amex also proposes in Rule 110–AEMI to reduce some of the Registered Trader stabilization requirements.

The Commission finds that these proposed changes are consistent with the requirements of the Act in light of the evolving responsibilities of Specialists and Registered Traders to the market. Because of the AEMI system, Floor Brokers and off-floor members will be able to see order and quotation information at the same time as Specialists and Registered Traders, thereby diminishing many time and place advantages currently enjoyed by the latter.[141] Amex has committed to make AEMI depth-of-book information broadly available, and intends to implement this program with the rollout of AEMI prior to the Trading Phase Date.[142] In addition, the expansion of auto-ex capabilities will provide market participants from off the floor much more efficient access to liquidity in AEMI. In light of these market structure changes, the Commission concludes that Amex's proposed revisions to certain of the stabilization requirements for Specialists and Registered Traders is reasonable and consistent with the Act.

b. Application of ''Effect v. Execute'' Exemption from Section 11(a) of the Act

Section 11(a) of the Act[143] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, ''covered accounts'') unless an exception applies.[144] In addition to the exemptions set forth in the Act,[145] Rule 11a2–2(T)[146] under the Act, known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which

[138] 15 U.S.C. 78f(b)(5).

[139] *See* NYSE Hybrid Approval Order, 71 FR at 16378.

[140] *See* Rules 110–AEMI and 170–AEMI.

[141] However, Specialists will be the only market participants to have information regarding stop orders, percentage orders, and the aggregate size of reserve orders.

[142] In approving Amex's proposed stabilization rules, the Commission relied on the Exchange's representation that it intends to provide depth-of-book information to vendors and direct subscribers simultaneously with the first day of AEMI operation. Moreover, the Exchange commits to providing vendors and limited direct subscribers sufficient information including technical specifications to permit them to obtain the depth-of-book data feed as of the first day of AEMI operation. *See* Notice, 71 FR at 41655.

[143] 15 U.S.C. 78k(a).

[144] The Commission notes that Exchange members will no longer be able to enter ''G'' orders, *i.e.,* orders for covered accounts that rely on the exemption provided in Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder, for an exemption from the restrictions set forth in Section 11(a) of the Act. *See* Rule 131–AEMI(u).

[145] 15 U.S.C. 78k(a)(1)(A) through (H).

[146] 17 CFR 240.11a2–2(T).

the member has investment discretion, neither the member nor its associated person may retain any compensation in the connection with effecting the transaction except as provided in the Rule.

The Exchange represented that it believes that transactions for covered accounts effected in the AEMI system meet the requirements of Rule 11a2–2(T).[147] Based upon these representations, and for the reasons set forth below, the Commission believes that transactions for covered accounts executed in the AEMI system satisfy the four conditions of Rule 11a2–2(T).

First, the Exchange stated that all orders sent to the Exchange for execution through AEMI will be transmitted from remote locations (via the member firm's interface) directly to the Exchange floor by electronic means.[148] The Commission has previously found that the off-floor transmission requirement may be met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means,[149] and believes that orders sent to the Exchange for execution through AEMI from remote locations by electronic means (via the member firm interface) similarly satisfy the off-floor transmission requirement.[150]

The second requirement of Rule 11a2–2(T) is that the exchange member and its associated persons may not participate in the execution of a transaction once the order has been transmitted to the exchange floor. The Exchange represented that orders submitted to AEMI will enter the queue and may be executed against a limit order on the Specialist's Book, or the account of a Registered Trader or Specialist. According to Amex, the execution of an order depends upon the other orders or quotes entered into AEMI at or around the same time as the subject order, the orders residing in the order book, and order ranking based upon the AEMI rules of precedence.[151] The Exchange stated that at no time following the submission of an order will a member retain any ability to control the timing of an execution or otherwise enjoy any special order-handling advantage.[152]

The third requirement of Rule 11a2–2(T) is that the order must be executed by an exchange member that is not affiliated with the initiating member. The Commission has recognized that this requirement is not applicable when automated systems are utilized.[153] Amex represented that orders delivered directly to AEMI by Amex members will be automatically matched, routed, or executed. The Commission notes that Amex members that direct orders to Amex Floor Brokers for representation and execution in AEMI must use an unaffiliated Amex Floor Broker if they seek to rely on Rule 11a2–2(T) for an exemption from Section 11(a) of the Act.[154] Finally, the Exchange has represented that, as a prerequisite to the use of AEMI, if a member is to rely on Rule 11a2–2(T) for a covered account transaction, the member must comply with the limitations on compensation set forth in the rule.

3. Priority and Parity

a. Parity Joining Time

Amex has indicated that the ''parity joining time'' feature is intended to replicate in a more electronic environment the more flexible way that parity is established on the trading floor. The Commission believes that Amex's proposal to provide for a two-second parity joining time is broadly consistent with the Act and within the realm of judgment generally left to the discretion of individual markets.

b. Priority and Parity for Equities

The Commission believes that the proposed rules relating to order priority and order execution for non-ETF equities are consistent with the Act. The Commission notes that a Specialist's quotation must yield to any public order being represented in the Specialist Order Book. This approach is consistent with the traditional obligations of the Specialist and is consistent with the Act.[155] The priority and parity rules for equities appear to reasonably balance the interests of the various classes of market participants in a manner consistent with the Act. The Commission believes these rules are not designed to permit unfair discrimination and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

c. Priority and Parity for ETFs

The Commission also believes that the AEMI rules relating to order priority and order execution for ETFs are reasonable and consistent with the Act. These rules require customer orders, whether represented on the book or in the crowd, to be executed before any broker-dealer orders (including orders/quotations of the Specialist and Registered Traders) at

[147] *See* Letter from Claire P. McGrath, Senior Vice President and General Counsel, Amex, to Kelly M. Riley, Assistant Director, Division, Commission, dated August 24, 2006 (''Amex Letter''); *see also* Amendment No. 6, *supra* note 9.

[148] *See* Amex Letter, *supra* note 147.

[149] *See, e.g.,* Securities Exchange Act Release Nos. 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (regarding NYSE Off-Hours Trading Facility); 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (regarding the Amex Post Execution Reporting System, the Amex Switching System, the Intermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the Pacific Exchange's (''PCX'') Communications and Execution System, and the Philadelphia Stock Exchange's (''Phlx'') Automated Communications and Execution System (''1979 Release'')); and 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the NYSE's Designated Order Turnaround System). *See also* Letter from Paula R. Jensen, Deputy Chief Counsel, Division, Commission, to Angelo Evangelou, Senior Attorney, Chicago Board Options Exchange (''CBOE''), dated March 31, 2003 (regarding CBOE's CBOEdirect system (''CBOE*direct* Letter'')); Letter from Paula R. Jenson, Deputy Chief Counsel, Division, Commission, to Jeffrey P. Burns, Assistant General Counsel, Amex, dated July 9, 2002 (regarding Amex's Auto-Ex system for options); Letter from Paula R. Jenson, Deputy Chief Counsel, Division, Commission, to Richard S. Rudolph, Counsel, Phlx, dated April 15, 2002 (regarding Phlx's AUTOM System and its automatic execution feature AUTO–X); Letter from Paula R. Jensen, Deputy Chief Counsel, Division, Commission, to Kathryn L. Beck, Senior Vice President, Special Counsel and Antitrust Compliance Officer, PCX, dated October 25, 2001 (regarding Archipelago Exchange (''ArcaEx'') (''ArcaEx Letter'')); Letter from Brandon Becker, Director, Division, Commission, to George T. Simon, Foley & Lardner, dated November 30, 1994 (regarding Chicago Match (''Chicago Match Letter'')).

[150] The Commission notes that Amex members off of the Exchange floor may submit proprietary orders directly into the AEMI system or may send proprietary orders to the Amex physical floor for representation by Amex Floor Brokers.

[151] *See* Amex Letter, *supra* note 147.

[152] *See* Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (Order approving ArcaEx as the equities trading facility of PCX Equities Inc.); 1979 Release, *supra* note 149. *See also* CBOE*direct* Letter, *supra* note 149; Letter from Larry E. Bergmann, Senior Associate Director, Division, Commission, to Edith Hallahan, Associate General Counsel, Phlx, dated March 24, 1999 (regarding Phlx's VWAP Trading System); Letter from Catherine McGuire, Chief Counsel, Division, Commission, to David E. Rosedahl, PCX, dated November 30, 1998 (regarding Optimark); and Chicago Match Letter, *supra* note 149.

[153] For example, in considering the operation of automated execution systems operated by an exchange, the Commission noted that while there is no independent executing exchange member, the execution of an order is automatic once it has been transmitted into the systems. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange floors, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* Securities Exchange Act Release No. 15533 (January 29, 1979). *See also e.g.,* Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001).

[154] *See* Amendment No. 6, *supra* note 9. The Commission notes Amex members will not be able to rely on Section 11(a)(1)(G) of the Act. *See* Amex Rule 131–AEMI(u).

[155] The Commission notes that a Specialist bid (offer) in a non-ETF equity security would yield to a public bid (offer) even when AEMI receives the public bid (offer) outside the in-parity time window.

the same price, regardless of the customer orders' time priority. The Commission believes that giving priority to customer orders in this manner is consistent with the Act.

After all visible customer orders at a price are exhausted, Amex will allocate to the Specialist (if the Specialist quote is on parity with other broker-dealer orders), a percentage of the remaining order pursuant to an allocation table. The precise allocation granted to the Specialist will be based on the number of crowd participants. In view of the Specialist's obligations, such as maintaining a fair and orderly market, the Commission believes that this allocation methodology is broadly consistent with the Act and is within the realm of judgment generally left to the discretion of individual markets.

4. Cross Orders

a. Electronic Crosses

Amex is introducing new electronic cross order types in order to provide more trading opportunities to off-floor participants in ETFs and Nasdaq securities. The electronic cross order type selected by the market participant would dictate whether the cross could be broken up by interacting with orders on the AEMI Book, whether price improvement is being sought for the cross order, and how any residual of the cross order would be handled if it is broken up. One new cross order type in particular, the auction cross, is designed to seek price improvement for one or both sides of the cross.

The Commission finds that the rules relating to electronic cross orders are consistent with the Act and should provide market participants additional flexibility in executing transactions while protecting displayed interest on the book. The auction cross order in particular would afford an opportunity for price improvement by allowing market participants to compete for one or both sides of the cross.

b. Floor Crosses

The Exchange proposes to continue to permit Floor Brokers to negotiate crosses in the crowd. Rule 126–AEMI, Commentaries .01 (Precedence Based on Size) and .02 (Clean Agency Cross) allow a cross to occur ahead of other orders on the book at the cross price if: (1) The cross order is valued at $100,000 or more; (2) in the case of precedence based on size, the cross order is greater than each individual Crowd Order, as well as greater than the aggregate size of all orders on the Specialist Order Book at the cross price; and (3) in the case of a Clean Agency Cross, the size of the cross order is greater than the largest customer order on the Specialist Order Book at the cross price.[156] The Commission believes that these provisions are consistent with the Act. The Commission notes that it previously has approved similar crossing rules of other exchanges, and Amex's crossing rules raise no new issues.[157]

5. Unusual Markets Rule

The Commission believes that Rule 115–AEMI, setting forth Exchange procedures for the use of the Unusual Markets Exception provided by Rule 602 under Regulation NMS, is consistent with the Act. If the Exchange is unable to accurately collect, process, and/or disseminate quotation data in one or more securities owing to the high level of trading activity or the existence of unusual market conditions, Amex will immediately disable auto-ex and disseminate the indicator ''N'' to indicate that Amex's quotation, if a trading halt has not been declared and quotations are being published for such security or securities, is not firm. Similarly, if the Specialist were unable to update its quotation on a timely basis due to the high level of trading activity or the existence of an unusual market condition, it would be required to promptly notify a Floor Official and the Floor Official would notify Amex's Market Operations Division, which shall then promptly disable auto-ex and disseminate the indicator ''N'' to indicate that Amex's quotation, if a trading halt has not been declared and quotations are being published for such security or securities, if not firm. The Commission also believes that the procedures for declaring the existence of an unusual market condition are consistent with the Act in that these procedures appear to be reasonably designed to promote a fair and orderly market when unusual market conditions arise.

6. Trade Nullification and Revision

The AEMI rules regarding nullification or revision of clearly erroneous trades[158] are generally similar to the Exchange's current rules. In addition, new Rule 118–AEMI(k) would permit the Exchange to nullify or modify a trade if the Exchange determines that the transaction is erroneous as a result of the automatic execution of an order, bid, or offer by AEMI against an Amex quote that was not firm under one of the three exceptions to the firm quote requirement for bids and offers set forth in Rule 123–AEMI(h). The Commission believes that it is reasonable and consistent with the Act for an exchange to make transparent to its members the procedures for claiming that a trade is clearly erroneous, the standards for assessing such a claim, and the remedies available if the claim is substantiated. The AEMI rules also set forth procedures to be followed for the appeal of a determination made by a Floor Official or Floor Governor regarding such a claim.[159] These appeals procedures also are consistent with the Act as they should contribute to the trade nullification and revision procedures being exercised in a fair and reasonable manner.

C. Accelerated Approval

Pursuant to Section 19(b)(2) of the Act, the Commission finds good cause to approve the proposal, as amended by Amendment No. 6, prior to the thirtieth day after the amended proposal is published for comment in the **Federal Register**. Many of the changes in Amendment No. 6 are technical in nature and are intended only to make minor clarifications to the rule text. Other changes are designed to make AEMI more transparent and raise no issues of new regulatory concern. Accordingly, the Commission finds good cause to accelerate approval of the amended proposal prior to the thirtieth day after publication in the **Federal Register**.

V. Solicitation of Comments on Amendment No. 6

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 6, including whether the amendment is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2005–104 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary,

[156] Rule 126–AEMI, Commentaries .01 and .02, retain the existing requirement that the cross order must be for 5,000 shares or more.

[157] *See* Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006) (approving SR–NSX–2006–08); Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (approving SR–CBOE–2004–21).

[158] Rules 118–AEMI(k) and 135A–AEMI.

[159] Rules 118–AEMI and 135A–AEMI.

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2005–104. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2005–104 and should be submitted on or before October 31, 2006.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular with Sections 6(b)(5) and 6(b)(8) of the Act.[160]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[161] that the proposed rule change (SR–Amex–2005–105), as amended by Amendments No. 1, 2, 3, 4, and 5, be, and it hereby is, approved, and that Amendment No. 6 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[162]

Nancy M. Morris,

Secretary.

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[160] U.S.C. 78f(b)(5) and 78f(b)(8).

[161] 15 U.S.C. 78s(b)(2).

[162] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54553; File No. SR–Amex–2006–91]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Extension of the Pilot Period Applicable to the Listing and Trading of Options on the iShares MSCI Emerging Markets Index

September 29, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 28, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Amex has filed the proposed rule change, pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period applicable to the listing and trading of options on the iShares MSCI Emerging Markets Index Fund (''Fund Options''). The Amex is not proposing any changes to the rule text. The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* the Office of the Secretary, Amex and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 17, 2006, the Commission approved the Amex's proposal to list and trade the Fund Options.[6] On June 30, 2006 the Commission approved a 90-day extension to the Pilot that is due to expire October 1, 2006.[7] The Fund Options will continue to meet substantially all of the listing and maintenance standards in Commentary .06 to Amex Rule 915 and Commentary .07 to Amex Rule 916. For the requirements that are not satisfied, the Exchange continues to represent that sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Fund Options. Continuation of the Pilot would permit the Exchange to continue to work with the Bolsa Mexicana de Valores (''Bolsa'') to develop a surveillance sharing agreement.

Accordingly, the Exchange proposes to extend the Pilot for an additional ninety days, until December 30, 2006.[8]

2. Statutory Basis

The Amex believes the proposed rule change is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange requested the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay, as specified in Rule 19b(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* Securities Exchange Act Release No. 53824 (May 17, 2006), 71 FR 30003 (May 24, 2006) (SR–Amex–2006–43).

[7] *See* Securities Exchange Act Release No. 54081 (June 30, 2006), 71 FR 38911 (July 10, 2006) (SR–Amex–2006–60).

[8] Given that December 30, 2006 is a Saturday, the Commission notes that the Pilot will in effect be extended until January 2, 2007, the first business day after December 30, 2006.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purpose of the Act or the administration of the Amex.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

Amex has requested that the Commission waive both the five-day pre-filing requirement and the 30-day delayed operative delay.[15] The Commission is exercising its authority to waive the five-day pre-filing notice requirement and believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the five-day pre-filing and 30-day operative periods will extend the Pilot, which would otherwise expire on October 1, 2006, and allow the Amex to continue in its efforts to obtain a surveillance agreement with Bolsa. The Commission notes that another self-regulatory organization recently adopted a substantially similar rule change that was effective upon filing.[16]

Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.[17]

At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.[18]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2006–91 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–91. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–91 and should be submitted on or before October 31, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16630 Filed 10–6–06; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See* Securities Exchange Act Release No. 54347 (August 22, 2006), 71 FR 51242 (August 29, 2006) (SR–CBOE–2006–72).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54556; File No. SR–BSE–2005–09]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Its Minor Rule Violation Plan

October 2, 2006.

On February 7, 2005, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BSE Rule Chapter XXX (''Disciplining of Members—Denial of Membership'') and BSE Rule Chapter XXXIV (''Minor Rule Violations''). The Exchange filed Amendment No. 1 to the proposed rule change on July 7, 2006, and Amendment No. 2 on August 18, 2006. The proposed rule change, as amended, was published for comment in the **Federal Register** on September 1, 2006.[3] The Commission received no comments regarding the proposal.

BSE proposed to make the following changes:

- Add ''Principal Considerations in Determining Sanctions'' to BSE Rule Chapter XXX;
- Move Acceptance Waiver and Consent Procedures (''AWC'') from BSE Rule Chapter XXXIV to BSE Rule Chapter XXX;

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54374 (August 28, 2006), 71 FR 52183.

• Change references to the ''Chief Regulatory Officer'' in the AWC to the ''General Counsel or his/her delegatee'';

• Add a provision in BSE Rule Chapter XXX imposing a late charge when a member fails to pay a fine on a timely basis;

• Add violations of the Exchange's rules governing the Intermarket Trading System to BSE Rule Chapter XXXIV;

• Restructure the fine levels of violations in BSE Rule Chapter XXXIV pertaining to Failure to Display Limit Orders, Floor Order Facilitation, Failure to Designate an Order (PPS), and Dealings Outside of Exchange Operating Hours; and

• Adjust the fine levels for short sale violations in BSE Rule Chapter XXXIV.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[5] because delineating factors to be considered in determining sanctions should promote transparency of the Exchange's disciplinary process and the ability to impose a late charge for the failure to pay fines should help the Exchange carry out its supervisory responsibilities.

The Commission further believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[6] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because BSE Rule Chapter XVIII provides procedural rights to contest the fine for any violation of an Exchange rule and permits disciplinary proceedings on the matter, the Commission believes BSE Rule Chapter XXXIV, as amended by this proposal, provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.[7]

Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act[8] which governs minor rule violation plans. The Commission believes that the proposed change to BSE Rule Chapter XXXIV will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving this proposed rule change, as amended, the Commission in no way minimizes the importance of compliance with BSE rules and all other rules subject to the imposition of fines under the minor rule violation plan of the Exchange. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the Exchange's minor rule violation plan under BSE Rule Chapter XXXIV provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that BSE will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the minor rule violation plan or whether a violation requires formal disciplinary action under BSE Rule Chapter XXX.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[9] and Rule 19d–1(c)(2) under the Act,[10] that the proposed rule change (SR–BSE–2005–09), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16645 Filed 10–6–06; 8:45 am]

BILLING CODE 8011–01–P

[4] In approviing this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[7] 15 U.S.c. 78f(b)(7) and 78f(d)(1).

[8] 17 CFR 240.19d–1(c)(2).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 240.19d–1(c)(2).

[11] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(44).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54550; File No. SR–CHX–2006–05]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto to Implement a New Trading Model

September 29, 2006.

I. Introduction

On February 2, 2006, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules to implement a new trading model that provides the opportunity for fully automated executions to occur within a central matching system (the ''Matching System''). On August 10, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on August 18, 2006.[3] The Commission received one comment letter on the proposal.[4]

On September 29, 2006, the Exchange filed Amendment No. 2 to the proposed rule change.[5] This order approves the proposed rule change, as amended by Amendment No. 1. Simultaneously, the Commission is providing notice of filing of, and granting accelerated approval to, Amendment No. 2 to the proposed rule change.

II. Description

The Exchange proposes to amend its rules in order to implement a new trading model that would allow Exchange participants to interact in a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54301 (August 10, 2006), 71 FR 47836 (''Trading Rules Notice'').

[4] *See* Letter from Michael A. Barth, Senior Vice President, Exchanges and Market Centers, Order Execution Services Holdings, Inc. (''OES''), to Nancy M. Morris, Secretary, Commission, dated August 25, 2006 (''OES Letter'').

[5] *See* Form 19b–4 dated September 29, 2006 (''Amendment No. 2''). The text of Amendment No. 2 is available on CHX's Web site (*http://www.chx.com*), at the principal office of CHX, and at the Commission's Public Reference Room. *See infra* Section II.E for a discussion of Amendment No. 2.

fully-automated Matching System. In addition, the proposed rules would enable qualifying participant firms to register as ''institutional brokers,'' that, among other things, would be permitted to execute transactions outside of the Matching System under specified conditions.[6] Many of the features of the new trading model are designed to comply with Regulation NMS [7] as of the ''Trading Phase Date'' for the implementation of that regulation—February 5, 2007.[8] The Exchange is also proposing a number of other changes to its rules in an effort to update them generally, as well as to reflect the elimination of the trading floor and the new automated trading system that will be central to the Exchange's new trading model.

A. The Matching System

The Matching System would be the core facility of the Exchange's new trading model. The Exchange would no longer operate a physical trading floor, but rather would operate an automated Matching System where Exchange participants could submit orders from any location for possible immediate execution.

1. Eligible Orders and Order Types

The Matching System generally would accept orders that are day orders, limit orders, and orders for regular way settlement.[9] Orders could be submitted as round lots, odd lots, or mixed lots, except that orders in securities that only trade in specific share size increments would be required to be submitted only in those share sizes.[10] The Exchange believes that its quotations would qualify as ''automated quotations'' under Rule 600(b)(3) of Regulation NMS.[11]

Some of the order types accepted by the Matching System that the Exchange describes as more routine would include immediate or cancel (''IOC'') limit and market orders,[12] fill or kill (''FOK'') orders,[13] sell short and short exempt orders,[14] reserve size orders,[15] time in force orders [16] and cancel on halt orders.[17] The Matching System also would accept several different types of cross transactions, including a cross,[18] a cross with size,[19] a cross with satisfy,[20] a cross with yield,[21] a midpoint cross,[22] an ISO cross,[23] an opening cross,[24] and a non-regular way cross.[25]

The Matching System also would accept several order types that are related to Regulation NMS,[26] and that would become effective on the Trading Phase Date of Regulation NMS.[27] For example, the Matching System would accept benchmark orders that meet the requirements of Rule 611(b)(7) of Regulation NMS.[28] The Matching System would also accept different types of intermarket sweep orders

[6] *See infra* Section II.C. for a more detailed discussion.

[7] 17 CFR 242.600 *et seq.*

[8] *See infra* note 27.

[9] *See* proposed CHX Article 20, Rule 4(a)(1)–(3). The proposed rules provide for certain exceptions to these basic order eligibility requirements. For example, the Matching System would also accept immediate-or-cancel (''IOC'') market orders, and would permit a ''non-regular way cross order'' to be submitted for execution and non-regular way settlement. *See* proposed CHX Article 20, Rules 4(a)(7) and 4(b)(13) and (16).

[10] *See* proposed CHX Article 20, Rule 4(a)(4).

[11] *See* 17 CFR 242.600(b)(3). The Exchange's proposed rules provide that each order submitted to the Matching System must be a firm order and cannot be identified as a ''manual'' quotation. *See* proposed CHX Article 20, Rule 3(a). *See also infra* note 54 and accompanying text.

[12] IOC orders would be executed against any orders at or better than the Exchange's Best Bid or Offer (''BBO''), including any reserve size or other undisplayed orders at or better than that price. *See* proposed CHX Article 20, Rules 4(b)(12) (IOC orders) and 4(b)(13) (IOC market orders).

[13] *See* proposed CHX Article 20, Rule 4(b)(11).

[14] *See* proposed CHX Article 20, Rule 4(b)(21) (sell short orders) and Rule 4(b)(22) (short exempt orders).

[15] *See* proposed CHX Article 20, Rule 4(b)(20).

[16] *See* proposed CHX Article 20, Rule 4(b)(23).

[17] *See* proposed CHX Article 20, Rule 4(b)(3).

[18] *See* proposed CHX Article 20, Rule 4(b)(4). A cross transaction would be an order to buy and sell the same security at a specific price that is better than the Exchange's displayed BBO and, for securities listed on any exchange other than Nasdaq (and for Nasdaq-listed securities, when Regulation NMS is implemented in those issues), equal to or better than the National Best Bid and Offer (''NBBO''). A cross may represent interest of one or more Exchange participants, trading for a proprietary account. *See infra* note 43 for a description of cross order executions.

[19] *See* proposed CHX Article 20, Rule 4(b)(6). A cross with size would be required to be for at least 5,000 shares and for a value of $100,000 that is at a price equal to or better than the Exchange's displayed BBO and, for securities listed on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or any other exchange except the NASDAQ Stock Market (''Nasdaq'') (and for Nasdaq-listed securities, when Regulation NMS is implemented in those issues), equal or better to the NBBO, where the size of the cross transaction is one round lot larger than the aggregate size of all interest displayed on the Exchange at that price. At such time as the Exchange disseminates a feed of all displayable orders in the Matching System, however, a cross with size order would be required to be larger only than the largest order in the Matching System at the relevant price. *See* Amendment No. 2. A cross with size transaction may represent interest of one or more participants of the Exchange. *See also infra* note 43.

[20] *See* proposed CHX Article 20, Rule 4(b)(5). A cross with satisfy is designed to provide a participant with a mechanism for clearing out displayed orders in the Matching System that would otherwise have time priority (or displayed bids or offers in other market centers that would otherwise have price priority) and then effecting a cross transaction at that price. A cross with satisfy could represent interest of one or more participants of the Exchange but, to the extent that it represents interest of the participant sending the order to the Matching System, the participant (i) would not be eligible to satisfy existing bids or offers in the Matching System at a price that is better than the cross price (when the participant's customer is on the same side of the order as the participant), and (ii) could only satisfy bids or offers in other markets at a price that is better than the cross price if the cross is for at least 10,000 shares or has a value of at least $200,000 (a ''block size order'') or is for the account of an institutional customer (defined elsewhere in the proposed rules) and the participant's customer has specifically agreed to that outcome. *See also infra* note 44.

[21] *See* proposed CHX Article 20, Rule 4(b)(7). A cross with yield would automatically yield interest on the buy, sell, or either side of the order to any order already displayed in the Matching System at the same or better price. *See also infra* note 45.

[22] *See* proposed CHX Article 20, Rule 4(b)(15). A midpoint cross would execute at the midpoint between the NBBO. However, if the NBBO is locked at the time a midpoint cross is received, the midpoint cross would execute at the locked NBBO. If the NBBO is crossed at the time a midpoint cross is received, the midpoint cross would be automatically cancelled.

[23] *See* proposed CHX Article 20, Rule 4(b)(14), added by Amendment No. 2. An ISO cross would be defined as any type of cross order marked as required by Regulation NMS to be executed without taking any of the actions required by the Exchange's relevant rules to prevent a trade-through.

[24] *See* proposed CHX Article 20, Rule 4(b)(17). Opening cross orders would execute immediately after the primary market opens in a security, at the opening price. For securities listed on NYSE, Amex and any exchange other than Nasdaq, the opening price would be the primary market opening price. For Nasdaq-listed securities (except in the case of an initial IPO), the opening price would be the midpoint of the first unlocked, uncrossed market that occurs on or after 8:30 a.m. For Nasdaq-listed securities on the date of an IPO, the opening price would be the Nasdaq opening price. *See also* proposed CHX Article 20, Rule 8(c)(2).

[25] *See* proposed CHX Article 20, Rule 4(b)(16). A non-regular way cross would be designated for non-regular way settlement. These orders would be automatically executed without regard to either the NBBO or any orders for regular way settlement that might be in the Matching System.

[26] 17 CFR 242.600 *et seq.*

[27] *See* Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006) (setting new compliance dates for Rules 610 and 611 of Regulation NMS).

[28] *See* 17 CFR 242.611(b)(7); *see also* CHX proposed Article 20, Rule 4(b)(2). A benchmark order, as defined in the proposed rules, would be an order submitted by an institutional broker, and could be executed at any price, without regard to the protected NBBO. A benchmark order could represent interest of one or more Exchange participants.

(''ISOs''), such as BBO ISOs,[29] outbound ISOs [30] and price-penetrating ISOs.[31]

In general, the Matching System would accept only orders that comply with the sub-penny restrictions set forth in Rule 612 of Regulation NMS.[32] However, contingent upon the Commission granting the necessary exemptive relief from Rule 612, the proposed rules would permit any type of cross order to be submitted to the Matching System in a sub-penny increment as small as $0.000001, provided that no type of cross, except midpoint crosses, non-regular-way crosses and cross with size orders, would be permitted to execute at a price less than $.01 better than any currently displayed same-sided interest available on the Matching System (or $.0001 better when the order is priced under $1.00).[33]

Finally, the Matching System would accept ''do-not-display'' and ''do-not-route orders.'' A do-not-display order would be an order, for at least 1,000 shares when entered, that would not be displayed in whole or in part, but that would remain eligible for execution within the Matching System.[34] A do-not-route order would be executed or displayed within the Matching System and could not be routed to another market center.[35]

2. Ranking and Display of Orders

All orders received by the Matching System would be ranked by price, time of receipt, and, for round-lot orders, any display instructions received with the order.[36] Specifically, orders received by the Matching System would be ranked as follows: (i) Limit orders that are eligible to be displayed, including the displayed portion of reserve size orders, and all odd-lot and mixed-lot orders would be ranked together, at each price point, in time priority; (ii) at each price point, the undisplayed portions of reserve size orders would be ranked together in time priority and would be ranked after any displayed orders (and any odd-lot and mixed-lot orders) at that price; and (iii) orders that are received with a do-not-display instruction would be ranked together, at each price point, in time priority and would be ranked after any other orders at that price.[37]

All orders that are eligible for display would be immediately and publicly displayed through the processes set out in the appropriate transaction reporting plan for each security when they constitute the best round-lot bid or offer in the Matching System for that security. For display purposes, the Matching System would aggregate all shares, including odd-lot orders and the odd-lot portions of mixed-lot orders, at a single price point, and then round that total share amount down to the nearest round-lot amount.[38]

3. Automatic Execution

Incoming orders generally would be matched against orders in the Matching System, in the order of their ranking, at the price of each resting order, for the full amount of shares available at that price or for the size of the incoming order, if smaller.[39] If an order could not be immediately matched or matched in full when received, and it is not designated as an order type that should be immediately cancelled,[40] it or its residual portion would be placed in the Matching System and ranked.[41]

The proposed rules describe certain order types that would be subject to specific executions within the Matching System.[42] Such order types include cross and cross with size orders,[43] cross with satisfy orders,[44] cross with yield orders,[45] sell short orders,[46] do-not-

[29] *See* proposed CHX Article 20, Rule 4(b)(1). BBO ISOs would execute against orders at the Exchange's BBO, without regard to whether the execution would trade through another market's protected quotation. If a BBO ISO is marked as ''immediate or cancel,'' any remaining balance in the order would be automatically cancelled. If a BBO ISO is not marked as ''immediate or cancel,'' any remaining balance in the order would be displayed in the Matching System, without regard to whether that display would lock or cross another market center. *See* proposed CHX Article 20, Rule 6(c)(3).

[30] An outbound ISO would allow an Exchange participant to ask the Exchange to execute an order on the Exchange while simultaneously routing ISOs to those other markets to execute against their protected quotations. Outbound ISOs would be executed against any eligible orders in the Matching System (including any reserve size or other undisplayed orders). Other than the routing of ISOs to other market centers, no action would be taken to prevent an improper trade-through. *See* proposed CHX Article 20, Rule 4(b)(18).

[31] *See* proposed CHX Article 20, Rule 4(b)(19). A price-penetrating ISO would operate much like a basic ISO, except that it would allow a participant to execute through displayed and undisplayed interest, at multiple price points, on the Exchange.

[32] 17 CFR 242.612.

[33] *See* proposed CHX Article 20, Rule 4(a)(7)(b). *See also* Amendment No. 2.

[34] *See* proposed CHX Article 20, Rule 4(b)(9).

[35] *See* proposed CHX Article 20, Rule 4(b)(10). A do-not-route order would be immediately cancelled if its execution would improperly trade through the ITS BBO or another market's protected quotations. Any types of cross, IOC, or FOK orders would be deemed to have been received with a ''do not route'' condition because these orders either are immediately executed in the Matching System or cancelled.

[36] *See* proposed CHX Article 20, Rule 8(b). Orders sent to an institutional broker for handling would not have any priority within the Matching System unless and until they are received by the Matching System. *Id.*

[37] *Id.,* proposed Rule 8(b)(1)–(3). The refreshed displayed portion of a reserve-size order would receive a new ranking based on the time it was refreshed, with any remaining undisplayed portion retaining the ranking at which it was originally received. *Id.,* proposed Rule 8(b)(4). A change to an order's size or price, or its displayed portion, could impact its ranking within the Matching System. A change to the display instructions associated with an order would need to be submitted as a new order and would be ranked based on the time the new order was received. *Id.,* proposed Rule 8(b)(5). *See also* Amendment No. 2.

[38] *Id.,* proposed Rule 8(b)(6). For execution purposes, however, all orders would retain their rankings as described above.

[39] *See* proposed CHX Article 20, Rule 8(d)(1). This general rule would be subject to certain exceptions specifically set forth in proposed CHX Article 20, Rule 8(e), and subject to the provisions relating to the prevention of trade-throughs in proposed CHX Article 20, Rule 5.

[40] *See* proposed CHX Article 20, Rules 4(b)(11) through (13). Orders that would be immediately cancelled, if not executed, include FOK orders and IOC limit and market orders.

[41] *See* proposed CHX Article 20, Rule 8(d)(2); *see also supra* note 37 and accompanying text.

[42] *See* proposed CHX Article 20, Rule 8(e).

[43] *See* proposed CHX Article 20, Rule 8(e)(1). Cross and cross with size orders would be automatically executed if they meet the requirements for such order types, and would be immediately and automatically cancelled if they do not meet these requirements.

[44] *See* proposed CHX Article 20, Rule 8(e)(4). In executing cross with satisfy orders, the Matching System first would determine whether the order contains a share size that is sufficient to satisfy orders in the Matching System or bids or offers in other markets, as applicable. If this requirement is not met, the cross with satisfy would be automatically cancelled. If the order meets this requirement, the Matching System then would satisfy existing orders in the Matching System or send orders or commitments to other market centers to satisfy bids or offers, as necessary to prevent a trade-through and, before updating the Exchange's quotes, would execute the cross at a price that is better than the best bid or offer to be displayed in the Matching System and, for securities listed on NYSE, Amex or any other exchange other than Nasdaq (and for Nasdaq-listed securities, when Regulation NMS is implemented in those issues), equal to or better than the NBBO. In doing so, the Matching System would determine whether the participant that sent the order to the Matching System is attempting to satisfy bids or offers in the Matching System at a price that is better than the cross price and, if so, would not allow those executions to occur, but would instead allocate the better prices to the customer, not to the participant sending the order to the Matching System. *See also supra* note 20.

[45] *See* proposed CHX Article 20, Rule 8(e)(2). A cross with yield order would be automatically executed by matching the participant as principal against the customer order if the customer order that is part of a cross with yield order is at a price better than the currently displayed best bid or offer in the Matching System; provided, however, that if there is any order already displayed in the Matching System at the same price as (or better than) the participant's interest, that order or those orders would be matched against the customer order in place of the participant's interest as necessary to exhaust the customer order interest. If the customer order that is part of a cross with yield order is not eligible for an immediate execution because it is not priced better than the currently displayed bid or offer in the Matching System, the cross with yield order would be immediately and automatically cancelled. *See also supra* note 21.

[46] *See* proposed CHX Article 20, Rule 8(e)(5). Sell short orders (including odd lot orders) would be displayed and executed only when permissible under the provisions of Rule 10a–1 (''Short Sale Rule'') under the Act and Regulation SHO. When

Continued

display orders,[47] and inbound ITS commitment or linkage plan orders.[48] The proposed rules also describe the handling of orders in locked and crossed markets.[49]

4. Preventing Trade-Throughs

An inbound order for at least one round lot would not be eligible for execution on the Exchange if its execution would cause an improper trade-through, both prior to and following the Trading Phase Date of Rule 611 of Regulation NMS.[50] The proposed rules provide that the Exchange will follow a series of trade-through policies and procedures in determining whether a trade on the Exchange would create an improper trade-through.[51] These procedures include clock synchronization practices, as well as plans for applying the exceptions to Rule 611 of Regulation NMS. For example, the Exchange's rules contemplate using the self-help exception in Rule 611(b)(1) of Regulation NMS.[52] Further, the Exchange would automatically place an appropriate modifier on trades executed pursuant to an exemption from, or exception to, Rule 611 of Regulation NMS in accordance with specifications approved by the operating committee of the relevant national market system plan for an NMS stock. If a trade is executed pursuant to both the intermarket sweep order exception of Rule 611(b)(5) or (6) of Regulation NMS and the self-help exception of Rule 611(b)(1) of Regulation NMS, the trade would be identified as executed pursuant to the intermarket sweep order exception.[53] The proposed rules also set forth the procedures that the Exchange would use to confirm that its own bids and offers qualify as automated quotations and, if they do not qualify as automated quotations, how the Exchange will identify such quotations as manual.[54]

5. Order Routing

The proposed rules also contain provisions governing the routing of orders to other markets when execution in the Matching System would cause an improper trade-through.[55] If a participant has submitted a cross with satisfy or an outbound ISO order and its execution would cause an improper trade-through, the Matching System would execute the order and simultaneously route orders or commitments necessary to satisfy the bids or offers of other markets (''routing services''). Otherwise, any inbound order for at least a round lot is not eligible for execution on the Exchange if its execution would cause an improper trade-through.[56]

The Exchange proposes to provide these routing services pursuant to the terms of three separate agreements, to the extent that they are applicable to a specific routing decision: (i) An agreement between the Exchange and each participant on whose behalf orders will be routed; (ii) an agreement between each participant and a specified third-party broker-dealer that will use its routing connectivity to other markets and serve as a ''give-up'' in those markets; and (iii) an agreement between the Exchange and the specified third-party broker-dealer pursuant to which the third-party broker-dealer would agree to provide routing connectivity to other markets and serve as a ''give-up'' for the Exchange's participants in other markets. In providing the routing services, the Exchange would use its own systems to determine when, how, and where orders (or commitments) are routed away to other markets.[57] In addition, the Exchange will establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange (including its facilities) and the third-party broker-dealer, and, to the extent the third-party broker-dealer reasonably receives confidential and proprietary information, that adequately restrict the use of such information by the third party broker-dealer to legitimate business purposes necessary to provide routing connectivity and to serve as a ''give-up.''[58]

6. Locking and Crossing Quotations

With certain exceptions, Exchange participants would be required to reasonably avoid displaying, and refrain from engaging in a pattern or practice of displaying, any quotations that lock or cross a protected quotation.[59] An order would not be eligible for display on the Exchange if its display would improperly lock or cross the ITS best bid or offer or, as of the Trading Phase Date of Regulation NMS for a security, if its display would constitute a locking or crossing quotation.[60] These otherwise locking or crossing orders would either be automatically routed to another appropriate market or, if designated as ''do not route,'' automatically cancelled.

B. Market Makers

The proposed rules in Article 16 set forth the responsibilities of a participant that registers as a market maker on the Exchange.[61] In particular, a market maker would be required to engage in a course of dealings for its own account to assist in the maintenance, to the extent reasonably practicable, of fair and

a sell short order cannot be executed or displayed at its limit price under the provisions of the Short Sale Rule and Regulation SHO, the order would be automatically re-priced (without violating its limit price) to the next available price at which it can be executed or displayed. If the Matching System cannot determine an appropriate price at which to execute or display the order, the order would be automatically cancelled. *See* Amendment No. 2.

[47] *See* proposed CHX Article 20, Rule 8(e)(6). A do-not-display order would be immediately and automatically cancelled if, at any point, the order would prevent the execution of an inbound order because the do-not-display order has crossed the NBBO.

[48] *See* proposed CHX Article 20, Rule 8(e)(7).

[49] *See* proposed CHX Article 20, Rule 6 and proposed CHX Article 20, Rule 5, Interpretation and Policy .01(e).

[50] *See* proposed CHX Article 20, Rule 5. An inbound order for at least one round lot would not be eligible for execution on the Exchange if its execution would cause an improper trade-through of another ITS market or if, when Regulation NMS is implemented for a security, the execution of all or a part of the order would be improper under Rule 611 of Regulation NMS. Inbound odd lot orders and odd lot crosses would be eligible for execution on the Exchange, even if they would trade through other markets' bids and offers.

[51] *See* proposed CHX Article 20, Rule 5, Interpretation and Policy .01.

[52] *See* 17 CFR 242.611(b)(1); *see also* proposed CHX Article 20, Rule 5, Interpretation and Policy .01(d).

[53] *See* proposed CHX Article 20, Rule 5, Interpretation and Policy .01(h). *See also* Amendment No. 2.

[54] *See* proposed CHX Article 20, Rule 5, Interpretation and Policy .02. Specifically, the Exchange would send test IOC orders to the Matching System to make this determination. *See also supra*, note 11 and accompanying text.

[55] *See* proposed CHX Article 20, Rule 5, Interpretation and Policy .03.

[56] *See* proposed CHX Article 20, Rule 5(a).

[57] *Id.*

[58] *See* Amendment No. 2, *supra* note 5.

[59] *See* proposed CHX Article 20, Rule 6. The exceptions are provided when: (i) The locking or crossing quotation was displayed at a time when the other trading center was experiencing a failure, material delay, or malfunction of its systems or equipment; (ii) the locking or crossing quotation was displayed at a time when a protected bid was higher than a protected offer in the NMS stock; or (iii) the Exchange participant displaying the locking or crossing quotation simultaneously routed an intermarket sweep order to execute against the full displayed size of any locked or crossed protected quotation.

[60] *See* proposed CHX Article 20, Rule 6.

[61] An Exchange-registered market maker would be permitted to trade only on a proprietary basis and would not be permitted to handle any agency orders on the Exchange. To the extent that a participant firm wants to act as an Exchange-registered market maker and also handle orders from customers outside the facilities of the Exchange, it would be required to create and strictly enforce information barrier procedures as described *infra* at note 64 and accompanying text. Since Exchange-registered market makers are not permitted to handle agency orders, the Matching Engine will reject any cross order instructions entered by a market maker in its market maker trading account. *See* proposed CHX Article 16, Rule 1, Interpretation and Policy .02. *See also* Amendment No. 2.

orderly markets on the Exchange. A market maker's responsibilities would specifically include: (1) Using automated systems to maintain a continuous two-sided quote, for at least a round-lot, in each of the securities in which it is registered;[62] (2) maintaining adequate minimum capital; and (3) meeting specific quotation or trade requirements, with respect to its dealings on the Exchange, over the course of each calendar month.[63] In addition, a market maker that is registered as a market maker solely on the Exchange and engages in other business activities (or that is affiliated with a broker or dealer that engages in other business activities) would be required to establish information barriers that prevent the market maker from using material, non-public information or information about customer order flow handled by the firm in its trading activities.[64]

C. Institutional Brokers

Participant firms for which the Exchange is the designated examining authority could register with the Exchange as institutional brokers.[65] Institutional brokers would be deemed to be participants operating on the Exchange, although they would not effect transactions from a physical trading floor (since the Exchange will no longer have a physical trading floor) and could trade from any location. A customer order would be deemed to be on the Exchange when received by an institutional broker, but would not have priority in the Matching System until it is entered into the system.

Institutional brokers would be required to: (1) Enter all orders received for execution on the Exchange into an automated system to provide an electronic record of their order handling practices; (2) handle orders with an electronic system acceptable to the Exchange that integrates their on-exchange activities with the Matching System and their trading activities in other market centers; and (3) maintain separate accounts for handling agency transactions, principal transactions, and transactions involving errors.[66] Institutional brokers would also be required to maintain required records of their trading activities.[67] An institutional broker would be required to use due diligence to execute a market order at the best price available; to use due diligence to execute a limit order at or better than the limit price, if available; and to use brokerage judgment in the execution of a not held order.[68]

Institutional brokers would be required to use reasonable efforts to report all transactions that are not effected through the Exchange's Matching System to the Exchange within 10 seconds of the trade.[69] If an institutional broker executes an order outside of the Matching System, it would be required to use the Exchange's Brokerplex system to determine whether a trade would constitute a trade-through and create an electronic record that such validation had taken place.[70] In general terms, the Brokerplex system would allow an institutional broker to input the symbol for a security and pull up a window that includes a snapshot of the Matching System BBO and the NBBO. The institutional broker then could report a trade that is consistent with the orders in the Matching System and the NBBO. An institutional broker that initiates the use of this functionality to report a proprietary trade against a customer order would be required to complete the transaction report (without cancelling out of the functionality), unless the institutional broker had mistakenly input the symbol for the wrong security. The transaction also could be cancelled pursuant to CHX rules relating to cancellations of transactions, clearly erroneous transactions and systems disruptions and malfunctions.[71]

Unless a customer specifically requests otherwise, an institutional broker would be required to clear the Matching System before sending an order to another market for execution.[72] The proposed rules provide exceptions to this requirement for: (1) Outbound ITS commitments or ISOs that are being sent to another market to satisfy its displayed bid or offer;[73] and (2) customer orders that are being sent to another market that could not be executed in the Matching System.[74]

D. Other Rule Changes

Proposed Article 9, Rule 17, based on an existing Exchange rule prohibiting participants from trading ahead of customer orders, would include a provision confirming that a participant would be deemed to be holding an unexecuted customer order when that order has been sent to the Matching System, but remains unexecuted.[75]

The Exchange proposes to adopt a sponsored access rule, which would allow Exchange participants to provide non-participant broker-dealers with access to the Exchange.[76] Under the proposed rule, this type of sponsored access could be provided so long as the participant sponsoring access, the non-participant broker-dealer, and the Exchange entered into appropriate agreements confirming basic information about the parties' roles and responsibilities.[77]

In addition to the changes described above, the Exchange has also proposed revisions to virtually every other chapter of its rules. These changes are generally designed to remove references to the physical trading floor, delete obsolete provisions and account for the new automated trading model, as well as to better streamline and organize the rules. For example, the CHX proposes to delete rules relating to specialists and access to the trading floor and adopt rules that contemplate remote access to the Exchange's automated trading systems. In addition, changes are being proposed to rules relating to: hours of trading, trading halts, cancelling transactions, business conduct, disciplinary matters and trial proceedings, arbitration, Exchange emergency suspension authority; committees; trading permits; limitation of liability; voting designees; registration; fingerprinting; reporting transactions; riskless principal

[62] A market maker's continuous two-sided quotes would be required to be at prices which are reasonably related to the prevailing market price of the security. *See* CHX Article 16, Rule 8, Interpretation and Policy .01.

[63] *See* proposed CHX Article 16, Rule 8(a)–(c).

[64] *See* proposed CHX Article 16, Rule 9.

[65] *See* proposed CHX Article 17, Rule 1. Each individual that would be authorized to effect trades on behalf of the firm would be required to separately register as an institutional broker representative. *See* proposed CHX Article 17, Rule 1, Interpretation and Policy .02.

[66] *See* proposed CHX Article 17, Rule 3(a) through Rule 3(c). The Commission recently approved, and the Exchange has implemented, a proposed rule change regarding requirements for entering orders into an electronic system to permit the Exchange to more readily surveil broker order handling activities. *See* CHX Article 11, Rule 3; Securities Exchange Act Release No. 53772 (May 8, 2006), 71 FR 27758 (May 12, 2006).

[67] *See* proposed CHX Article 17, Rule 3(f).

[68] *See* proposed CHX Article 17, Rule 3(d).

[69] *See* proposed CHX Article 17, Rule 3(e).

[70] *See* CHX Article 17, Rule 3, Interpretation and Policy .03.

[71] *See id.*

[72] *See* proposed CHX Article 20, Rule 7. Any customer directives for special handling of orders would have to be documented and reported to the Exchange.

[73] *See* proposed CHX Article 20, Rule 7(c).

[74] *See* proposed CHX Article 20, Rule 7(d).

[75] *See* proposed CHX Article 9, Rule 17, Interpretation and Policy .05. The proposed rule would also confirm that a participant would not be in violation of the ''trading ahead'' rule if it satisfied bids and offers in other markets in accordance with the requirements for a ''cross with satisfy order.'' *See* proposed CHX Article 9, Rule 17, Interpretation and Policy .06; *see also supra* note 20 (discussing cross with satisfy orders).

[76] *See* proposed CHX Article 5, Rule 3.

[77] *See id.*

transactions; use of a customer's give-up; books and records; firm supervision; ITS; clearance and settlement; and listing on the Exchange.

E. Amendment No. 2

On September 29, 2006, the Exchange filed Amendment No. 2 to the proposed rule change, which made certain revisions to the original proposal, as amended by Amendment No. 1. In Amendment No. 2, the Exchange described its proposed phase-in plan for the new trading model.[78] In Amendment No. 2, the Exchange also provided additional discussion and clarification on certain aspects of the proposal.

The Exchange also added a discussion of how the Exchange believes that the rules of the proposed new trading model will be consistent with Section 11(a) of the Act.[79] The Exchange stated that it believes that the proposed Matching System meets the requirements of Rule 11a2–2(T) under the Act,[80] known as the ''effect versus execute'' rule, which provides an exemption from the prohibition of Section 11(a). Further, the Exchange stated that it believes that the proposal does not raise any of the policy concerns that Congress sought to address in Section 11(a) of the Act including, specifically, the time and place advantages that members on exchange floors might have over non-members off the floor and the general public.

In Amendment No. 2, the Exchange also made certain changes to the rule text reflecting modifications in how the Matching System will operate. Specifically, the Exchange modified the proposed rules to: (1) Amend the definition of a ''cross with size'' order;[81] (2) confirm that the Matching System will evaluate most cross orders to see if they meet the ''cross with size'' definition and, if so, will execute them as crosses with size;[82] (3) provide that, when the Matching System lacks sufficient information to determine the appropriate price at which a sell short order could be displayed or executed, the Matching System will automatically cancel the order;[83] (4) confirm that cross orders can be submitted as ISOs;[84] (5) remove references to functionality that is not being built;[85] and (6) confirm that a participant cannot change a ''display'' instruction for an order, but must submit a new order with a new display instruction.[86] In addition, the Exchange revised the proposed rules to confirm the circumstances when the Matching System would display quotes that would lock or cross the protected quotes of other markets[87] and to clarify that the Matching System will trade in increments supported by the ITS or Regulation NMS linkage plan.[88] The Exchange also clarified how a trade should be identified when it is executed pursuant to both the intermarket sweep order exception of Rule 611(b)(5) or (6) of Regulation NMS and the self-help exception of Rule 611(b)(1) of Regulation NMS.[89]

In Amendment No. 2, the Exchange also made certain changes intended to clarify the meaning of the proposed rules. These changes include a change in the definition of NBBO to confirm that, as of the Trading Phase Date of Regulation NMS, this term relates only to protected bids and offers;[90] the addition of language that confirms that non-regular way crosses can execute within a penny of other orders in the Matching System;[91] and a change that notes that, in the last ''refresh'' of a reserve size order, the number of shares may be less than the original number of displayed shares because that is all that is left.[92] Other similar changes clarify the execution of benchmark orders;[93] confirm the handling of BBO ISO orders;[94] and state, with regard to relevant provisions, that they take effect on the Trading Phase Date of Rule 611 of Regulation NMS.[95]

In Amendment No. 2, the Exchange also made changes to Article 16 governing market makers. The Exchange revised the rules to prohibit an individual from registering both as a market maker trader and an institutional broker representative.[96] The Exchange also modified the rules to provide that market makers may only trade on a proprietary basis on the Exchange, and if a market maker handles agency orders off of the Exchange, it must create and enforce information barrier procedures pursuant to CHX Article 16, Rule 9.[97]

Pursuant to an exemption recently issued by the Commission,[98] the Exchange proposed further provisions in Amendment No. 2 to permit ''qualified contingent trades'' to be executed on the Exchange.[99] The Exchange asserts that these trades would meet the requirements of the Commission's order exempting from Rule 611(a) any trade-throughs caused by the execution of an order involving one or more NMS stocks that are components of a ''qualified contingent trade,'' as defined in the Commission's exemptive order.[100]

The Exchange also added provisions requiring it to establish and maintain information barriers to restrict the flow of information between the Exchange (including its facilities) and the third-party broker-dealer providing connectivity to other trading centers, and, to the extent such third-party broker-dealer receives such information, that adequately restrict the use of such

[78] The Exchange stated that it plans to phase in the new trading model as follows: (i) Beginning the week of October 2, 2006, the Exchange will begin to transition Nasdaq-listed securities to the Matching System; (ii) during the week of October 16, 2006, the Exchange will begin to transition all other securities that are not currently traded by specialists to the Matching System; and (iii) by early November 2006, the Exchange will begin to transition securities currently traded by the Exchange's specialists to the Matching System. The Exchange stated that, in the near future, it will provide notice to participants of the exact dates for transition of specific securities.

[79] 15 U.S.C. 78k(a).

[80] 17 CFR 240.11a2–2(T).

[81] *See* proposed CHX Article 20, Rule 4(b)(6) (requiring a cross with size to size out all of the displayed interest at a price, but providing that, once the CHX is disseminating a book feed, a cross with size would only be required to size out the largest displayed order).

[82] *See* proposed CHX Article 20, Rule 4(b)(6).

[83] *See* proposed CHX Article 20, Rule 8(e)(5).

[84] *See* proposed CHX Article 20, Rule 4(b)(14).

[85] *See* proposed CHX Article 20, Rule 4(a)(7)(b) (removing a reference to an order that executes at the midpoint of the NBBO, because this functionality is not being built at this time).

[86] *See* proposed CHX Article 20, Rule 8(b)(5).

[87] *See* proposed CHX Article 20, Rule 6(d).

[88] *See* proposed CHX Article 20, Rule 4(a)(7)(d); *see also* proposed CHX Article 20, Rule 4(a)(7)(e).

[89] *See* proposed CHX Article 20, Rule 5, Interpretation and Policy .01(h).

[90] *See* proposed CHX Article 1, Rule 1(o).

[91] *See* proposed CHX Article 20, Rule 4(a)(7)(b) (recognizing, as already expressed in the definition of this type of order, that non-regular way cross orders execute without regard to orders in the Matching System, because all orders in the Matching System are for regular-way settlement).

[92] *See* proposed CHX Article 20, Rule 4(b)(20).

[93] *See* proposed CHX Article 20, Rule 4(b)(2) (confirming that benchmark orders must be executed in increments permitted by Article 20, Rule 4(a)(7)(b)). The Exchange also elaborated on its reasoning in proposing that benchmark orders only be permitted to be submitted to the Matching System by institutional brokers, and noted that other participants seeking to execute benchmark orders on the Exchange could do so through an institutional broker.

[94] *See* proposed CHX Article 20, Rule 4(b)(1) (confirming that BBO ISO orders will be displayed in the circumstances set out in the rule because the participant routing the order to the Matching System has already satisfied the quotations of other markets as required by Article 20, Rule 6(c)(3)).

[95] *See, e.g.,* proposed CHX Article 20, Rules 4(b)(1), (2), (14), (18) and (19); *see also* proposed CHX Article 1, Rule 1(y) (defining the ''Trading Phase Date'' as February 5, 2007).

[96] *See* proposed CHX Article 16, Rule 1, Interpretation and Policy .01.

[97] *See* proposed CHX Article 16, Rule 1, Interpretation and Policy .02.

[98] *See* Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (''Qualified Contingent Trade Exemptive Order'').

[99] *See* proposed CHX Article 1, Rule 2(bb) and proposed CHX Article 20, Rule 5, Interpretation and Policy .01(i).

[100] *See* Qualified Contingent Trade Exemptive Order, *supra* note 98.

information by the third party broker-dealer to legitimate business purposes necessary to provide routing connectivity and to serve as a ''give-up.'' Further, in Amendment No. 2, the Exchange revised its rule text to reflect recent changes made to Exchange rules by other proposed rule changes that have been recently approved by the Commission.[101]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[102] and, in particular, the requirements of Section 6 of the Act[103] and the rules and regulations thereunder. The Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,[104] which requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

A. The Matching System

The Matching System would allow participants to route orders to it from any location for possible immediate execution through any communications line approved by the Exchange.[105] The adoption of the Exchange's proposed rules, which feature the Matching System as the core facility of the Exchange, will fundamentally change the Exchange's current market structure from a substantially floor-based auction market to an all-electronic one. The Commission believes that by allowing electronic access to Exchange liquidity, the proposed new model should help perfect the mechanism of a free and open market by providing investors with a more efficient mechanism to have their orders executed on the Exchange.

The Commission also believes that the Exchange's new trading model should facilitate securities transactions by providing investors with faster and more efficient access to the trading interest reflected in the Exchange's published quotation, as well as interest away from the Exchange BBO. Finally, the Commission believes that the Exchange's proposal should enhance the opportunity for a customer's order to be executed without dealer participation, consistent with the goals of Section 11A of the Act.[106]

1. Eligible Orders and Order Types

Under the proposed rule change, participants would be permitted to submit orders to the Matching System that are day orders, limit orders, and orders for regular way settlement (as well as certain other excepted types of orders such as IOC market orders and non-regular way crosses) and generally would be permitted to submit orders as round lots, odd lots, or mixed lots.[107] The proposed rules require that orders submitted to the Matching System must meet the requirements of Rule 612 of Regulation NMS, unless an exemption therefrom applies.[108] As such, except for cross orders under certain circumstances as discussed below,[109] orders priced at or above $1.00 could not be submitted to the Matching System in increments less than $0.01, and orders priced less than $1.00 could not be submitted to the Matching System in increments less than $.0001.[110] The Commission believes that these order eligibility requirements are consistent with the Act.

The Exchange proposes to permit the Matching System to accept a wide variety of order types. These order types include: immediate or cancel limit and market orders, fill or kill orders, sell short and short exempt orders, reserve size orders, time in force orders, cancel on halt orders, do-not-display orders, do-not-route orders, various types of cross orders, and various types of ISOs.[111] Many of these order types exist in the Exchange's current rules set, while others have been proposed exclusively for use in the new trading model or for use as of the Trading Phase Date of Regulation NMS. The Commission believes that these order types should provide Exchange participants greater flexibility in reaching their trading and investment objectives. The Commission notes that a number of the proposed order types will have different definitions prior to and following the Trading Phase Date of Regulation NMS, which should enable users to make use of the trading strategies of such order types immediately, as well as after the Trading Phase Date.

As noted, the Exchange has proposed a number of cross order types for use in the Matching System. The Commission notes that the cross order is already permitted in the Exchange's electronic book.[112] A cross order would be immediately executed in the Matching System if it is priced better than the Matching System's displayed BBO and, for securities listed on any exchange other than Nasdaq (and for Nasdaq-listed securities, as of the Trading Phase Date of Regulation NMS), equal to or better than the NBBO.[113] Similarly, a form of the cross with size order is already permitted in the Exchange's electronic book.[114] Under the proposed rules, a cross with size will be required to be larger than the aggregate size of all displayable orders displayed on the Matching System at the cross price, consist of at least 5,000 shares, and have a value of $100,000. The Commission notes that it has previously approved a similar rule at another exchange.[115]

The Exchange is also proposing several completely new cross order types that would be accepted by the Matching System, such as cross with satisfy[116] and cross with yield orders.[117] The Commission believes that these cross orders may provide an efficient means to allow participants to effect cross transactions in the Matching System, consistent with the Exchange's other priority and trade-through rules, in circumstances where a cross order would otherwise be unable to be executed and would be cancelled. A cross with satisfy order would contain an instruction to execute orders already displayed in the Matching System at their limit prices (up to a specified number of shares) to the extent necessary to allow the cross transaction to occur or to route outbound orders or commitments to other market centers to the extent necessary to prevent an

[101] In particular, the Exchange revised the proposed rule text to reflect changes to the Exchange's disciplinary rules made in SR–CHX–2005–06, *see* Securities Exchange Act Release No. 54437 (September 13, 2006), 71 FR 55037 (September 20, 2006); and to reflect changes to the Exchange's rules made in SR–CHX–2006–23, confirming that each participant firm only needs one trading permit to conduct business on the Exchange, *see* Securities Exchange Act Release No. 54494 (September 25, 2006).

[102] The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[103] 15 U.S.C. 78f.

[104] 15 U.S.C. 78f(b)(5).

[105] *See* proposed CHX Article 20, Rule 8(a)(1).

[106] *See* Section 11A(a)(1)(C) of the Act, 15 U.S.C. 78k–1(a)(1)(C).

[107] *See supra* notes 9–10 and accompanying text.

[108] 17 CFR 242.612.

[109] *See infra* note 124 and accompanying text.

[110] *See* proposed CHX Article 20, Rule 4(a)(5).

[111] *See supra* Section II.A.1.

[112] *See* current CHX Article XXA, Rule 2.

[113] *See* proposed CHX Article 20, Rule 4(b)(4) and *supra* note 18.

[114] *See* current CHX Article XXA, Rule 2.

[115] *See* Rules of the National Stock Exchange, Inc., Rule 11.12.

[116] *See supra* note 20.

[117] *See supra* note 21.

improper trade-through.[118] Once the satisfying execution has occurred, the cross order would be executed at a price that is better than the Matching System's displayed BBO and, for securities listed on any exchange other than Nasdaq (and for Nasdaq-listed securities, as of the Trading Phase Date of Regulation NMS), equal to or better than the NBBO.

The cross with yield order is similar to the cross with satisfy, and would contain an instruction to yield interest on the buy, sell, or either side of the order (as specified in the order) to any order already displayed in the Matching System at the same or better price, to the extent necessary to allow the cross transaction to occur.[119] The cross order would then be executed at a price that is better than the best bid or offer to be displayed in the Matching System, and, for securities listed on any exchange other than Nasdaq (and for Nasdaq-listed securities, as of the Trading Phase Date of Regulation NMS), equal to or better than the NBBO.

The Matching System would also accept mid-point cross orders, which would be executed at the midpoint of the NBBO.[120] The Commission notes that this order type has been previously approved for other exchanges.[121] The Exchange also proposes to permit a non-regular way cross order, which would be for non-regular way settlement and would execute without regard to the NBBO or any other orders in the Matching System.[122] The Commission notes that the Exchange has represented that participants can currently execute orders for non-regular way settlement in the Exchange's electronic book and on the floor of the Exchange,[123] but this cross order type would be the only means to effectuate this type of transaction within the Matching System.

Contingent upon the Exchange receiving exemptive relief from the Commission, the Exchange proposes to allow all cross orders to be submitted to the Matching System in sub-penny increments as small as $.000001, regardless of their price.[124] Although participants would be permitted to submit crosses in sub-penny increments, the Exchange proposes that cross orders (except for a midpoint cross, non-regular-way cross or cross with size) would be required to be priced at least $.01 better than any order on the same side of the Matching System (or, for orders priced less than $1.00, at least $.0001 better than any order on the same side of the Matching System).

The Commission believes that the proposed rules relating to cross transactions are consistent with the Act and offer participants flexibility in executions which meet the specified requirements of each type of cross. In addition, the Commission notes that proposed CHX Article 9, Rule 17, which restricts trading ahead of customer orders, would apply to the cross order types, except as noted in Interpretation and Policy .06 of that rule with respect to cross with satisfy orders.[125]

The Exchange also proposes to permit the Matching System to accept several order types modeled on the exceptions in Rule 611(b) of Regulation NMS. The Matching System would accept various ISOs, which would allow the Exchange to immediately execute such orders without regard to other markets' protected quotations, as contemplated by Regulation NMS.[126] The Commission believes that these proposed order types are consistent with the Act, and notes that these provisions will not become effective until the Trading Phase Date of Regulation NMS.

The Matching System would also accept do-not-display[127] and do-not-route orders.[128] The do-not-display order could be partially or wholly undisplayed. Such an order would remain eligible for execution in the Matching System, but would be ranked behind displayed orders and behind the undisplayed portions of reserve size orders. This order type gives a participant the ability to keep trading interest unseen, but at the same time allows the order to remain eligible for execution while being ranked behind any displayed interest in the Matching System. As its name implies, a do-not-route order is an order that could not be routed to another market. A do-not-route order would be immediately cancelled if its execution would improperly trade through the ITS BBO or another market's protected quotations.[129] The Commission believes that these proposed order types may offer participants greater flexibility in the handling of their orders and are consistent with the Act.

2. Ranking and Display of Orders

Under the proposed rule change, all orders received by the Matching System would be ranked by price, time of receipt, and any display instructions.[130] No distinction would be made with regard to agency orders and professional or proprietary orders for priority purposes.[131] Orders would be displayed to the public when they constitute the best round-lot bid or offer in the Matching System for a security.

Generally, incoming orders would be matched against orders in the Matching System, in the order of their ranking, at the price of each resting order, for the full amount of shares available at that price or for the size of the incoming order, if smaller.[132] However, orders would be subject to the proposed provisions prohibiting improper trade-throughs,[133] and certain order types would be subject to specific executions within the Matching System.[134] Unless the terms of the order direct otherwise, any order that could not be immediately executed or executed in full would be ranked in the Matching System in accordance with the Exchange's order priority rules.[135] In addition, the proposed rules provide that, unless a customer specifically requests otherwise, institutional brokers would be required to clear the Matching System before routing an order to another market, subject to certain exceptions.[136]

The Commission believes that the proposed rules relating to ranking, display and execution of orders are consistent with the Act.[137] In particular, the Commission believes that the priority rules and automatic execution functionality should result in a more efficient market and promote competition in the national market system. Further, the Commission believes that requiring institutional brokers to clear the Matching System

[118] *See* proposed CHX Article 20, Rule 4(b)(5).

[119] *See* proposed CHX Article 20, Rule 4(b)(7).

[120] *See supra* note 22.

[121] *See, e.g.,* NYSE Arca Equities Rule 7.31(y).

[122] *See supra* note 25.

[123] *See* current CHX Article XX, Rule 9; CHX Article XXA, Rule 2(c)(5).

[124] *See* proposed CHX Article 20, Rule 4(a)(7)(b) (stating that the provision ''shall take effect upon the granting of exemptive relief by the Commission'').

[125] *See* proposed CHX Article 9, Rule 17.

[126] *See supra* notes 29–31.

[127] *See supra* note 34 and accompanying text.

[128] *See supra* note 35 and accompanying text.

[129] *See* proposed CHX Article 20, Rule 5(a).

[130] *See supra* notes 36–37 and accompanying text.

[131] The Commission has approved similar priority rules for the CHX's electronic book. *See* Securities Exchange Act Release No. 52094 (July 21, 2005), 70 FR 43913 (July 29, 2005).

[132] *See* proposed CHX Article 20, Rule 8(d)(1).

[133] *See* proposed CHX Article 20, Rule 5; *see also supra* notes 50–54 and accompanying text.

[134] *See supra* notes 43–49.

[135] *See supra* notes 40–41 and accompanying text.

[136] *See supra* notes 72–74 and accompanying text.

[137] The Exchange has represented that the Matching System meets the requirements set forth in Rule 11a2–2(T) and therefore complies with Section 11(a) of the Act. *See* text accompanying notes 79–80. The Commission notes that the Exchange has the obligation to enforce the provisions of the Act, including Section 11(a) thereunder.

before routing an order to another market is consistent with previous Exchange rules requiring members to ''clear the post'' prior to routing orders to other markets, which also were intended to promote interaction of orders on the Exchange.

B. Routing

The Exchange proposes to provide outbound routing services to participants for orders submitted to the Exchange that cannot be executed in whole or in part on the Exchange because of the trade-through provisions of Regulation NMS. The Exchange will use its own systems to determine when, how and where orders are routed away to other markets. To provide the necessary connectivity to transmit such orders to, and obtain executions on, other markets, the Exchange proposes to use the services of a third-party broker-dealer. The services would be provided pursuant to three separate agreements among the Exchange, the participant on whose behalf orders would be routed, and the third-party broker-dealer. The Exchange has represented that its routing services would be provided in accordance with its rules, the Act, and the rules thereunder. In particular, the Exchange routing arrangements would: (1) Provide for the equitable allocation of reasonable, dues, fees, and other charges among its participants and other persons using its facilities relating to the routing services; and (2) prohibit unfair discrimination among customers, issuers, brokers or dealers in connection with the routing services.

The Commission received one comment letter regarding the proposed rule change relating to routing services.[138] In its comment letter, OES asserted that the third-party broker-dealer described above would operate as a system of communication of the Exchange and therefore should be deemed a facility of the Exchange under Section 3(a)(2) of the Act. In Amendment No. 2, CHX responded to the OES Letter and stated its view that the third-party broker-dealer would not be a facility of the Exchange.

The Commission does not believe that the third-party broker-dealer providing connectivity to other markets as described above should necessarily be deemed to be a facility of the Exchange. Unlike the broker-dealer addressed in the Commission's Order approving the Pacific Exchange's rules establishing the Archipelago Exchange,[139] the third-party broker-dealer will not be owned by CHX or an affiliate of CHX. In this case, CHX will use its own systems to determine when, how, and where orders are routed away to other markets. Moreover, all of the terms and conditions for CHX members to obtain outbound routing services will be subject to CHX rules, which must be filed for approval with the Commission. The CHX rules must, among other things, provide for the equitable allocation of reasonable fees or other charges for outbound routing services and must not permit unfair discrimination among CHX members for access to the outbound routing services. CHX is contracting with an unaffiliated third-party broker-dealer solely to provide the necessary connectivity to obtain the execution of outbound orders on other markets. Given this limited role, the third-party broker-dealer should not be deemed a facility of CHX under Section 3(a)(2) of the Act. Accordingly, the Commission finds that CHX's proposed routing arrangements are consistent with the Act.

C. Market Makers

Exchange market makers would be required to engage in a course of dealings to assist in the maintenance, to the extent reasonably practicable, of fair and orderly markets.[140] Specifically, market makers would have an obligation to maintain continuous two-sided quotes for the securities in which it is registered, at prices reasonably related to the prevailing market; to maintain adequate capital; and to meet certain monthly quotation requirements.[141] The proposed rules also impose other obligations on market makers, including a requirement to establish information barriers when engaging in other business activities.[142] These rules governing CHX market makers are similar to other exchanges' rules previously approved by the Commission.[143] Accordingly, the Commission believes that the proposed rules are consistent with the Act.

D. Institutional Brokers

Under the Exchange's proposed rules, institutional brokers would be considered to be ''on the Exchange,'' and as such, customer orders received by an institutional broker would be deemed to be on the Exchange and immediately subject to the Exchange's rules.[144] For example, the proposed rules require that institutional brokers use an electronic system, acceptable to the Exchange, integrating an institutional broker's trading activities in the Matching System, outside of the Matching System, and in other market centers.[145] Additionally, because institutional brokers could execute orders outside of the Matching System but still on the Exchange, the Exchange has proposed rules to govern this activity.[146] First, such transactions would be required be reported to the Exchange within 10 seconds after the trade occurs. Further, the Exchange represents that it has built a functionality to allow an institutional broker to pull up a ''validation window'' to ensure that a trade being done outside of the Matching System does not violate trade-through provisions. In addition, to help ensure that trades outside of the Matching System are not inconsistent with an institutional broker's fiduciary duties, once an institutional broker pulls up a validation screen, it would be required to complete the transaction and could not cancel out of the functionality, subject to certain limited exceptions.[147]

The Commission believes that the proposed rules governing institutional brokers should allow the Exchange to monitor appropriately the activities of institutional brokers and to help ensure that they are complying both with the rules of the Exchange and their fiduciary duties. The Commission also believes that the proposed rules will require the Exchange to carefully oversee the activities of institutional brokers, and to detect any potential abuses. Accordingly, the Commission believes that the proposed rules governing institutional brokers are consistent with the Act.

E. Regulation NMS

The Commission believes that the proposed rule change is consistent with the requirements of Regulation NMS.[148] In proposed Article 20, Rule 6, CHX proposes to adopt a rule with regard to locked and crossed markets, as required by Rule 610(d) of Regulation NMS.[149] The Exchange's proposed rules include marking certain orders meeting the requirements of Rule 600(b)(30) of

[138] OES Letter, *supra* note 4.

[139] *See* Securities Exchange Act Release No. 44983 (October 25, 2001) 66 FR 55225 (November 1, 2001).

[140] *See* proposed CHX Article 16, Rule 8.

[141] *See id.*

[142] *See supra* note 64 and accompanying text.

[143] *See, e.g.*, Nasdaq Rule 4613 and NYSE Arca Equities Rules 7.23–7.26.

[144] *See supra* note 137.

[145] *See* proposed CHX Article 17, Rule 3(b).

[146] *See supra* notes 68–71 and accompanying text.

[147] *See* proposed CHX Article 17, Rule 3, Interpretation and Policy .03. The institutional broker would only be permitted to cancel out of the functionality if the broker mistakenly input the wrong symbol for the security, or the transaction may be cancelled pursuant to CHX Article 20, Rules 9, 10, or 11.

[148] *See* 17 CFR 242.600 *et seq.*

[149] 17 CFR 242.610(d).

Regulation NMS [150] as intermarket sweep orders and accepting orders marked as intermarket sweep orders, which would allow orders so designated to be automatically matched and executed without reference to protected quotations at other trading centers. The Commission also believes that CHX's proposed immediate-or-cancel functionality [151] is consistent with Rule 600(b)(3) of Regulation NMS. The Exchange has designed its proposed rules relating to orders types and eligibility [152] and order execution [153] to comply with the requirements of Regulation NMS. As noted above, these proposed rules provide that the Matching System will accept only orders (except for cross orders, as discussed above) that meet the increment requirements of Rule 612 of Regulation NMS (unless and to the extent exempted from Rule 612 by Commission order).[154]

In addition, as mentioned above in Section II.A, the Matching System is designed to qualify as an automated trading center under Rule 600(b)(3) of Regulation NMS.[155] To ensure that its systems immediately and automatically process orders, the Exchange has included in its rules a requirement that it use automated systems to send test IOC orders to the Matching System to determine whether it accepts the order automatically.[156] Similarly, the Exchange will also use automated monitoring systems to review, in real time, the Matching System's handling of test IOC orders to determine whether, and within what time frame: (1) IOC orders are executed against the displayed quote, up to its full size; (2) any unexecuted portion of the IOC order is cancelled; (3) a confirmation of the action taken is generated and transmitted from the Matching System to the monitoring system (to serve as a proxy for a transmission to the order-sending firm); and (4) the Matching System transmits a new bid or offer (as appropriate) to the monitoring system (to serve as a proxy for a transmission to the appropriate securities information processor).[157] The Exchange's rules provide that it would automatically and immediately append a ''manual'' identifier to the bids and offers it makes publicly available when it has reason to believe that it is not capable of displaying automated quotations.

The Exchange has proposed a rule that renders an inbound round-lot order ineligible for execution on the Exchange if such order would cause an improper trade-through under Rule 611 of Regulation NMS.[158] The Commission also notes that the proposed rules provide procedures that the Exchange will follow to determine whether a trade would create an improper trade-through and how the Exchange will apply various exceptions to Rule 611 of Regulation NMS, including the self-help exception.[159]

F. Other Rule Changes

In addition to the rules described in detail above, the proposed rule change would adopt or amend a number of other Exchange rules that address, among other things, hours of trading, trading halts, cancelling transactions, trading permits, sponsored access, limitations of liability, trade execution, Exchange registration, business conduct, fingerprinting, reporting transactions, riskless principal transactions, disciplinary matters and trial proceedings, arbitration, books and records, clearance and settlement, and listing on the exchange. The Commission believes that these rules are appropriate and consistent with the Act, and many are similar to rules previously approved by the Commission at other exchanges.[160]

The Commission believes that the Exchange's proposed interpretation to its trading ahead rule in CHX Article 9, Rule 17, confirming that a participant would be deemed to be holding an unexecuted customer order when that order has been sent to the Matching System but remains unexecuted,[161] is consistent with the Act. The Commission believes that this rule appropriately confirms that a participant will remain the agent for any customer orders that it submits to the Matching System, and as such, will owe fiduciary duties to such customer orders until they are executed.

The Commission also believes that the proposed interpretation confirming that a participant would not be in violation of CHX Article 9, Rule 17 if it satisfied bids and offers in other markets in accordance with the requirements for a ''cross with satisfy order'' is consistent with the Act.[162] The Commission notes that the conditions of the cross with size order provide that a participant could only satisfy bids or offers in other markets at a price that is better than the cross price if the cross is for at least 10,000 shares or has a value of at least $200,000 (a ''block size order'') or is for the account of an institutional customer and the participant's customer has specifically agreed to that outcome.[163]

IV. Accelerated Approval of Amendment No. 2

Under Section 19(b)(2) of the Act,[164] the Commission may not approve any proposed rule change prior to the thirtieth day after the date of publication of notice thereof, unless the Commission finds good cause for so doing. As set forth below, the Commission finds good cause to approve Amendment No. 2 to the proposed rule change prior to the thirtieth day after Amendment No. 2 is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[165]

The modification made by Amendment No. 2 to require a cross with size to be larger than the aggregate size of all orders in the Matching System at the same price, rather than larger only than the largest individual order,[166] merely retains—for the time being—a condition for cross with size orders that exists in the Exchange's current rules.[167] The new provision to execute various types of cross orders as crosses with size if they qualify as such[168] simply builds in a directive into cross orders generally that enables them to receive a better execution if they meet the relevant requirements.

The revision made by Amendment No. 2 regarding cancellation of certain sell short orders improves the proposal by accounting for situations in which an appropriate price cannot be determined for an order of this type.[169] The addition of the ''ISO Cross'' order type makes explicit that a cross order, like other orders, may be appended with ISO

[150] 17 CFR 242.600(b)(30).

[151] *See* proposed CHX Article 1, Rule 2(m).

[152] *See* discussion *supra* Section II.A.1.

[153] *See* discussion *supra* Section II.A.3.

[154] 17 CFR 242.612.

[155] 17 CFR 242.600(b)(3).

[156] *See* proposed CHX Article 20, Rule 5, Interpretation and Policy .02.

[157] *See* proposed Article 20, Rule 5, Interpretation and Policy .02.

[158] *See* proposed Article 20, Rule 5(a).

[159] *See supra* notes 51–53 and accompanying text.

[160] In particular, the Commission believes that the proposed changes to the firm's supervision rules are appropriate and consistent with the Act. *See* proposed CHX Article 6, Rule 5. The Commission believes that these rules should help to ensure that participant firms are adequately supervising their registered and associated persons. The Commission also notes that these obligations are similar to those required by other SROs. *See, e.g.*, NASD Rule 3010 and Philadelphia Stock Exchange Rule 748.

[161] *See* proposed CHX Article 9, Rule 17, Interpretation and Policy .05.

[162] *See* proposed CHX Article 9, Rule 17, Interpretation and Policy .06.

[163] *See supra* note 20 (discussing cross with satisfy orders).

[164] 15 U.S.C. 78s(b)(2).

[165] *Id.*

[166] *See supra* note 81.

[167] *See* current CHX Article XXA, Rule 2(c)(4).

[168] *See supra* note 82.

[169] *See supra* note 83.

instructions.[170] The revision regarding new display instructions [171] changes only the method by which such an instruction would need to be submitted, but alters no principle of priority included in the original proposal.

Amendment No. 2 also improves the proposal by confirming the circumstances in which the Matching System would display quotes that would lock or cross the protected quotes of other markets,[172] and appropriately spells out that the Matching System will trade in increments supported by the ITS or Regulation NMS linkage plan, as may be applicable.[173] Another provision adds clarity to how orders should be identified, according to the proposed rules, when a trade is executed pursuant to both the intermarket sweep order exception of Rule 611(b)(5) or (6) of Regulation NMS and the self-help exception of Rule 611(b)(1) of Regulation NMS.[174] Other clarifying changes similarly enhance the proposal.[175]

Amendment No. 2 also incorporates a number of added restrictions and requirements for market makers that set forth in more detail the parameters by which market making may take place on the Exchange and should aid in the prevention of abuses.[176] In addition, Amendment No. 2 sets forth provisions requiring the Exchange to maintain internal controls designed to restrict the flow of confidential and proprietary information between the Exchange and the third-party broker-dealer providing connectivity to other markets. The provision added by Amendment No. 2 to permit ''qualified contingent trades'' to be executed on the Exchange [177] merely assures that market participants would be able to benefit from the Commission's order exempting from Rule 611(a) any trade-throughs caused by such trades. The revisions to the text to reflect and conform to recent changes made as the result of other, recently approved CHX proposals,[178] as well as the technical changes and corrections included in Amendment No. 2, raise no substantive issues. Finally, a number of the changes mirror rules that already have been approved for other exchanges.

For the above reasons, the Commission believes that the revisions to the proposed rule change made by Amendment No. 2 pose no significant regulatory concerns, and should not delay implementation of the proposal. The Commission also believes that accelerated approval is reasonable because it should help to ensure that the appropriate rules are in place at the Exchange at the time that the CHX's final technical specifications with respect to Regulation NMS must be published.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2006–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2006–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2006–05 and should be submitted on or before October 31, 2006.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[179] that the proposed rule change (File No. SR–CHX–2006–05), as amended by Amendment No. 1, be, and hereby is, approved, and that Amendment No. 2 to the proposed rule change be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[180]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16626 Filed 10–6–06; 8:45 am]

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[170] *See supra* note 84.

[171] *See supra* note 86.

[172] *See supra* note 87.

[173] *See supra*, note 88.

[174] *See supra* note 89.

[175] *See supra* notes 90–95 and accompanying text.

[176] *See supra* notes 96–97 and accompanying text.

[177] *See supra* notes 97–99 and accompanying text.

[178] *See supra* note 101.

[179] 15 U.S.C. 78s(b)(2).

[180] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54558; File No. SR–NASD–2006–076]

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Exempt All Securities Included in the Nasdaq-100 Index From the Price Test Set Forth in NASD Rule 5100

October 2, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 15, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On August 18, 2006, NASD filed Amendment No. 1 to the proposed rule change.[3] On September 20, 2006, NASD filed Amendment No. 2 to the proposed rule change, as amended.[4] The Commission is publishing this notice to solicit comments on the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which supplemented the original filing, NASD modified the scope of the proposed rule change and made certain technical and clarifying changes following discussions with Commission staff.

[4] After discussions with Commission staff, NASD filed Amendment No. 2 to modify its discussion of the purpose of the proposed rule filing and to make other technical and clarifying rule changes. Amendment No. 2 replaced and superseded the original filing in its entirety.

change from interested persons. In addition, the Commission is granting accelerated approval of the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to exempt all securities included in the Nasdaq-100 Index from the price test set forth in NASD Rule 5100.

Below is the text of the proposed rule change, as amended. Proposed new language is italicized.

* * * * *

5100. Short Sale Rule

(a)–(b) No Change.

(c) The provisions of paragraph (a) shall not apply to:

(1)–(9) No Change.

(10) Sales of securities included in the Nasdaq-100 Index.

(d)–(l) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item III below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

(a) Rule Filing History

On June 15, 2006, NASD, through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Commission proposed rule change SR–NASD–2006–076 which proposed to exempt all securities included in the Nasdaq–100 Index from the price test set forth in NASD Rule 3350(a) (the ''Original Proposal'').

On June 30, 2006, the Commission approved SR–NASD–2005–087, which amended certain NASD rules to reflect the separation of Nasdaq from NASD upon the operation of Nasdaq as a national securities exchange.[5] Among other amendments, SR–NASD–2005–087 amended Rule 3350 to renumber it as Rule 5100 and apply it uniformly to short sales of over-the-counter (''OTC'') transactions reported to the Alternative Display Facility (''ADF'') or the Trade Reporting Facility (''TRF''). SR–NASD–2005–087 became effective on August 1, 2006, the date upon which Nasdaq began operation as an exchange for Nasdaq-listed securities.

Given the Commission's approval of SR–NASD–2005–087, NASD assumed direct responsibility for all rulemaking functions related to Rule 5100 (formerly Rule 3350). As such, NASD filed Amendment No. 1 to SR–NASD–2006–076, which amended the Original Proposal to reflect the renumbering of Rule 3350 as Rule 5100 in the proposed rule text, among other technical and clarifying changes.

NASD filed Amendment No. 2 to SR–NASD–2006–076 to revise the basis upon which NASD is filing the proposed rule change herein and to make additional technical and clarifying changes.

(b) Rationale

Rule 5100 provides that, with respect to trades reported to the ADF or the TRF no member shall effect a short sale in a National Global Market (''NGM'') security otherwise than on an exchange at or below the current national best (inside) bid when the current national best (inside) bid is below the preceding national best (inside) bid.[6] NASD states that the price test contained in Rule 5100 is designed to prevent the market price of NGM securities from being manipulated downward by unrestricted short selling. In addition, NASD notes that all short sales in NGM securities effected otherwise than on an exchange must comply with Rule 5100 or qualify for an exception to, or exemption from, the rule.

On August 21, 2006, The NASDAQ Stock Market LLC (''Nasdaq Exchange'') filed proposed rule change SR–NASDAQ–2006–031 to exempt all securities included in the Nasdaq–100 Index from Nasdaq Exchange Rule 3350, which governs short sales in NGM securities executed on or reported to the Nasdaq Exchange.[7] NASD states that NASD is filing the proposed rule change, as amended, to create a similar exemption from Rule 5100 for securities included in the Nasdaq–100 Index. NASD believes that, with respect to securities included in the Nasdaq–100 Index, short sales in NGM securities executed otherwise than on an exchange should be subject to the same exemption as short sales in NGM securities executed on or reported to the Nasdaq Exchange. Accordingly, NASD states that it is filing the proposed rule change, as amended, to amend Rule 5100 to create an exemption for all securities included in the Nasdaq–100 Index, consistent with the approved exemption in SR–NASDAQ–2006–031 for short sales in NGM securities executed on or reported to the Nasdaq Exchange.

The effective date of the proposed rule change, as amended, will be announced in a *Notice to Members*.

2. Statutory Basis

NASD believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change, as amended, will provide a uniform exemption for NGM securities included in the Nasdaq–100 Index, consistent with the changes in SR–NASDAQ–2006–031.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the Original Proposal were solicited by the Commission.[9] As noted above, the Original Proposal was a substantially similar rule filing to the proposed rule change, as amended, that proposed to exempt all securities in the Nasdaq–100 Index from the price test in former NASD Rule 3350. The Original Proposal was filed by Nasdaq when it was a subsidiary of NASD and prior to Nasdaq

[5] *See* Securities Exchange Act Release No. 54085 (June 30, 2006), 71 FR 38910 (July 10, 2006).

[6] NASD recently amended Rule 5100 to allow members to use, for a transitional period ending on November 3, 2006, the Nasdaq Exchange best (inside) bid rather than the national best (inside) bid for the purposes of the application of the rule. *See* Exchange Act Release No. 54203 (July 25, 2006), 71 FR 43256 (July 31, 2006) (SR–NASD–2006–089).

[7] The SEC approved SR–NASDAQ–2006–031 on September 13, 2006. *See* Securities Exchange Act Release No. 54435 (September 13, 2006), 71 FR 55042 (September 20, 2006).

[8] 15 U.S.C. 78o–3(b)(6).

[9] *See* Exchange Act Release No. 54010 (June 16, 2006), 71 FR 35964 (June 22, 2006).

commencing operations as a national securities exchange.[10] The Commission did not receive any comment letters in response to the **Federal Register** publication of the Original Proposal.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–076 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–076. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–076 and should be submitted on or before October 31, 2006.

[10] *See supra* note 5.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association [11] and, in particular, the requirements of Section 15A of the Act [12] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change, as amended, is consistent with Sections 15A(b)(6) and 15A(b)(9) of the Act [13] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the exchange.

NASD Rule 5100 provides that, with respect to trades reported to the ADF or the TRF, no member shall effect a short sale in a NGM security otherwise than on an exchange at or below the current national best (inside) bid when the current national best (inside) bid is below the preceding national best (inside) bid. NASD Rule 5100 is inapplicable to National Capital Market securities. The proposed rule change, as amended, amends NASD Rule 5100 to exempt from its price test securities included in the Nasdaq-100 Index.

The Commission is currently conducting the Pilot to study and evaluate the overall effectiveness and necessity of short sale prices tests.[14] On April 20, 2006, we extended the Pilot in order to maintain the status quo for price tests of Pilot securities while we complete our analysis of the results of the Pilot and conduct any additional rulemaking that we determine may be warranted.[15] We have not reached any conclusions regarding price tests. However, we believe that this proposed rule change is consistent with the statute.

Currently, securities in the Nasdaq-100 Index are subject to a price test only if they are traded OTC and reported to a NASD facility. NASD's proposed rule change, as amended, would provide a uniform exemption for securities included in the Nasdaq-100 Index so that such securities would not be subject to a price test in any market.

NASD has requested that the Commission find good cause for approving the proposed rule change prior to the 30th day after publication of notice thereof in the **Federal Register**. The Commission notes that it previously solicited comments on the Original Proposal, a substantially similar proposal to the proposed rule change. The Original Proposal would have exempted all securities included in the Nasdaq-100 Index from the price test in former NASD Rule 3350. The Original Proposal was published for comment in the **Federal Register** on June 22, 2006. The Commission received no comments on the Original Proposal. Accordingly, the Commission finds good cause exists, consistent with Sections 15(A)(b)(6) and 19(b)(2) of the Act,[16] to approve the proposed rule change, as amended, on an accelerated basis, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR–NASDAQ–2006–076), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16644 Filed 10–6–06; 8:45 am]

BILLING CODE 8011–01–P

[11] In approving this proposed rule change, as amended, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78o–3.

[13] 15 U.S.C. 78o–3(b)(6) and (9).

[14] *See* Securities Exchange Act Release No. 50104 (July 28, 2004), 69 FR 48032 (August 6, 2004) (''First Pilot Order''). The Pilot suspended price tests for the following: (1) Short sales in the securities identified in Appendix A to the First Pilot Order; (2) short sales in the securities included in the Russell 1000 index effected between 4:15 p.m. EST and the open of the effective transaction reporting plan of the Consolidated Tape Association (''consolidated tape'') on the following day; and (3) short sales in any security not included in paragraphs (1) and (2) effected in the period between the close of the consolidated tape and the open of the consolidated tape on the following day.

[15] *See* Order Extending Term of Short Sale Pilot, Release No. 34–53684 (April 20, 2006), 71 FR 24765 (April 26, 2006).

[16] 15 U.S.C. 78*o*–3(b)(6); 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54541; File No. SR–NYSEArca–2006–66]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exercise Deadline for Quarterly Options Series

September 29, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2006, NYSE Arca, Inc. (''NYSE Arca''or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission has designated this proposed rule change as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Rule 6.24(c) by adding a provision regarding the exercise cut-off time for Quarterly Option Series. The text of the proposed rule change, as amended, is set forth below. Proposed new language is in *italics.*

* * * * *

Rules of NYSE Arca, Inc.

Rule 6 Option Contracts Traded on the Exchange

* * * * *

Rule 6.24. Exercise of Option Contracts

(a)–(b)—No change.

(c) Exercise cut-off time. Option holders have until 2:30 p.m. (PST) on the business day immediately prior to the expiration date *or, in the case of Quarterly Options Series, on the expiration date,* to make a final decision to exercise or not exercise an expiring option. For customer accounts, OTP Holders and OTP Firms may not accept exercise instructions after 2:30 p.m. (PST) but have until 3:30 p.m. (PST) to submit a Contrary Exercise Advice. For non-customer accounts, OTP Holders and OTP Firms may not accept exercise instructions after 2:30 p.m. (PST) but have until 3:30 p.m. (PST) to submit a Contrary Exercise Advice if such OTP Holders and OTP Firms employs an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. Consistent with Commentary .04, OTP Holders and OTP Firms are required to submit a Contrary Exercise Advice by 2:30 p.m. (PST) for non-customer accounts if such OTP Holders and OTP Firms do not employ an electronic submission procedure with time stamp for the submission of exercise instructions by option holders.

(d)–(g)—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rule to add a provision to Rule 6.24(c) addressing the exercise cut-off time for Quarterly Option Series. Presently, option holders have until 2:30 p.m. (Pacific Time) on the business day immediately prior to the expiration date to make a decision to exercise or not to exercise an expiring option (standard equity and index options). Standard listed options expire on the third Saturday of a month. Option holders make their decision whether or not to exercise based on the closing price of the underlying security on the last trading day of any given option series' cycle, typically the Friday immediately before the expiration Saturday. Unlike standard listed options, Quarterly Option Series expire on the last business day of a calendar quarter. If an option holder were to be required to make a decision to exercise or not exercise a Quarterly Option Series on the day before the expiration of the option, they would have to make that decision without the knowledge of what the closing price of the underlying security would be on expiration. The Exchange is now proposing to add a provision to NSYE Arca Rule 6.24(c) that will designate a new exercise cut-off time for Quarterly Options Series. The new proposed time will be 2:30 p.m. (Pacific Time) on the day that the quarterly option expires. This change will allow option holders the full time needed to make an accurate decision whether or not to an exercise an expiring option.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with Section 6(b) of the Act[5] in general, and Section 6(b)(5) of the Act,[6] that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8] Because the foregoing proposed rule change (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) the proposed rule change does not become operative for 30 days after the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section

[1] 15 U.S.C. 78s(b)(1).

[2] CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to waive the operative delay if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become effective prior to the 30th day after filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiving the operative delay will allow the Exchange to permit exercise of a Quarterly Options Series at any time until the close of business on its expiration date starting with the third quarter 2006 expirations on Friday, September 29, 2006, and consequently will benefit investors. Therefore the Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative immediately.[10]

At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2006–66 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2006–66. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2006–66 and should be submitted on or before October 31, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16625 Filed 10–6–06; 8:45 am]

BILLING CODE 8011–01–P

[9] Rule 19b–4(f)(6)(iii) requires the Exchange to give written notice to the Commission of its intent to file the proposed rule change five business days prior to filing. The Commission has determined to waive the five-day pre-filing requirement for this proposal.

[10] For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54555; File No. SR–Phlx–2006–60]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change Relating to NMS Linkage and Phlx's Covered Sale Fee

October 2, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to amend its Rule 607, its Summary of Equity Charges, and the Nasdaq-100 Index Tracking Stock℠ Fee Schedule[3] to allow the Exchange to charge the Covered Sale Fee to members and member organizations engaged in executing sales on another exchange or on a participant in the NASD's Alternative Display Facility (''ADF'') that were routed over the NMS Linkage Plan or the Intermarket Trading System (''ITS'').[4] Phlx also proposes to amend its Rule 607 to allow the Exchange to enter into arrangements with ADF participants to pass the Covered Sale Fee among the ADF participants where the Exchange has collected the Covered Sale Fee from its members and member organizations for sales executed on ADF participants through ITS, and when ADF participants have collected a fee from their members for sales executed on the Exchange through ITS. In addition, Phlx also proposes to amend Rule 607 to allow the Exchange to enter into arrangements with other exchanges to pass the Covered Sale Fee among the applicable exchanges where the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Nasdaq-100®, Nasdaq-100 Index®, Nasdaq®, The Nasdaq Stock Market®, Nasdaq-100 Shares℠, Nasdaq-100 Trust℠, Nasdaq-100 Index Tracking Stock℠, and QQQ℠ are trademarks or service marks of The Nasdaq Stock Market, LLC (''Nasdaq'') and have been licensed for use for certain purposes by the Phlx pursuant to a License Agreement with Nasdaq. The Nasdaq-100 Index® (''Index'') is determined, composed, and calculated by Nasdaq without regard to the Licensee, the Nasdaq-100 Trust℠, or the beneficial owners of Nasdaq-100 Shares℠. Nasdaq has complete control and sole discretion in determining, comprising, or calculating the Index or in modifying in any way its method for determining, comprising, or calculating the Index in the future.

[4] The Commission published a notice relating to the NMS Linkage Plan. *See* Securities Exchange Act Release No. 54239 (July 28, 2006), 71 FR 44328 (August 4, 2006) (File No. 4–524). An NMS Linkage Plan, dated August 1, 2006, reflecting Phlx's inclusion as a participant, was sent to the Commission on August 8, 2006. The participants requested that the NMS Linkage Plan commence on October 1, 2006.

Exchange has collected the Covered Sale Fee from its members and member organizations for sales executed on another exchange through the NMS Linkage Plan, and when other exchanges have collected a similar fee from their members for sales executed on the Exchange through the NMS Linkage Plan.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.phlx.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to allow Phlx to accommodate the billing and collection of its Covered Sale Fee [5] for executions that originated as orders sent to and received from the NMS Linkage Plan, which is proposed to commence on October 1, 2006. Currently, Phlx Rule 607 authorizes Phlx to charge its members and member organizations the Covered Sale Fee for sale executions on the Exchange. Phlx Rule 607 also allows Phlx to enter into arrangements to charge other exchange when their members send orders to Phlx through ITS that result in sales on Phlx. Phlx also charges its members and member organizations a Covered Sale Fee when their orders, sent over ITS, result in a sale at another exchange. Phlx then uses that fee to cover the charge received from that exchange. The NMS Linkage Plan is the successor linkage plan to ITS for the equity markets.[6] The proposed changes to Phlx Rule 607 and the Phlx Fee Schedule are intended to carry the Covered Sale Fee charges and arrangements that currently exist for ITS into the NMS Linkage Plan and to ADF participants.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [8] in general, and furthers the objective of sections 6(b)(4) and 6(b)(5) of the Act [9] in particular, in that it is an equitable allocation of reasonable fees among Exchange members and issuers and other persons using its facilities, designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by creating a mechanism for charging the Covered Sale Fee for transactions over the NMS Linkage Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2006–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2006–60. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2006–60 and should be submitted on or before October 31, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No.1 Thereto

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission believes that the proposal is consistent with sections 6(b)(4) of the Act, which requires that the rules of an

[5] The Covered Sale Fee is currently imposed on members and member organizations engaged in executing sales on the Exchange or executing transactions, which were routed over the ITS, on another exchange during any computational period. The Covered Sale Fee is equal to (i) the section 31 fee rate multiplied by (ii) the member's aggregate dollar amount of covered sales. *See* Securities Exchange Act Release No. 53088 (January 6, 2006), 71 FR 2286 (January 13, 2006) (SR–Phlx–2005–87).

[6] The NASD has not joined the NMS Linkage Plan and will maintain linkage for its ADF participants through ITS.

[7] Phlx, along with the other exchanges, intends to file a separate proposed rule change that will allow it to charge and be charged fees, including Phlx's Covered Sale Fee, for transactions that result from orders sent over the NMS Linkage Plan. *See e.g.*, Securities Exchange Act Release No. 54480 (September 21, 2006), 71 FR 57596 (September 29, 2006) (SR–NYSE–2006–72). In addition, Phlx intends to make arrangements with ADF participants to charge and be charged fees, including Phlx's Covered Sale Fee, for transactions that result from orders sent over ITS because the NASD will not be joining the NMS Linkage Plan and will not be collecting or paying these fees on behalf of the ADF participants.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (b)(5).

[10] In approving this proposal, as amended, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

exchange provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members and issuers and other persons using its facilities.

National securities exchanges obtain funds to pay their section 31 fees to the Commission by charging fees to broker-dealers who generate the covered sales on which section 31 fees are based. An exchange can obtain most of these funds by imposing a fee on one of its members whenever the member is on the sell side of a transaction. However, when the exchange accepts an ITS commitment to buy, the ultimate seller is a party on another market. The exchange lacks the ability to pass a fee to that seller directly, because the seller may not be a member of the exchange. The Commission previously approved an arrangement whereby Phlx collects fees from broker-dealers that place sell orders routed away over ITS,[11] then charges fees to or accepts fees from each other ITS participant exchange, depending on whether it is a net sender or net receiver of executed ITS sell orders with respect to that other exchange. The Commission believes that the current proposal, to continue this practice under the NMS Linkage Plan, is a reasonable means for Phlx to obtain funds to pay its section 31 fees on covered sales resulting from NMS Linkage Plan trades and is consistent with the Act.

Under section 19(b)(2) of the Act,[12] the Commission may not approve any proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof, unless the Commission finds good cause for so doing. Granting accelerated approval will permit the Exchange to charge the Covered Sale Fee to members and member organizations engaged in executing sale transactions on another exchange through the NMS Linkage Plan at the start of that plan's operation. Moreover, approving this proposal will enable Phlx to charge fees to or accept fees from an ADF participant that is not a member of the Exchange, depending on the net amount of sales between them conducted through ITS. The Commission expects that a non-member ADF participant will not be charged a fee unless it has entered into an agreement with the Exchange subjecting it to such an arrangement. Therefore, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publishing notice of filing thereof in the **Federal Register**. The Commission believes that such action is consistent with the protection of investors and the public interest.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Phlx–2006–60) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–16631 Filed 10–6–06; 8:45 am]

BILLING CODE 8010–01–P

[11] *See* Securities Exchange Act Release No. 52745 (November 7, 2005), 70 FR 69182 (November 14, 2005).

[12] 15 U.S.C. 78s(b)(2).

[13] *Id.*

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10626 and # 10627]

New Mexico Disaster # NM–00002

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New Mexico dated 09/29/2006.

Incident: Otero County Flash Flood.

Incident Period: 06/22/2006.

Effective Date: 09/29/2006.

Physical Loan Application Deadline Date: 11/28/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 06/29/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Otero

Contiguous Counties:

New Mexico: Chaves, Dona Ana, Eddy, Lincoln, Sierra

Texas: Culberson, El Paso, Hudspeth

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.875
Homeowners Without Credit Available Elsewhere	2.937
Businesses With Credit Available Elsewhere	7.763
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10626 6 and for economic injury is 10627 0.

The States which received an EIDL Declaration # are New Mexico and Texas.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

Dated: September 29, 2006.

Steven C. Preston,

Administrator.

[FR Doc. E6–16627 Filed 10–6–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10519 and #10520]

New York Disaster Number NY–00022

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of New York (FEMA–1650–DR), dated 07/03/2006.

Incident: Severe Storms and Flooding.

Incident Period: 06/26/2006 through 07/10/2006.

Effective Date: 10/02/2006.

Physical Loan Application Deadline Date: 10/16/2006.

EIDL Loan Application Deadline Date: 04/03/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster

declaration for the State of New York, dated 07/03/2006, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 10/16/2006.

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. E6–16632 Filed 10–6–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice #5564]

Notice of Meeting—United States International Telecommunication Advisory Committee

The Department of State announces a meeting of the ITAC. The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings pertaining to telecommunication and information issues.

The ITAC will meet to discuss the matters related to the meeting of the ITU Radiocommunication Sector's Conference Preparatory Meeting (CPM) for the 2007 World Radiocommunication Conference. The CPM will take place 19 February-2 March 2007 in Geneva, Switzerland. ITAC meetings will be convened on 3 November from 9:30 to 11:30 a.m. and on 14 November and 6 December from 2 to 4 p.m. at the Boeing Company, 1200 Wilson Blvd., Arlington, VA. That is one-half block from the Rosslyn Metrorail station on the Orange and Blue lines.

Members of the public will be admitted to the extent that seating is available and may join in the discussions subject to the instructions of the Chair. Entrance to 1200 Wilson Blvd. is controlled. Persons planning to attend the meeting should arrive early enough to complete the entry procedure. One of the following current photo identifications must be presented to gain entrance to 1200 Wilson Blvd.: U.S. driver's license with your photo on it, U.S. passport, or U.S. Government identification. Foreign Nationals are required to pre-clear 24 hours in advance by contacting Keisha Findley at *keisha.m.findley@boeing.com* or 703–465–3680.

Dated: October 2, 2006.

Douglas R. Spalt,

International Communications and Information Policy, U.S. Department of State.

[FR Doc. E6–16655 Filed 10–6–06; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Chesapeake and Indiana Railroad Company

[Waiver Docket Number FRA–2006–25793]

The Chesapeake and Indiana Railroad Company (CKIN) seeks a permanent waiver of compliance from Control of Alcohol and Drug Use, 49 CFR Part 219 Subparts D through J, which requires a railroad to conduct reasonable suspicion alcohol and/or drug testing, pre-employment drug testing, random alcohol and drug testing, and to have voluntary referral and coworker report policies, and which also specify drug and alcohol testing procedures and record-keeping requirements. CKIN has less than 16 hours of service employees and previously had no joint operations until the Hoosier Valley Railroad Museum (HVRM) recently began operation of tourist trains on 5 to 10 miles of the 33 miles of track owned by the Incorporated Town of North Judson, Indiana, between North Judson and LaCrosse, Indiana. CKIN conducts freight operations on 23 miles of this 33-mile rail line; however, the only common track use would be a wye track in LaCrosse. HVRM's tourist train operations are normally conducted on weekends and do not operate at the same time as the CKIN freight trains.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2006–25793) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Issued in Washington, DC on October 4, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. E6–16695 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Southeastern Pennsylvania Transportation Authority

[Waiver Petition Docket Number FRA–2005–22688]

Southeastern Pennsylvania Transportation Authority (SEPTA) seeks a waiver of compliance with 49 CFR 229.27(d)(2) (locomotive safety standards), which requires locomotives that are equipped with a self-monitoring event recorder to undergo further maintenance and testing if a ''download of the event recorder, taken within the preceding 30 days and reviewed for the previous 48 hours of locomotive operation, reveals a failure to record a regularly recurring data element or reveals that any required data element is not representative of the actual operations of the locomotive during this time period.'' Specifically, 49 CFR 229.27(d)(2) provides that, ''[i]f the review is not successful, further maintenance and testing shall be performed until a subsequent test is successful. When a successful test is accomplished, a record, in any medium, shall be made of that fact and of any maintenance work necessary to achieve the successful result. This record shall be kept at the location where the locomotive is maintained until a record of a subsequent successful test is filed. The download shall be taken from information stored in the certified crash-worthy crash-hardened event recorder memory module if the locomotive is so equipped.''

SEPTA operates a fleet of MU passenger locomotives that have an event recorder incorporated within the cab signal system. The event recorder incorporates a software self-test every 250 milliseconds whenever the system is energized. If any event recorder input fails, a fault is declared, which causes a penalty brake application, and the fault is logged. SEPTA believes that the system has proved reliable with no data lost over the previous 10 years. SEPTA requests that they be allowed to continue this practice of checking fault indications at the time of periodic inspections, and if the waiver is granted, that they perform no annual downloads of their event recorders.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (FRA–2005–22688) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC, on October 4, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. E6–16696 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notification of Extension of Comment Period

In accordance with Part 211 of Title 49 of the Code of Federal Regulations (CFR), the Federal Railroad Administration (FRA) gave notice that it had received a request of approval for a waiver by the Union Pacific Railroad (UP). UP is implementing remote authority technology, designed to permit authorized users in the field to request, be granted, or release on-track authority without train dispatcher interaction. To facilitate the implementation of this technology, UP is requesting that FRA suspend compliance with certain rules in accordance with the provisions contained in 49 CFR 211.51.

FRA placed the supporting documentation under docket number FRA–2006–24840. FRA also gave notice that it would accept comments on the petition for 45 days subsequent to the publication of the notice. The comment period ended on September 10, 2006, and FRA is reopening the docket for comments to allow the public time to analyze and comment on additional documentation submitted by UP.

All communications concerning this proceeding should identify the appropriate docket number (FRA–2006–24840) and may be submitted by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 202–493–2251
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* Docket Management Facility, Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 90 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (Volume 65, Number 70; Pages 19477–78). The statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC, on October 4, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. E6–16708 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2003–14395, Notice 3]

NHTSA's Activities Under the United Nations Economic Commission for Europe 1998 Global Agreement

AGENCY: National Highway Traffic Safety Administration (NHTSA), DoT.

ACTION: Notice of activities under the 1998 Global Agreement and request for comments.

SUMMARY: NHTSA is publishing this notice to inform the public of the schedule of upcoming meetings of the World Forum for Harmonization of Vehicle Regulations (WP.29) and its working parties of experts for the remainder of calendar year 2006 and the tentative schedule for calendar year 2007. Further, this notice informs the public about the status of activities under the Program of Work of the 1998 Global Agreement and requests comments on various aspects of these activities. Specifically, this notice seeks comment on the recommended Global Technical Regulation (GTR) on motorcycle brake systems that was referred by the Working Party on Brakes and Running Gear (GRRF) to the Executive Committee of the 1998 Global Agreement (AC.3) for a vote at the 140th session of WP.29 in November 2006. Publication of this information is in accordance with NHTSA's Statement of Policy regarding Agency Policy Goals and Public Participation in the Implementation of the 1998 Global Agreement on Global Technical Regulations.

DATES: Written comments may be submitted to this agency and must be received within 30 days of publication of this notice.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov*. Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading under Request for Comments.

FOR FURTHER INFORMATION CONTACT: Mr. Ezana Wondimneh, Division Chief, International Policy and Harmonization (NVS–133), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; phone number (202) 366–0846, fax number (202) 493–2290.

SUPPLEMENTARY INFORMATION:

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I. Background

On August 23, 2000, NHTSA published in the **Federal Register** (65 FR 51236) a statement of policy regarding the agency's policy goals and public participation in the implementation of the 1998 Global Agreement, indicating that each calendar year the agency would provide a list of scheduled meetings of the World Forum for Harmonization of Vehicle Regulations (WP.29) and the working parties of experts, as well as meetings of the Executive Committee of the 1998 Global Agreement (AC.3). Further, in that policy statement, the agency stated that it would keep the public informed about a program of work under the Agreement (i.e., agreed subjects for which Global Technical Regulations [GTR] should be developed) as well as a list of candidate GTRs that have been formally proposed by a contracting party and referred to a working party of experts, including draft GTRs that have been developed and referred by a working party of experts to AC.3 for establishment under the Agreement.

Through a series of **Federal Register** notices published between July 2000 and October 2004 (65 FR 44565), (66 FR 4893), (68 FR 5333) (69 FR 60460), the agency notified the public about status of activities under the 1998 Global Agreement and sought comments on various issues and proposals. In the most recent notice (69 FR 60460), the agency discussed the status of activities under the Program of Work for the 1998 Global Agreement, which was formally adopted by WP.29 at its March 2002 Session, made available and sought comment on formal proposals for GTRs submitted by contracting parties as well as recommended GTRs.

II. List of Meetings of WP.29 and Its Working Parties of Experts

The following lists contain meetings of WP.29 and its working parties of experts for the remainder of calendar year 2006 and for calendar year 2007. The meeting dates for 2007 are subject to confirmation by the Inland Transport Committee of the United Nations Economic Commission for Europe.[1] However, the agency does not anticipate any changes to the schedule. In addition, working parties of experts may schedule, if necessary, informal meetings in addition to their regularly scheduled ones in order to address technical matters specific to GTRs under consideration. The formation of these groups, and their timing, are recommended by the sponsor and chair of the group and are agreed to by WP.29 and AC.3. The schedule and place of meetings are made available to interested parties in proposals and periodic reports which are posted on the Web site of WP.29.

Schedule of Meetings of WP.29 and Its Working Parties of Experts 2006

October

2–6 Working Party on Lighting and Light Signaling (GRE) (57th session)
17–20 Working Party on General Safety Provisions (GRSG) (91st session)

November

13 Administrative Committee for the Coordination of Work (WP.2/AC.2) (92nd session)
14–17 World Forum for Harmonization of Vehicle Regulations (WP.29) (140th session) and Administrative Committee of the 1958

[1] The Inland Transport Committee provides a forum for its member Governments for (i) Cooperation and consultation based on the exchange of information and experiences, (ii) the analysis of transport trends and economics and transport policy trends, and (iii) coordinated action designed to achieve an efficient, coherent, balanced and flexible transport system in the ECE region which is based on principles of market economy, pursues the objectives of safety, environmental protection and energy efficiency in transport and takes into account transport developments and policy of member Governments; WP.29 Reports to this Committee.

Agreement (AC.1) (34th session) and Executive Committee of the 1998 Global Agreement (AC.3)(18th session).

December

12–15 Working Party on Passive Safety (GRSP) (40th session)

Provisional Schedule of meetings of WP.29 and its working parties of experts 2007

January

9–12 Working Party on Pollution and Energy (GRPE) (53rd session)

Feb

5–9 Working Party on Brakes and Running Gear (GRRF) (61st session)

March

12 Administrative Committee for the Coordination of Work (WP.29/AC.2) (93rd session)
13–16 World Forum for Harmonization of Vehicle Regulations (WP.29) (141st session) and Administrative Committee of the 1958 Agreement (AC.1) (35th session) and Executive Committee of the 1998 Global Agreement (AC.3) (19th session).
26–30 Working Party on Lighting and Light Signaling (GRE) (58th session)

April

30–4 (May) Working Party on General Safety Provisions (GRSG) (92nd session)

May

7–11 Working Party on Passive Safety (GRSP) (41st session)

June

5–8 Working Party on Pollution and Energy (GRPE) (54th session)
25 Administrative Committee for the Coordination of Work (WP.29/AC.2) (94th session)
26–29 World Forum for Harmonization of Vehicle Regulations (WP.29) (142nd session) and Administrative Committee of the 1958 Agreement (AC.1) (36th session) and Executive Committee of the 1998 Global Agreement (AC.3) (20th session).

September

18–21 Working Party on Brakes and Running Gear (GRRF) (62nd session)

October

1–4 Working Party on Lighting and Light Signaling (GRE) (59th session)
23–26 Working Party on General Safety Provisions (GRSG) (93rd session)

November

12 Administrative Committee for the Coordination of Work (WP.2/AC.2) (95th session)
13–16 World Forum for Harmonization of Vehicle Regulations (WP.29) (143rd session) and Administrative Committee of the 1958 Agreement (AC.1) (37th session) and Executive Committee of the 1998 Global Agreement (AC.3) (21st session).

December

11–14 Working Party on Passive Safety (GRSP) (42nd session)

III. Status of Activities Under the Program of Work of the 1998 Global Agreement

In March 2001, NHTSA submitted to WP.29 and AC.3 its final recommendations for the first motor vehicle safety GTRs to be considered for establishment under that Agreement. The Administrative Committee for the Coordination of Work of WP.29 (AC.2) reviewed the recommendations made by various contracting parties, including the United States, Canada, the European Union, Japan, and Russia, as well as those made by other interested parties and reached agreement on a Program of Work, taking into account the workload of the working parties of experts under WP.29. AC.2 then submitted the Program of Work to AC.3. AC.3 approved the Program of Work and requested that contracting parties volunteer to sponsor each listed regulation by submitting a formal proposal as required by Article 6 of the 1998 Global Agreement. WP.29 formally adopted the Program of Work at its session in March 2002. Subsequently, several contracting parties stepped forward to sponsor each of the items in the Program of Work. Progress has been made in several areas, and the Program of Work has been updated accordingly. The first GTR, on door locks and door retention components, and the second GTR, on motor cycle emission measurement procedures [2], have been established. The status of hydrogen fuel cell vehicles as well as tire performance has been upgraded from an area for an exchange of information to an area for active development as a GTR. Information exchange in the area of field of vision has been replaced with information exchange on electronic stability control (ESC). Due to difficulties in achieving consensus to establish a GTR on Lower Anchorages and Tethers for Child Safety Seats, it was decided at the March 2006 WP.29 session to remove the item from the Program of Work.

The following table contains an updated list of subjects and sponsoring contracting parties. In addition to the list below, the contracting parties will continue to exchange information in the following areas: Electronic stability control (GRRF); side-impact and vehicle compatibility (GRSP); worldwide light duty vehicle test procedures (GRPE); and intelligent vehicle systems (WP.29).

PROGRAM OF WORK OF THE 1998 GLOBAL AGREEMENT

Working Party of Experts	Subject	Sponsoring Contracting Party	Chair
GRRF	Motorcycle Brake Systems	Canada	Canada.
	Passenger Vehicle Brakes	U.K. and Japan	U.K.
	Tire Performance	France	U.K.
GRE	Installation of Lighting and Light-Signaling Devices	Canada	Canada
GRSG	Safety Glazing	Germany	Germany
	Controls and Displays	Canada	Canada
GRSP	Pedestrian Safety	European Commission	Japan
	Head Restraints	U.S.A.	U.S.A.
	Hydrogen Fuel Cell Vehicle Safety Sub-Group	Germany, Japan and U.S.A..	TBD

[2] This GTR will not be discussed in detail in this notice as the Environmental Protection Agency is the lead agency on this issue.

PROGRAM OF WORK OF THE 1998 GLOBAL AGREEMENT—Continued

Working Party of Experts	Subject	Sponsoring Contracting Party	Chair
GRPE	Worldwide Heavy-Duty Certification Procedure	European Commission	European Commission
	Worldwide Motorcycle Emission Test Cycle	Germany	Germany
	Heavy-Duty On-Board Diagnostics	U.S.A.	Japan
	Off-Cycle Emissions	U.S.A.	U.S.A.
	Non-Road Mobile Machinery	European Commission	European Commission
	Hydrogen Fuel Cell Vehicle Environmental Sub-Group	Germany, Japan and U.S.A.	European Commission

a. Status of Established GTRs Under the 1998 Global Agreement

At the November 2004 WP.29 session, the Door Lock and Door Retention Components GTR was adopted as the first GTR under the 1998 Global Agreement. Per the 1998 Agreement, the U.S. is obligated to initiate the process for adopting the provisions of GTR–1. On December 15, 2004, the U.S. issued a notice of proposed rulemaking (NPRM) closely based on GTR1, which satisfied this obligation (69 FR 75020; Docket No. NHTSA–2004–19840; NPRM).

NHTSA has considered the comments submitted and is in the process of concluding the Final Rule. In the Final Rule the U.S. will explain why it agrees or disagrees with the substantive comments it received and describes the changes, if any, it made to the rule in response to the comments with which it agrees.

If public comments on the NPRM lead the agency to adopt a final rule that differs in any significant way from the GTR, the U.S. will consider submitting a proposal to make conforming amendments to the GTR.

b. Formal Proposals for the Development of GTRs Submitted by Contracting Parties Based on Program of Work

As of the publication of the October 8, 2004, **Federal Register** Notice (69 FR 60490), and pursuant to Article 6 of the 1998 Global Agreement, which sets forth the process and conditions under which a contracting party may make proposals for the establishment of GTRs, the following proposals have been made by contracting parties and referred to the proper working party of experts. These proposals and supporting documentations can be found in the docket for this notice. They can also be found on the UN/ECE Website [3] or under the respective working party of expert link.[4]

- Exhaust emissions from non-road mobile machinery (NRMM) (Sponsored by the EC), GTR to be prepared by GRPE. (UN/ECE document TRANS/WP.29/AC.3/14)
- Head Restraints (Sponsored by U.S.A), GTR to be prepared by GRSP. (UN/ECE document TRANS/WP.29/AC.3/13)
- Heavy-duty off-cycle emissions vehicles (Sponsored by U.S.A.), GTR to be prepared by GRPE. (UN/ECE document TRANS/WP.29/AC.3/12)
- Passenger vehicle brake systems (Sponsored by Japan and United Kingdom), GTR to be prepared by GRRF. (UN/ECE document TRANS/WP.29/AC.3/10)
- Passenger vehicle tires (Sponsored by France), GTR to be prepared by GRRF. (UNECE document listing pending)

c. Status of proposed GTRs under the 1998 Global Agreement

1. Motorcycle Brake Systems

Work on this GTR began following its sponsorship by Canada at the 52nd session of GRRF, in September 2002. Canada initiated and chaired six meetings of the informal working group. The meetings were open to all interested parties. The attendees for the informal group included representatives from: Canada, USA, Italy, the UK, Japan, India, IMMA (International Motorcycle Manufacturers Association), FEMA (Federation of European Motorcyclists' Associations), AMA (American Motorcyclist Association), and JAMA (Japan Automobile Manufacturers Association, Inc.).

Early work to research and compare various performance requirements found in several existing national motorcycle brake regulations was conducted independently by the governments and the motorcycle industry (UNECE Regulation No. 78, the United States Federal Motor Vehicle Safety Standard, FMVSS No. 122 and the Japanese Safety Standard JSS 12–61). The subsequent reports, along with proposed provisions for the GTR, were presented at the 51st, 52nd, and 53rd sessions of GRRF. Despite using different methodologies, the results were found to be very similar between the three reports. Based on this and other research subsequently completed, a preliminary outline of the performance requirements for the GTR was developed

The informal working group reviewed and compared the requirements in each national regulation during the development of the GTR. These regulations, in conjunction with the research and analysis, were used to develop a draft table of regulatory requirements. This draft table was continually updated as technical issues were raised, discussed and resolved. The table was presented and discussed at the 57th session of GRRF in February 2005, and discussed further at the 58th session of GRRF in September 2005 in conjunction with a first draft of the proposed GTR (See TRANS/WP.29/GRRF/2005/18 and TRANS/WP.29/GRRF/2005/18/Add.1).[5]

Where national regulations or standards address the same subject, *e.g.* dry stop or heat fade performance requirements, the informal group reviewed comparative data on the relative stringency of the requirements from the research and studies and included the most severe options. In many cases, individual members of the informal group were tasked with completing additional testing to confirm or refine the testing and performance requirements. Certain tests, such as a wet brake test, were discussed on the basis of the original rationales and the appropriateness of the tests to modern conditions and technologies. In each of these steps, specific technical issues were raised, discussed, and resolved. A full discussion of each of these issues and the technical rationale is provided in the latest draft document, which can be accessed on the WP.29 website [6] and in the docket of this Notice.

[3] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29glob.html.*

[4] *http://www.unece.org/trans/main/welcwp29.htm.*

[5] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29grrf/grrfage.html.*

[6] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29grrf/grrfspecial0606.html.*

At a special session of GRRF, held June 19, 2006, the draft GTR on motorcycle brake systems was accepted by all the Contracting Parties to the 1998 Agreement that were present and was recommended for adoption by WP.29/AC.3 at the upcoming 140th session scheduled for November 2006. In summary, the GTR would provide several benefits that would ultimately benefit motorcycle users and other stakeholders. In addition to providing clear and objective test procedures and requirements that can be consistently and objectively followed; the the GTR also addresses recently developed technologies, such as combined braking systems (CBS) and antilock brake systems (ABS). In addition, since the GTR draws from the best of existing national regulations from around the world, the U.S. would benefit from the GTR in various ways. Among these are improvements in testing procedures such as an improved wet brake test that simulates in service conditions by spraying water onto the disc rather than immersing the disc in water; new tests for ABS systems; and a specified burnishing procedure that is more objective.

Having worked closely with the other contracting parties on the development of this GTR, NHTSA intends to vote positively for it at the November 2006 session of WP.29. If established as a GTR under the 1998 Agreement, this regulation will be the third adopted under the 1998 Agreement. NHTSA welcomes any comments from the public regarding this GTR and NHTSA's decision to vote positively for its establishment.

2. Installation of Light and Light-Signaling Devices

In March 2003, at the 129th Session of WP.29, a formal proposal to develop a GTR on the installation of light and light-signaling devices for vehicles other than motorcycles was adopted. (See TRANS/WP.29/AC.3/4).[7]

A draft GTR containing provisions for the installation of 22 vehicle lighting and light-signalling devices was subsequently developed by GRE over the course of nine formal and informal meetings. However, in a number of areas, the informal working group encountered situations where established safety provisions applied by some Contracting Parties differed from other equally well-established provisions applied by others. For those instances, GRE attempted to reach a science and data based solution by considering, among other things, which provisions were more effective or more cost beneficial. GRE could not reach consensus on several requirements because the necessary data do not exist to justify selecting one or the other.

In November 2005, the chairman of the informal working group turned to the Executive Committee for the 1998 Global Agreement (AC.3) for a solution forward. AC.3 instructed GRE to remove from the draft GTR all portions that specified the colour or presence of the various lighting devices covered by the regulation, leaving those choices to each Contracting Party to make, as the GTR is adopted into their various national jurisdictions. However, at the subsequent informal meeting in April 2006, the informal working group agreed that the presence of lighting devices is essential for the GTR and decided to give it a final attempt to work on a solution. Since then, several comments have been received from various stakeholders, including the auto industry, and are currently being considered.

3. Safety Glazing

At the 132nd session of WP.29 in March 2004 the formal proposal to develop a GTR on safety glazing was adopted (TRANS/WP.29/AC.3/9), with a modification to restrict the scope of the GTR to glass safety glazing. An informal working group was established under the Chairmanship of Germany, the sponsor of the GTR. At the 137th session of WP.29 in November 2005, AC.3 further agreed that the GTR would not include installation provisions and that the informal working group could consider possible approaches to including markings in the GTR.

After six meetings of the informal group, a draft GTR was submitted to GRSG for the April 2005 session (TRANS/WP.29/GRSG/2005/9).[8] The first report was submitted to WP.29 for its 136th session in June 2005 (TRANS/WP.29/2005/49).[9] Based on comments from the United States and Canada concerning the format of the draft, the proposal was returned to the informal group for further consideration. Since the April 2005 GRSG session, the informal group has met four times.

The draft GTR specifies performance requirements for various types of glazing (*i.e.*, laminated glass) intended for installation in Category 1 and 2 vehicles as defined in Special Resolution No. 1.[10] The GTR includes requirements that apply to glazing as an item of equipment, and does not include requirements for vehicles. Performance requirements have some differences depending on whether a material is for a windscreen or, as an example, door glass.

The draft GTR is based in large part upon ECE Regulation 43. One significant difference between the draft GTR and the ECE regulation is that the minimum light transmittance level for glazing requisite for the driver's forward field of vision is 70%, as currently specified in the U.S. standard rather than 75%, as currently specified in the ECE standard. However, the test procedure is based on the ECE test procedure, which specifies testing in defined zones based on the eye position of the driver and with the glazing at the intended installation angle. This test procedure is considered more realistic than the current U.S. procedure that tests the glazing at a normal angle to the surface.

Another difference is the drop height for the small (227 g) ball test for uniformly toughened glass panes. The ECE regulation had specified different drop heights depending on the thickness of the glazing. Based upon some test results provided by Japan which determine that the force from a drop height of 2.0 m replicated the force of a typical object that impacts a pane, it was decided that a single drop height of 2.0 m could be specified.

The informal working group will be meeting again prior to the October 2006 session of GRSG. A new draft of the GTR may be provided to GRSG at that session however, the draft GTR will not be formally submitted to GRSG before the April 2007 session. Therefore, the earliest it could be considered for adoption by WP.29/AC.3 is at the November 2007 session.

4. Pedestrian Safety

WP.29 decided to begin work on pedestrian safety in May 2002, by establishing an informal working group under the GRSP. The formal proposal to develop a GTR (TRANS/WP.29/AC.3/7)[11] was submitted and adopted by the AC.3 at its tenth session, in March 2004. The terms of reference of the group can be found on the UNECE website (See INF GR/PS/2).[12]

The European Commission (EC) is the sponsor of the GTR. The group has held

[7] *http://www.unece.org/trans/doc/2003/wp29/TRANS-WP29-AC3–04e.doc.*

[8] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29grsg/grsgage.html.*

[9] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29age.html.*

[10] A detailed explanation of Special Resolution No. 1 is set forth in Section III. D., below.

[11] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29glob_proposal.html.*

[12] *http://www.unece.org/trans/main/wp29/wp29wgs/wp29grsp/pedestrian_1.html.*

ten meetings, which were attended by representatives of: The Netherlands, France, Germany, Canada, EC, Spain, Japan, USA, Korea, Italy, Turkey, the European Enhanced Vehicle-Safety Committee (EEVC), Consumers International (CI), the European Association of Automotive Suppliers (CLEPA) and the International Organization of Motor Vehicle Manufacturers (OICA). The meetings were chaired by Japan.

This GTR would improve pedestrian safety by requiring vehicle hoods and bumpers to absorb energy more efficiently when impacted in a 40 kilometer per hour (km/h) vehicle-to-pedestrian impact, which accounts for more than 75 percent of the pedestrian injured accidents (AIS 1+) reported by International Harmonized Research Activities (IHRA)/Pedestrian Safety working group (IHRA/PS). It consists of two sets of performance criteria applying to: (a) The hood top and fenders; and (b) the front bumper. Test procedures have been developed for each region using sub-system impacts for adult and child head protection and adult leg protection.

The head impact requirements will ensure that hood tops and fenders will provide head protection when struck by a pedestrian. The hood top and fenders would be impacted with a child headform and an adult headform at 35 km/h. The Head Injury Criterion (HIC) must not exceed 1,000 over one half of a child headform test area and must not exceed 1,000 over two third of a combined child and adult headform test areas. The HIC for the remaining areas must not exceed 1,700 for both headforms.

The leg protection requirements for the front bumper would require bumpers to subject pedestrians to lower impact forces. This GTR specifies that the vehicle bumper is struck at 40 km/h with a legform that simulates the impact response of an adult's leg. Vehicles with a lower bumper height of less than 425 millimeter (mm) are tested with a lower legform, while vehicles with a lower bumper height of more than 500 mm are tested with an upper legform test device. Vehicles with a lower bumper height between 425 mm and 500 mm are tested with either legform chosen by the manufacturer. In the lower legform to bumper test, vehicles must meet limits on lateral knee bending angle, knee shearing displacement, and lateral tibia acceleration. In the upper legform to bumper test, limits are placed on the instantaneous sum of the impact forces with respect to time and the bending moment on the test.

At the May 2006 GRSP meeting, the working group presented a draft version of the Pedestrian GTR for review by all GRSP experts.[13] Due to unresolved issues with the applicability of the regulation and differences between it and the European Directive on Pedestrian Safety, the GRSP recommended the GTR remain under the working group pending review at the December 2006 GRSP session. NHTSA is currently performing testing and analyses to aid in the resolution of determining the vehicle applicability of the GTR, including preliminary cost/benefit analyses. NHTSA expects to complete these analyses by the December 2006 GRSP session.

5. Head Restraints

During the November 2004 meeting of WP.29 and the Executive Committee of the 1998 Global Agreement, NHTSA formalized its sponsorship of the regulation on Head Restraints as identified in the Program of Work of the 1998 Global Agreement. In the October 8, 2004, (69 FR 60460) notice, NHTSA sought comments on a proposal that formalizes the U.S. sponsorship of a GTR on head restraints. In response to the agency's request for comment on the proposal, NHTSA received no comments. The proposal was formally presented by the U.S. and adopted by the Executive Committee and referred to the Working Party of Experts (GRSP) at the March 2005 Session of WP.29. In February 2005, the GRSP formed an informal working group, chaired by the US, to develop a GTR. The working group has met seven times with the following contracting parties and representatives participating: Netherlands, France, Canada, Japan, Germany, Spain, Korea, the UK, USA, the EC, CLEPA and OICA.

In developing and drafting the new GTR, the working group is combining elements from UNECE Regulations Nos. 17, 25, and newly upgraded United States Federal Motor Vehicle Safety Standard (FMVSS) 202, as well as considering proposals for requirements not contained in the previously mentioned regulations. The working group is making good progress on exchanging data and has started drafting the regulatory text. The major outstanding issues are:

- *Applicability:* Applying the GTR to vehicles up to 4,500 kg or limiting it to 3,500 kg.
- *Backset:* There is general consensus that it should be regulated, but the maximum backset limit is still being discussed.
- *Measuring procedures for height and backset:* There is continued discussion on using the H-point or R-point as the point of reference.
- *Dynamic Test:* There is consensus to incorporate the U.S. dynamic test established in the 202 Final Rule, but there remains discussion on the injury criteria and dummy.

The working group has submitted two Progress Reports on the status of this GTR. They can be found in the docket for this notice.

6. Other GTRs

The GRRF began work to develop a GTR for light vehicle tires in September 2006, which was scheduled following approval by WP.29/AC.3 at the June 2006 session. For this GTR, WP.29/AC.3 provided a working framework by outlining each of its major elements prior to the beginning of technical development. This approach was taken by WP.29/AC.3 because of lessons learned from past GTRs, where much of the technical development was encumbered by policy considerations being undertaken by technical experts at the working group level. By settling many of the policy decisions early, it is expected that the technical development will progress smoothly and in the least amount of time possible. France is the technical sponsor and the UK will be chairing the informal working group meetings.

The GTR on passenger vehicle brakes was placed on hold until common issues identified with the motorcycle GTR are resolved. The decision to focus on resolving the issues under the motorcycle GTR before proceeding with substantially similar issues in the passenger car GTR was made by AC.3 at its November 2005 session.

The GRSG has developed many of the criteria for the location, illumination and position of the controls and displays for motor vehicles. Issues regarding the use of certain symbols remain unresolved. Comments received in response to a NHTSA NPRM has led the group to reflect on its previous work and to further investigate some of the symbols originally proposed by this group and their ability to be recognized. The Alliance of Automobile Manufacturers has agreed to conduct a study to evaluate the symbols and determine which symbols have appropriate levels of recognition with the U.S. public as a basis for further development of the table in the GTR. Phase 1 of the study has been completed and a presentation was given to WP.29 in November 2005. Based on this phase,

[13] (*http://www.unece.org/trans/doc/2006/wp29grsp/ECE-TRANS-WP29-GRSP–2006–02e.doc*).

it was agreed to postpone further work on the GTR until a second phase of testing some symbols could be conducted. The second phase has recently been completed and preliminary information was shared at the June 2006 session of WP.29. However, review of this phase may not be completed in time for discussion at GRSG in October 2006, in which case it would be discussed in April 2007.

At its 136th Session, WP.29/AC agreed to a proposal from Germany, Japan and United States regarding how best to manage the development process of a GTR for hydrogen fuel cell vehicles. Under the agreed process, once AC.3 develops and approves a plan for the development of the GTR, two subgroups will be formed to address its safety and environment aspects. The safety subgroup will report to GRSP and the environmental subgroup to GRPE. Each subgroup will have a chair. In order to ensure communication between the subgroups and continuous engagement with WP.29 and AC.3, a project manager will be assigned to coordinate and manage the various aspects of the work ensuring that the agreed plan is implemented properly and that milestones and timelines are set and met. The co-sponsors are in the process of developing an action plan outlining the areas that the subgroup on safety and the environment should be considering in developing the GTR.

d. Special Resolutions Under the 1998 Global Agreement

At the one-hundred-and-twentieth session of WP.29, the Government of Japan, through document TRANS/WP.29/2000/39, presented a proposal concerning the necessity of establishing common definitions to facilitate the formulation of future global technical regulations (gtrs), selecting vehicle category, vehicle weight, and vehicle dimension as candidate items requiring a common definition. The necessity of common definitions was unanimously recognized at the WP.29 session and, in October 2000, an informal group was formed under the Working Party on General Safety Provisions (GRSG) and Japan volunteered to chair the effort.

As originally drafted, this proposal was expected to be a GTR. However, it was noted that the document did not contain performance requirements as required by Article 4 of the 1998 Agreement, and as such did not meet the criteria for a GTR. Using its authority under Article 3 of the 1998 Agreement to ''fulfil such other functions as may be appropriate,'' the Executive Committee decided that this proposal would become Special Resolution No. 1 (S.R. 1). Because S.R. 1 does not contain performance requirements, it also does not trigger the obligations of Article 7 of the 1998 Agreement requiring Contracting Parties to initiate procedures to adopt GTRs. While GTRs must be drafted in accordance with S.R. 1, Contracting Parties are not required to use this document when drafting regulations in their own country.

S.R. 1 applies to all wheeled vehicles, equipment and parts falling within the scope of the Agreement Concerning the Establishing of Global Technical Regulation for Wheeled Vehicles, Equipment and Parts, which can be fitted and/or be used on Wheeled Vehicles. Generally, vehicles are categorized as either passenger vehicles (Category 1 vehicles), commercial vehicles (Category 2 vehicles), or 2- or 3-wheeled vehicles (Category 3 vehicles). S.R. 1 also includes definitions of masses and dimensions. S.R. 1 was adopted at the June 2005 session of WP.29 and can be found at TRANS/WP.29/1045.

e. Compendium of Candidate GTRs

Article 5 of the 1998 Agreement provides for the creation of a compendium of candidate technical regulations of the Contracting Parties. NHTSA has submitted a request for six Federal Motor Vehicle Safety Standards (FMVSS) to be included in this Compendium. These FMVSS have all been listed in the Compendium after an affirmative vote of the Executive Committee. The FMVSS listed in the Compendium are:

- FMVSS 108—Lamps, Reflective Devices, and Associated Equipment
- FMVSS 135—Light Vehicle Brake Systems
- FMVSS 139—New Pneumatic Radial Tires for Light Vehicles
- FMVSS 202—Head Restraints
- FMVSS 205—Glazing Materials
- FMVSS 213—Child Restraint Systems

To facilitate the review and consideration of these FMVSS by other Contracting Parties, NHTSA is arranging translations of these documents. To date, all of the FMVSS in the Compendium are available in Chinese and French. All except FMVSS 202 are available in Arabic, Russian and Spanish. If you would like a translation, please contact Mr. Wondimneh as noted in the **FOR FURTHER INFORMATION CONTACT** section.

IV. Request for Comments

The agency invites public comments on the formal proposals for the development of GTRs submitted by contracting parties and the work to develop each of the GTRs already ongoing. In particular, the agency seeks comments on the motorcycle brake systems GTR, which is scheduled to be established as a GTR under the 1998 Agreement by a consensus vote at the November 2006 session of WP.29.

V. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit *http://dms.dot.gov.*

Issued on October 3, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–16681 Filed 10–6–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''(MA) Securities Exchange Act Disclosure Rules (12 CFR Part 11).'' The OCC also gives notice that it has submitted the collection of information to OMB for review.

DATES: Comments must be received by November 9, 2006.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0106, 250 E Street, SW., Washington, DC

20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0106, by mail to U.S. Office of Management and Budget, 725, 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: (MA) Securities Exchange Act Disclosure Rules (12 CFR Part 11).

OMB Number: 1557–0106.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB approve its revised estimates.

The Securities and Exchange Commission (SEC) is required by statute to collect, through regulation, from any firm that is required to register its stock with the SEC certain information and documents. 12 U.S.C. 78m(a)(1). The OCC is required by statute to apply similar regulations to any national bank similarly required to be registered (those with a class of equity securities held by 500 or more shareholders). 15 U.S.C. 781(i). Part 11 ensures that ''publicly owned national banks'' provide adequate information about their operation to current and potential shareholders, depositors, and to the public. The OCC reviews the information to ensure that it complies with Federal law and makes public all information required to be filed under these rules.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 58.

Estimated Total Annual Responses: 354.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 2,205.5

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 4, 2006.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 06–8571 Filed 10–6–06; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Leasing—12 CFR Part 23.'' The OCC also gives notice that this collection of information has been sent to OMB for review.

DATES: Comments must be received by November 9, 2006.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0206, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0206, by mail to U.S. Office of Management and Budget, 725, 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Leasing (12 CFR Part 23).

OMB Number: 1557–0206.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend the expiration date.

Information Collection Requirements found in 12 CFR Part 23

12 CFR 23.4(c)—National banks must liquidate or re-lease personal property that is no longer subject to lease (off-lease property) within five years from the lease expiration. If a bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Permitting a bank to extend the holding period confers a benefit on national banks and may result in cost savings. It also provides flexibility for a bank that experiences unusual or unforeseen conditions under which it would be imprudent to dispose of the off-lease property. Section 23.4(c) requires a bank to provide a clearly convincing demonstration as to why an additional holding period is necessary. In addition, a bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-lease. These requirements enable the OCC to ensure that a bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting procedures (GAAP).

Section 23.5—Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire

personal property for purposes of lease financing. Twelve U.S.C. 24(Seventh) applies if the lease serves as the functional equivalent of a loan. Such leases are subject to the lending limits prescribed by 12 U.S.C. 84 or, if the lessee is an affiliate of the bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c–1. A national bank may also acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth) (CEBA Leases). This provision authorizes a national bank to invest in CEBA Leases up to 10 percent of its assets. Section 23.5 requires that if a bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to evidence compliance with the statutory limitation on the aggregate amount a national bank may invest in CEBA Leases.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 370.

Estimated Total Annual Responses: 370.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 685.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 4, 2006.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. E6–16665 Filed 10–6–06; 8:45 am]

BILLING CODE 4810–33–P

Federal Register

Tuesday,
October 10, 2006

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 773, 774, 778, 843, and 847

Ownership and Control; Permit and Application Information; Transfer, Assignment, or Sale of Permit Rights; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 773, 774, 778, 843, and 847

RIN 1029–AC52

Ownership and Control; Permit and Application Information; Transfer, Assignment, or Sale of Permit Rights

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

ACTION: Proposed Rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), propose to revise certain provisions of our December 19, 2000, final ''ownership and control'' and related rules, as well as our rules pertaining to the transfer, assignment, or sale of permit rights. More specifically, we propose to amend our definitions pertaining to ownership, control, and transfer, assignment or sale of permit rights and to revise our regulatory provisions governing: permit eligibility determinations; improvidently issued permits, ownership or control challenges; post-permit issuance actions and requirements; transfer, assignment, or sale of permit rights; application and permit information; and alternative enforcement. Additionally, we propose to remove our current rules pertaining to improvidently issued State permits. In order to satisfy our obligations under a settlement agreement we entered into with the National Mining Association, we previously issued two proposed rules covering these subjects. (Ownership and Control Settlement Rule, December 29, 2003; Transfer, Assignment, or Sale of Permit Rights, January 26, 2005.) After receiving comments on those proposed rules, and holding an outreach meeting with our State co-regulators to discuss the ramifications of finalizing the proposed rules, we have decided to alter the proposals in certain respects and to propose additional revisions. We have also decided to combine the two prior proposals into one new proposed rule, which will allow the public to review and comment on the proposed revisions in context. As with the two prior proposals, our primary objective in issuing this proposed rule is to introduce greater clarity to our regulations and to achieve regulatory stability with regard to aspects of our regulatory program that have been the subject of litigation for many years. This proposed rulemaking does not suspend or withdraw any of the provisions of our 2000 final ownership and control rule or our current rules pertaining to the transfer, assignment, or sale of permit rights. We are, however, withdrawing our December 29, 2003, proposed rule and our January 26, 2005, proposed rule. This proposed rule is authorized under the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA or the Act).

DATES: *Written comments:* Comments on the proposed rule must be received by or before 4:30 p.m., Eastern Time, on December 11, 2006 to ensure our consideration.

Public hearings: Upon request, we will hold a public hearing on the proposed rule at a date, time, and location to be announced in the **Federal Register** before the hearing. We will accept requests for a public hearing until 4:30 p.m., Eastern Time, on October 31, 2006. If you wish to attend a hearing, but not speak, you should contact the person identified under **FOR FURTHER INFORMATION CONTACT** before the hearing date to verify that the hearing will be held. If you wish to attend and speak at the hearing, you should follow the procedures under ''III. Public Comment Procedures.''

ADDRESSES: You may submit comments, identified by docket number 1029–AC52, by any of the following methods:

- E-mail: *osmregs@osmre.gov.* Include docket number 1029–AC52 in the subject line of the message.
- Mail/Hand Delivery/Courier: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252, 1951 Constitution Avenue, NW., Washington, DC 20240.
- Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

You may review the docket (administrative record) for this rulemaking, including comments received in response to this proposed rule, at the Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 101, 1951 Constitution Avenue, NW., Washington, DC 20240. The Administrative Record Office is open Monday through Friday, excluding holidays, from 8 a.m. to 4 p.m. The telephone number is (202) 208–2847.

Instructions: All written submissions must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see ''III. Public Comment Procedures'' in the **SUPPLEMENTARY INFORMATION** section of this notice.

If you wish to comment on the information collection aspects of this proposed rule, submit your comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via electronic mail, to *OIRA_DOCKET@omb.eop.gov* or via telefacsimile at (202) 395–6566.

You may submit a request for a public hearing orally or in writing to the person and address specified under **FOR FURTHER INFORMATION CONTACT.** We will announce the address, date, and time for any hearing in the **Federal Register** before the hearing. If you are disabled and require reasonable accommodation to attend a public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Earl D. Bandy, Jr., Office of Surface Mining Reclamation and Enforcement, Appalachian Region, Applicant/Violator System Office, 2679 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8424 or (800) 643–9748. E-mail: *ebandy@osmre.gov.*

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III. Clarifications to the Preamble to Our 2000 Ownership and Control Final Rule
IV. Public Comments Procedures
V. Procedural Determinations

I. Background to the Proposed Rule

This proposed rule would amend certain provisions of our 2000 final ownership and control rule (65 FR 79582) and our current rules pertaining to the transfer, assignment, or sale of permit rights at 30 CFR 701.5 (definition of *transfer, assignment, or sale of permit rights*) and 30 CFR 774.17 (regulatory requirements). The 2000 final rule, which took effect for Federal programs (*i.e.*, SMCRA programs for which OSM is the regulatory authority) on January 18, 2001, primarily addresses issues concerning and related to ownership or control of surface coal mining operations under section 510(c) of SMCRA. 30 U.S.C. 1260(c). Under section 510(c), an applicant for a permit to conduct surface coal mining and reclamation operations (hereafter ''applicant'' or ''permit applicant'') is not eligible to receive a permit if the applicant owns or controls any surface coal mining operation that is in violation of SMCRA or other applicable laws. In addition to implementing section 510(c), the rule also addresses, among other things, permit application information requirements, post-permit issuance information requirements, entry of information into the Applicant/Violator System (AVS), application processing procedures, and alternative enforcement. *See generally* 65 FR 79661–71. Our current rules pertaining to the transfer, assignment, or sale of permit rights contain, among other things, application submission, review, and approval criteria. We have historically viewed our transfer, assignment, or sale rules as related to our ownership and control rules because our current definition of *transfer, assignment, or sale of permit rights* (30 CFR 701.5) incorporates ownership and control concepts.

On February 15, 2001, the National Mining Association (NMA) filed a lawsuit in the U.S. District Court for the District of Columbia in which it challenged our 2000 final rule on multiple grounds. NMA's lawsuit included a challenge to our transfer, assignment, or sale rules. Although the 2000 rule did not include any amendments to our transfer, assignment, or sale rules, NMA argued that we reopened those rules by proposing to revise them in the proposed rule that preceded the 2000 final rule. *See* 63 FR 70580, 70591, 70601 (Dec. 21, 1998).

As we explained in our 2003 proposed rule, NMA's lawsuit is the latest chapter in litigation concerning ownership and control and related issues. Litigation in this area—involving, at various times, OSM, State regulatory authorities (administering OSM-approved State programs), NMA, and environmental groups—has been contentious and ongoing, virtually uninterrupted, since at least 1988. The 2000 final rule, which we are proposing to revise, replaced a 1997 interim final rule (62 FR 19451), which was partially invalidated by the U.S. Court of Appeals for the District of Columbia Circuit. *National Mining Ass'n* v. *Dep't of the Interior,* 177 F.3d 1 (DC Cir. 1999) (*NMA* v. *DOI II*). The interim final rule replaced three sets of predecessor regulations dating back to 1988 and 1989 (53 FR 38868, 54 FR 8982, 54 FR 18438), which were invalidated by the DC Circuit because the court found that one aspect of the rules was inconsistent with section 510(c) of SMCRA. *National Mining Ass'n* v. *Dep't of the Interior,* 105 F.3d 691 (D.C. Cir. 1997) (*NMA* v. *DOI I*). The preamble to the 2000 final rule contains a detailed discussion of the prior rules and the related litigation. *See generally* 65 FR 79582–84.

This ongoing cycle of litigation has created a great deal of regulatory uncertainty for OSM, State regulatory authorities (administering OSM-approved State programs), the regulated community, and the public in general. Thus, in an effort to bring the litigation between OSM and NMA to an end, we entered into negotiations with NMA in an attempt to settle NMA's challenge to the 2000 final rule. Ultimately, the parties were able to settle all of the issues presented in NMA's rule challenge. Under the terms of the settlement, we agreed to publish two proposed rules in the **Federal Register** in accordance with the Administrative Procedure Act's standard notice and comment procedures. We did not agree to finalize any of the provisions as proposed. In order to fulfill our obligations under the settlement agreement, we published the first of the proposed rules—relating to ownership and control and related issues—on December 29, 2003. 68 FR 75036 (2003 proposed rule). The public comment period, as extended, closed on March 29, 2004. We published the second proposed rule—relating to the transfer, assignment, or sale of permit rights—on January 26, 2005. 70 FR 3840 (2005 proposed rule). The public comment period, as extended, closed on April 15, 2005. In the settlement agreement, we also agreed to publish certain clarifications to our preamble supporting the 2000 final rule. We published those clarifications in the preamble to our December 29, 2003 proposed rule. 68 FR 75043. However, because we today withdraw our 2003 proposed rule (as well as our 2005 proposed rule), we are repeating the clarifications in today's proposed rule.

After the comment periods had closed on the two proposed rules described above, we reviewed all comments received and decided it was appropriate to meet with representatives of our State co-regulators before taking further action on the two proposals. States with OSM-approved SMCRA programs have primary responsibility for the regulation of surface coal mining and reclamation operations within their State and must have State rules that are consistent with, and no less stringent than, our national rules. Thus, because any new national rules could directly affect the primacy States, we deemed it important to meet with the States prior to promulgating any new rules. We met with the State representatives from June 7–9, 2005, in Cincinnati, OH. The results of the outreach meeting are detailed in a report that is included in the administrative record supporting this rulemaking initiative. After our outreach meeting with the States, we also met with representatives of NMA, as a courtesy, to inform them of the status of, and our potential future actions with regard to, the two proposed rules we issued in accordance with the settlement agreement. We deemed this meeting appropriate because the litigation NMA instituted over our 2000 final rule is still pending in Federal district court, and the parties are still required to file periodic joint status reports with the court.

After meeting with the States, we conducted further internal research and deliberations and reassessed our options. Given the historic interrelatedness of our ownership and control and transfer, assignment, or sale rules, we decided it was best to combine the topics covered in the two proposed rules and issue one, new reproposal. This approach will allow the public to view the proposed changes in context and provide more meaningful comments. With respect to the ownership and control amendments we

propose today, we have considered the comments received on our 2003 proposed rule and additional input from the States and have concluded that, with a few exceptions, we do not need to deviate substantially from our 2003 proposal. (We note any significant departures in the discussion of the proposed rule, below.) However, our proposed transfer, assignment, or sale amendments (discussed under headings C and T, below) do differ from our 2005 proposal in material respects.

As with the 2003 and 2005 proposed rules, our settlement agreement with NMA does not obligate us to issue a final rule based on this proposal. We will give due consideration to any public comments received on the proposed rule before deciding whether to issue a final rule and whether to finalize any provisions as proposed. We view this rulemaking initiative as an opportunity to ensure we and our State counterparts have the tools we need to enforce SMCRA, clarify ambiguous provisions in our regulations, and reduce reporting burdens on the coal mining industry and regulatory authorities. We are hopeful that any final rule resulting from this proposal will introduce a measure of regulatory stability to areas that have been in flux since at least 1988.

II. Discussion of the Proposed Rule

In this section we discuss the proposed revisions to our rules. With relatively few modifications, we are carrying forward the proposed ownership and control and related amendments that were the subject of our 2003 proposed rule, which was based on our settlement agreement with NMA. With regard to the transfer, assignment, or sale issues discussed under headings C and T, below, the settlement did not require us to propose any specific regulatory language; we committed only to propose new transfer, assignment, or sale rules. While we are carrying forward some aspects of the proposed transfer, assignment, or sale amendments from our 2005 proposed rule, including the key conceptual change, today's proposal does differ from the 2005 proposal in some material respects.

Following are discussions of our proposed revisions to certain of our definitions at 30 CFR 701.5 and to our rules at 30 CFR parts 773, 774, 778, 843, and 847.

A. Section 701.5—Definition: Control or Controller

In the 2000 final rule, we defined *control* or *controller* in terms of certain circumstances or relationships that establish a person's control of a surface coal mining operation. We also provided examples of persons who may be, but are not necessarily, controllers. NMA challenged the definition of *control* or *controller* on multiple grounds, including allegations that the definition is vague, arbitrary and capricious, and contrary to *NMA* v. *DOI II*. Given the alleged vagueness of the definition, NMA also objected to the requirement that an applicant must list all of its controllers in a permit application.

In order to settle this claim, we agreed to propose removing from the definition of *control* or *controller* at 30 CFR 701.5 the following: all of paragraph (3) (general partner in a partnership); all of paragraph (4) (person who has the ability to commit financial or real property assets; from paragraph (5), the phrase ''alone or in concert with others,'' the phrase ''indirectly or directly,'' and all of the examples at paragraphs (5)(i) through (5)(vi). Both parties agreed that if we adopted the proposed revisions, the remaining portion of the definition would still allow a regulatory authority to reach any person or entity with the ''ability'' to determine the manner in which a surface coal mining operation is conducted. Both parties also agreed that the ''ability to determine'' standard could encompass indirect and direct control, as well as control in concert with others, where there is actual ability to control. We are carrying this proposal forward from our 2003 proposal.

Despite our renewed proposal to remove two categories of controllers from the definition of *control* or *controller* (general partner in a partnership; person who has the ability to commit financial or real property assets), and the list of examples of persons who may be controllers, we stress that, under this proposal, all of these persons may still be controllers. In fact, general partners and persons who can commit assets are almost always controllers. *See, e.g.*, *NMA* v. *DOI II*, 177 F.3d at 7. However, because these persons are already covered under the ''ability to determine'' standard, we propose to remove them from the regulatory text in order to simplify the definition. Likewise, although we propose to remove the examples of controllers, these persons may still be controllers if they in fact have the ability to determine the manner in which a surface coal mining operation is conducted. In our experience implementing section 510(c) of SMCRA since 1977, the persons identified in the examples are often controllers. Therefore, our discussion of these examples in the preamble to the 2000 final rule remains instructive, though it is important to remember that these examples are not exhaustive. *See* 65 FR 79598–600.

In today's proposed rulemaking, our proposed revision of the definition of *control* or *controller* is coupled with a proposal to remove the requirement to list all controllers in a permit application under current 30 CFR 778.11, which is also carried forward from our 2003 proposal. Instead, as discussed in more detail under heading V, below, we propose to modify the information disclosure requirements of 30 CFR 778.11 so that they more closely resemble certain application information requirements of section 507 of SMCRA. We propose this revision to the permit application information requirements in order to establish an objective standard for both applicants (who must submit certain information in a permit application) and regulatory authorities (who review applications for completeness and compliance with the Act). This proposed revision would also reduce the information collection burden for both permit applicants and regulatory authorities.

The ''ability to determine'' standard discussed above gives regulatory authorities flexibility to consider all of the relevant facts, on a case-by-case basis, in determining whether control is present; regulatory authorities also have the leeway to follow control wherever it may exist in a series of business relationships. However, while it is important for regulatory authorities to retain this flexibility and leeway, it is difficult to have an objective information disclosure standard based on this type of definition. By removing the requirement for applicants to list all of their controllers in a permit application, this proposal would greatly reduce any uncertainty or subjectivity associated with the relevant permit information disclosure requirements. In sum, the proposals discussed above would give regulatory authorities the flexibility they need to enforce the Act, while simultaneously making the permit information requirements more objective and less burdensome.

B. Section 701.5—Definition: Own, Owner, or Ownership

In its judicial challenge, NMA claimed that the definition of *own*, *owner*, or *ownership* at 30 CFR 701.5 in our 2000 final rule is inconsistent with SMCRA, arbitrary and capricious, and contrary to *NMA* v. *DOI II*. NMA also took issue with the ''downstream'' reach of the rule, as it pertains to ownership. The term ''downstream,'' as used by the

DC Circuit in the *NMA* v. *DOI I* and *NMA* v. *DOI II* litigation, refers to surface coal mining operations that are down a corporate (or other business) chain from an applicant. For example, if an applicant has a subsidiary, the subsidiary would be considered ''downstream'' from the applicant; by contrast, if an applicant has a parent company, the parent company would generally be considered ''upstream'' from the applicant. NMA's claim pertained to how far downstream a regulatory authority can look when making a permit eligibility determination based on ownership (as distinct from control) of a surface coal mining operation.

In order to settle NMA's claim, we agreed to propose to revise the regulatory definition of *own*, *owner*, or *ownership* at 30 CFR 701.5 and the provision at 30 CFR 773.12(a)(2) that governs the downstream reach of the definition when making a permit eligibility determination. Our first proposed revision is to the definition itself. The definition, at 30 CFR 701.5, includes persons ''possessing or controlling in excess of 50 percent of the voting securities or other instruments of ownership of an entity.'' We concede the definition could be confusing in that it uses the word ''controlling,'' which is an intrinsic part of the separately defined term *control* or *controller*. In order to remove any potential confusion, we propose to add the term ''owning of record'' in place of ''possessing or controlling.'' The term ''owning of record'' is a variant of ''owners of record,'' which is found in section 507(b) of the Act. Thus, regulatory authorities and the regulated industry will be familiar with the term and its meaning. This proposed revision, which is carried forward from our 2003 proposal, would not change the substance of our current definition of *own*, *owner*, or *ownership*.

Our second proposed revision would affect current 30 CFR 773.12(a)(2), which addresses the downstream reach of the definition under the rules pertaining to permit eligibility. In *NMA* v. *DOI II*, the U.S. Court of Appeals for the District of Columbia Circuit clearly held that we can deny a permit based on limitless ''downstream'' *control* relationships. *NMA* v. *DOI II*, 177 F.3d at 4–5. That is, if an applicant indirectly controls an operation with a violation, through its ownership or control of intermediary entities, the applicant is not eligible for a permit. *Id.* at 5. The operation with a violation can be limitlessly downstream from the applicant. While we believe the court's logic arguably extends to ownership, the *NMA* v. *DOI II* decision is not entirely clear on this point. *See* proposed 30 CFR 773.12 for greater discussion concerning the effects of the proposed definition on permit eligibility determinations.

Our current rules allow us to reach ''downstream'' with regard to both ownership and control. Thus, under the current rules, we can deny a permit if an applicant indirectly *owns* an operation in violation of SMCRA or other applicable laws. The operation in violation can be infinitely downstream from the applicant—meaning that ownership of the operation can be indirect, through intermediary entities—as long as there is an uninterrupted chain of ownership between the applicant and the operation. NMA argued that this provision is contrary to the plain meaning of SMCRA and violates principles of corporate law. NMA claimed that ownership of a corporation does not equate to ownership of the corporation's assets (including mining operations). Thus, according to NMA, we should be able to deny a permit based on ownership only if one of the applicant's own operations has a violation.

While we do not necessarily agree with NMA's analysis, in order to settle this claim, we agreed to propose a regulatory revision at 30 CFR 773.12(a), the effect of which would be to limit the reach of permit denials based on ownership to ''one level down'' from the applicant. For example, if an applicant *directly* owns an entity with an unabated or uncorrected violation of SMCRA or other applicable laws—meaning there are no intermediary entities between the applicant and the entity with a violation—the applicant would not be eligible for a permit. In other words, the rule would reach one level down from the applicant to the entity the applicant owns. However, if the applicant *indirectly* owns an entity with a violation—meaning that there is at least one intermediary entity between the applicant and the entity with a violation—the applicant would not be ineligible for a permit based on ownership of the entity with violations. Of course, the same applicant would be ineligible for a permit if it controlled the violator entity. This proposed revision is also carried forward from our 2003 proposed rule.

We do not believe this approach is compelled by either SMCRA or the decision in *NMA* v. *DOI II*. However, we do believe it is a reasonable interpretation of the Act. Moreover, with regard to control, the rules for determining permit eligibility will continue to reach limitlessly ''downstream.'' That is, in determining an applicant's eligibility for a permit, we may continue to consider violations at ''downstream'' operations, as long as there is control by the applicant. Because we can still deny a permit based on indirect *control* of an operation with a violation, through intermediary entities, our proposal to limit the downstream reach of *ownership* will not impair our ability to adequately enforce section 510(c) of the Act. The proposed revision at 30 CFR 773.12(a) that pertains to the downstream reach of the definition of *own*, *owner*, or *ownership* is further discussed under heading I, below.

C. Section 701.5—Definition: Transfer, Assignment, or Sale of Permit Rights

As mentioned above, in order to settle the litigation instituted by NMA, we agreed to propose new transfer, assignment, or sale rules. In accordance with the settlement agreement, we published a proposed rule on January 26, 2005. 70 FR 3840. In that proposed rule, we proposed fairly sweeping changes to our existing regulations. More specifically, we proposed to: revise our regulatory definitions of *transfer, assignment, or sale of permit rights* and *successor in interest* at 30 CFR 701.5; revise our regulatory provisions at 30 CFR 774.17 relating to the transfer, assignment, or sale of permit rights; and create, for the first time, separate rules for successors in interest.

At various points in the preamble to our 2005 proposed rule, we expressly invited comments as to whether such major changes are warranted given that the existing regulatory scheme has been in existence for more than 25 years. In response, a number of commenters suggested that the broad conceptual changes we proposed are not warranted. Several commenters stated that our statutory rationales for some of the proposed changes, including our reading of the legislative history, were flawed. Further, commenters suggested that we did not achieve our primary purpose of providing greater clarity in our transfer, assignment, or sale regulations. Upon consideration of these and other comments, and input from our State co-regulators, we have come to believe that we can achieve our purpose of simplifying and clarifying our regulations through more modest revisions to our existing rules. As a result, today we propose to revise our current definition of *transfer, assignment, or sale of permit rights* at section 701.5 but to keep our existing regulatory requirements for transfers, assignments, or sales of permit rights

largely intact. As with our 2005 proposed rule, we also seek to distinguish clearly the circumstances that will trigger a transfer, assignment, or sale of permit rights as opposed to an information update under 30 CFR 774.12 (*see* heading S, below).

Section 511(b) of SMCRA, 30 U.S.C. 1261(b), provides that ''[n]o transfer, assignment, or sale of permit rights granted under any permit issued pursuant to this Act shall be made without the written approval of the regulatory authority.'' Under our current definition, *transfer, assignment, or sale of permit rights* means ''a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the regulatory authority.'' We propose to revise our regulatory definition of *transfer, assignment, or sale of permit rights* to mean a change of a permittee. Our proposal is informed by a decision of the Department of the Interior's Office of Hearing and Appeals (OHA) *Peabody Western Coal Co.* v. *OSM*, No. DV 2000–1–PR (June 15, 2000) (*Peabody Western*), comments received on our 2005 proposed rule, and our further discussions with our State co-regulators.

In *Peabody Western*, OHA examined the impact of *NMA* v. *DOI II* on transfer, assignment, or sale issues. OSM had determined that Peabody Western's change of all of its corporate officers and directors constituted a transfer, assignment, or sale of permit rights under 30 CFR 701.5. The administrative law judge disagreed, explaining that, after *NMA* v. *DOI II*, OSM cannot presume that an officer or director is a controller and, therefore, a change of an officer or director, or even that a change of all officers and directors, cannot, standing alone, automatically constitute a change of ''effective control'' triggering a transfer, assignment, or sale of permit rights. The administrative law judge also made other observations that we assigned particular weight to in developing our 2005 proposed rule and today's proposal. The judge noted that the ''other effective control'' language is ''vague and imprecise'' and ''discloses no meaningful standard and provides no advance notice to a regulated corporate entity'' as to which corporate changes will constitute a transfer, assignment, or sale. This defect, according to the judge, does not provide ''adequate advance notice of the purported regulatory standard'' and leaves permittees ''to speculate'' as to when regulatory approval is required.

Throughout our deliberations, we were mindful of OHA's admonition that our existing definition, to the extent it relies on the concept of ''effective control,'' is ''vague and imprecise'' and ''discloses no meaningful standard and provides no advance notice to a regulated corporate entity'' as to which corporate changes will constitute a transfer, assignment, or sale. We concede that our definition has created confusion—among regulatory authorities, the regulated industry, and the public—that has led to various interpretations of the regulatory requirements. As in our 2005 proposed rule, we conclude that the imprecision in our current definition was created largely by our inclusion of the phrase ''or other effective control.'' Under SMCRA, the concept of control, in the context of permit eligibility, is found in section 510(c) of the Act. Under that section, an applicant is not eligible to receive a permit if it owns or controls an operation with an unabated or uncorrected violation. Our existing definition of *transfer, assignment, or sale of permit rights* imports the ownership and control concept from section 510(c), but nothing in the Act compels that approach. Because we believe that infusing transfer, assignment, or sale issues with the section 510(c) ownership and control concepts has created undue confusion as to what constitutes a transfer, assignment, or sale of permit rights, we propose to remove ownership and control concepts from the definition. As explained in more detail below, one of the results of this proposed revision is that a change of a permittee's owners or controllers would not constitute a transfer, assignment, or sale.

In addition to responding to the decision in *Peabody Western*, we also believe that revising our definition of *transfer, assignment, or sale of permit rights* to mean a change of a permittee is consistent with the objective of section 511(b) of the Act. As explained above, section 511(b) requires regulatory approval for a transfer, assignment, or sale of permit rights. Those permit rights are held by the permittee. As long as the permit continues to be held by the same legal entity or ''person''—for example, a corporation or other business entity recognized under State law—we see no reason to apply the regulatory provisions governing transfer, assignment, or sale of permit rights. When the permittee changes—such as when the existing permittee sells its assets, including a mining permit or the rights granted under a permit, to a new permittee—there clearly has been a transfer, assignment, or sale of permit rights that would require regulatory approval. However, we propose that if the permittee's owners or controllers change, but the permittee remains the same, there has not been a transfer, assignment, or sale; in this instance, the existing permittee is the entity that will continue mining under the permit and will, as such, have to maintain appropriate bond coverage. Under this proposed definition, we would be looking for indicia that the existing permittee has actually conveyed its permit rights to a new permittee that desires to continue mining under the permit. We emphasize that while a permittee's change of an officer, director, shareholder, owner, controller, or certain other persons in its organizational structure would not trigger a transfer, assignment, or sale of permit rights under this proposal, the permittee would be required to report certain of these changes under proposed 30 CFR 774.12 (*see* heading S, below). Our proposed revision to the definition of *transfer, assignment, or sale of permit rights* at section 701.5 would reduce the reporting burden on both the coal mining industry and regulatory authorities due to the fact that fewer transactions or events would qualify as a transfer, assignment, or sale requiring an application and regulatory approval under 30 CFR 774.17. We invite your comments as to whether there are legal or practical reasons weighing in favor of or against our proposed revision.

It also bears mention that we are not proposing to revise our definition of *successor in interest*, as we did in our 2005 proposed rule. Historically, we have viewed a successor in interest as ''any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.'' *See* 30 CFR 701.5. In our 2005 proposed rule, we proposed to give the term successor in interest independent meaning, apart from our definition of *transfer, assignment, or sale of permit rights*. However, based on comments received on the proposed rule, we have determined that there is no benefit in creating separate regulatory requirements and that our historic approach is preferable.

D. Section 773.3—Information Collection

Current 30 CFR 773.3 contains a discussion of Paperwork Reduction Act requirements and the information collection aspects of 30 CFR part 773. In keeping with the Office of Management and Budget's guidelines, we propose to revise current section 773.3 by streamlining the codified information collection discussion. A more detailed discussion of the information collection burdens associated with part 773 is

contained under the *Procedural Determinations* section (*see* heading V.10.), below.

E. Section 773.7—Review of Permit Applications

We propose to revise current 30 CFR 773.7(a) in order to correct one cross-reference and to eliminate a cross-reference that is no longer relevant. In general, section 773.7(a) requires the regulatory authority to review certain information developed in connection with an application for a permit, revision, or renewal and to issue a written decision on the application. The second sentence of the current provision reads: ''If an informal conference is held under § 773.13(c), the decision shall be made within 60 days of the close of the conference, unless a later time is necessary to provide an opportunity for a hearing under paragraph (b)(2) of this section.'' In our 2000 final rule, we redesignated previous section 773.15(a)(1) as 773.7(a), but made no other revisions to the provision at that time. Since the promulgation of our 2000 rule, it has come to our attention that the cross-references in that provision are either incorrect or no longer applicable.

We propose to correct the first cross-reference so that it properly refers to current section 773.6(c). We also propose to remove the language that includes the second cross-reference because it is no longer relevant due to certain revisions we adopted in our 2000 final rule. More specifically, we propose to remove the qualifier phrase ''unless a later time is necessary to provide an opportunity for a hearing under paragraph (b)(2) of this section'' because ''(b)(2)'' refers to a provision—previous 30 CFR 773.15(b)(2)—that no longer exists and because the logic behind the current provision is no longer applicable. The hearing contemplated by previous section 773.15(b)(2) was a hearing held in conjunction with an applicant's appeal of a notice of violation. Under today's proposal, if an applicant is pursuing a good faith appeal of a violation, and otherwise meets the criteria of proposed 30 CFR 773.14 (*see* heading J, below), the applicant will be eligible to receive a provisionally issued permit. Under these circumstances, we no longer see a need to delay the permitting decision in order to provide an opportunity for a hearing on a violation.

F. Section 773.8—General Provisions for Review of Permit Application Information and Entry of Information into AVS

Among other things, current 30 CFR 773.8 requires a regulatory authority to enter certain permit application information into AVS. We propose to revise current 30 CFR 773.8 by removing the phrase ''ownership and control'' from paragraph (b)(1). We propose this revision because we are also proposing to revise the heading of current 30 CFR 778.11 by removing the phrase ''ownership and control.'' See discussion under heading V, below. Our rationale for these proposed revisions is that, under section 778.11, an applicant must submit information in addition to what could be called ''ownership and control'' information. At paragraph 773.8(b)(1), we are also proposing to add language clarifying that the information described (through a cross-reference to sections 778.11 and 778.12(c)) is required to be disclosed; disclosure of this information is not optional. The entire proposed provision at paragraph 773.8(b)(1) would read: ''The information you are required to submit under §§ 778.11 and 778.12(c) of this subchapter.''

G. Section 773.9—Review of Applicant and Operator Information

Current 30 CFR 773.9 requires a regulatory authority to review certain information provided by the applicant during the regulatory authority's permit eligibility review. Similar to our proposed revision to section 773.8, we are proposing to revise the section heading at current 30 CFR 773.9 by removing references to ''ownership and control'' information. Thus, the revised section heading would read, ''Review of applicant and operator information.'' We also propose to revise current section 773.9(a) by removing the phrase ''applicant, operator, and ownership or control.'' Again, these non-substantive proposed revisions merely clarify that the information that the applicant is required to disclose under section 778.11 is not limited to ownership and control information.

As with the proposed revision to section 773.8, we also propose to revise section 773.9(a) by adding language that clarifies that the information described in the section (through a cross-reference to section 778.11) must be disclosed in a permit application; disclosure is not optional. Finally, we propose to revise section 773.9(a) by changing the term ''business structure'' to ''organizational structure.'' This proposed change is a broader description of the entities subject to the review.

In sum, revised paragraph (a) would read: ''We, the regulatory authority, will rely upon the information that you, the applicant are required to submit under § 778.11 of this subchapter, information from AVS, and any other available information, to review your and your operator's organizational structure and ownership and control relationships.''

H. Section 773.10—Review of Permit History

We propose to revise current 30 CFR 773.10, which requires a regulatory authority to, among other things, review the permit history of an applicant and its operator during the regulatory authority's permit eligibility review. More specifically, we propose to revise section 773.10(b) by removing the reference to the applicant's ''controllers disclosed under §§ 778.11(c)(5) and 778.11(d) of this subchapter.'' Paragraph (b) would then read: ''We will also determine if you or your operator have previous mining experience.''

In paragraph (c), we propose to remove the language ''your controllers, or your operator's controllers'' from the first sentence. In the second sentence of paragraph (c), we would remove ''and was not disclosed under § 778.11(c)(5) of this subchapter.'' Paragraph (c) would then read: ''If you or your operator do not have any previous mining experience, we may conduct an additional review under § 774.11(f) of this subchapter. The purpose of this review will be to determine if someone else with mining experience controls the mining operation.'' We are proposing these revisions because we also propose to remove the requirement for an applicant to disclose its controllers (including its ''designated controller'') in a permit application. *See* discussion under heading V, below. These proposed revisions differ from the proposed revisions in our 2003 proposed rule in that we are proposing to remove all references to controllers. In our 2003 proposed rule, we proposed to substitute the references to all controllers with references to the designated controller an applicant is required to disclose under current 30 CFR 778.11(d). *See* 68 FR 75038. In light of today's proposal to remove section 778.11(d), cross-references to that section would no longer be necessary.

I. Section 773.12—Permit Eligibility Determination

We propose to revise our provisions for permit eligibility determinations at current 30 CFR 773.12. As indicated above, under our discussion of the

definition of *own, owner,* or *ownership* (*see* heading B), current 30 CFR 773.12(a) is the provision in our 2000 final rule that determines the ''downstream'' reach of the rule in terms of permit eligibility. More specifically, we propose to revise paragraph (a)(2) so that we can no longer deny a permit based on indirect *ownership* of a surface coal mining operation with a violation; we would, however, retain the right to deny a permit based on indirect *control.* In order to simplify the rule, we also propose to merge paragraphs (a)(2) and (a)(3), without changing the substantive meaning of those provisions. The proposed revision to paragraph (a)(2), which would remove the reference to ownership, would provide that a permit applicant is not eligible for a permit if any surface coal mining operation that the applicant or the applicant's operator ''indirectly control[s] has an unabated or uncorrected violation and [the applicant's or operator's] control was established or the violation was cited after November 2, 1988.'' Thus, as explained above under heading B (definition of *own, owner,* or *ownership*), with respect to *ownership,* we could only look ''one level down'' from the applicant in making a permit eligibility determination. This proposed revision is carried forward from our 2003 proposed rule.

We are also proposing to revise current 30 CFR 773.12(b). Consistent with the D.C. Circuit's ruling on retroactivity in *NMA* v. *DOI II,* 30 CFR 773.12(b) of our 2000 final rule provides that an applicant is eligible to receive a permit, notwithstanding the fact that the applicant or the applicant's operator indirectly owns or controls an operation with an unabated or uncorrected violation, if both the violation and the assumption of ownership or control occurred before November 2, 1988. However, 30 CFR 773.12(b) also provides that the applicant is *not* eligible to receive a permit under this provision if there ''was an established legal basis, independent of authority under section 510(c) of the Act, to deny the permit * * *.'' NMA challenged 30 CFR 773.12(b), claiming that if there is an ''independent authority'' to deny the permit, that authority exists whether or not it is referenced in the regulatory language. According to NMA, the provision is superfluous and potentially confusing. We agree that any ''independent authority'' exists independent of this regulatory provision. Thus, in order to settle this claim, we propose to remove 30 CFR 773.12(b). Because we propose to remove 30 CFR 773.12(b), we also propose to redesignate paragraphs (c), (d), and (e) as (b), (c), and (d), respectively. This proposed revision is carried forward from our 2003 proposed rule.

Finally, although we are not proposing any regulatory changes on this issue, we want to emphasize an inherent aspect of current section 773.12: In meeting its obligations under section 510(c) of the Act and the State counterparts to that provision, each State, when it processes a permit application, must apply its own ownership and control rules to determine whether the applicant owns or controls any surface coal mining operations with violations. Consistent with the concept of State primacy, it is appropriate for the regulatory authority with jurisdiction over an application to apply its own ownership or control rules when making a permit eligibility determination, since that regulatory authority has the greatest interest in whether or not mining should commence or continue within its jurisdiction. However, when a regulatory authority is applying its ownership or control rules to violations in other jurisdictions, it is advisable for the regulatory authority to consult and coordinate, as necessary, with the regulatory authority with jurisdiction over the violation and our Applicant/Violator System Office (AVS Office). We also stress that a regulatory authority processing a permit application has *no* authority to make determinations relating to the initial existence or current status of a violation, or a person's responsibility for a violation, in another jurisdiction.

J. Section 773.14—Eligibility for Provisionally Issued Permits

Section 773.14 of our 2000 final rule allows for the issuance of a ''provisionally issued permit'' if the applicant meets the criteria under 30 CFR 773.14(b). The promulgated regulatory language uses the word ''*may,*'' which indicates that the regulatory authority retains discretion to grant a provisionally issued permit, even if the applicant otherwise meets the eligibility criteria at 30 CFR 773.14(b). While the preamble discussion in our 2000 rule is not explicit on this point, we intended in this context that an applicant *is* eligible to receive a provisionally issued permit under the specified circumstances. *See, e.g.,* 65 FR 79618–19, 79622–24, 79632, 79634–35, and 79638.

In order to reconcile any ambiguity, today we propose to revise our rule language at 30 CFR 773.14(b) to clarify that an applicant who meets the 30 CFR 773.14(b) eligibility criteria *will* be eligible for a provisionally issued permit. We stress that an applicant must also meet all other permit application approval and issuance requirements before receiving a provisionally issued permit and that the provisional permittee must comply with all performance standards. *See generally* 65 FR 79622. This proposed revision is carried forward from our 2003 proposed rule.

K. Section 773.21—Initial Review and Finding Requirements for Improvidently Issued Permits

Sections 773.21 through 773.23 of our rules are the provisions governing improvidently issued permits. In this context, these are permits we should not have issued in the first instance because of an applicant's ownership or control of a surface coal mining operation with an unabated or uncorrected violation at the time of permit issuance. We propose two substantive revisions to 30 CFR 773.21(c).

The first revision concerns our burden of proof when making a preliminary finding that a permit was improvidently issued. In our 2003 proposed rule, in accordance with our settlement with NMA, we proposed to revise section 773.21(c) so that our preliminary finding that a permit was improvidently issued ''must be based on reliable, credible, and substantial evidence and establish a *prima facie* case that [the permittee's] permit was improvidently issued.'' *See* 68 FR 75039. Based on input received from our State co-regulators—both in their comments on our 2003 proposed rule and in our outreach meeting—and other commenters, we have come to believe that requiring a *prima facie* case of improvident permit issuance to be based on ''reliable, credible, and substantial'' evidence is too high of a burden on a regulatory authority (particularly in the context of a *preliminary* finding). Thus, today we propose that our preliminary finding that a permit was improvidently issued ''must be based on evidence sufficient to establish a *prima facie* case that [the permittee's] permit was improvidently issued.'' This evidentiary standard, we believe, is more in line with traditional notions of what it takes to establish a *prima facie* case and is consonant with the standard that typically applies to OSM's regulatory findings. *See* headings O and R, below, for additional discussions on burden of proof issues.

We also propose to remove current 30 CFR 773.21(c)(2), which requires us to post a notice of a *preliminary* finding of improvident permit issuance at our

office closest to the permit area and on the Internet. This proposed revision is carried forward from our 2003 proposed rule. We are also carrying forward our 2003 proposal to remove all other Internet posting requirements adopted in our 2000 final rule. In addition to 30 CFR 773.21(c)(2), we propose to remove the Internet posting requirements found in current 30 CFR 773.22(d), 773.23(c)(2), and 773.28(d). We also propose to remove the requirement to post *preliminary* decisions ''at our office closest to the permit area.'' The requirements to post preliminary decisions that we propose to remove are found in current 30 CFR 773.21(c)(2) and 773.22(d). (Current section 843.21 contains additional posting requirements that would be removed as part of our proposal to remove 843.21 in its entirety. *See* discussion under heading W, below.) We would retain the current requirement at 30 CFR 773.23(c)(2) to post a notice of permit suspension or rescission at our office closest to the permit area. We also would retain the current requirement at 30 CFR 773.28(d) to post a final agency decision on a challenge of an ownership or control listing or finding on AVS.

Our inclusion of the Internet posting requirements in the 2000 rule was primarily based on comments that we should expand the public's access to our decisions. See, *e.g.*, 65 FR 79632. While public access to final decisions remains important, we have come to believe that the various Internet posting requirements in the 2000 final rule could be unduly burdensome to regulatory authorities, especially when public notice of final decisions can be accomplished by the less burdensome, conventional method of posting them at our office closest to the permit area. Further, regulatory authorities are already required to enter much of the relevant information into AVS, which is available to the public. Posting *preliminary* findings by any method could likewise become unduly burdensome; further, posting of preliminary findings is of questionable value to the public. For these reasons, we propose to remove all Internet and preliminary finding posting requirements, but retain public posting of our final decisions. In terms of information collection burdens on regulatory authorities, we note that we have not yet required the States to implement these posting requirements. Thus, because we propose to eliminate an information collection that never took effect for the States, there is no net change to the information collection burden.

L. Section 773.22—Notice Requirements for Improvidently Issued Permits

As discussed above, we propose to remove 30 CFR 773.22(d), which contains posting requirements similar to those found at current 30 CFR 773.21(c)(2), discussed above under heading K. Specifically, we propose to remove the requirement to post a notice of *proposed* suspension or rescission at our office closest to the permit area and on the Internet. Because we propose to remove paragraph (d), we further propose to redesignate current paragraphs (e) through (h) as paragraphs (d) through (g). In the proposed rule language that follows this discussion of the proposed rules, our proposed revision to 30 CFR 773.22 is shown as a **Federal Register** instruction. This proposed revision is carried forward from our 2003 proposed rule.

M. Section 773.23—Suspension or Rescission Requirements for Improvidently Issued Permits

We propose to revise the posting requirements contained in current 30 CFR 773.23. Current 30 CFR 773.23(c)(2) requires us to post a *final* notice of permit suspension or rescission (which requires the holder of the improvidently issued permit to cease all surface coal mining operations on the permit) at our office closest to the permit area and on the Internet. We propose to remove the requirement to post final notices on the Internet. (Our rationale for removing this and similar posting requirements is discussed more fully above under heading K.) However, because section 773.23(c)(2) pertains to *final* findings (as opposed to the *preliminary* and *proposed* findings under sections 30 CFR 773.21 and 773.22, respectively), we have decided to retain the requirement to post a final notice at our office closest to the permit area. We believe it is appropriate to post notices of such final actions for public view. These proposed revisions are carried forward from our 2003 proposed rule.

N. Section 773.26—How to Challenge an Ownership or Control Listing or Finding

Sections 773.25 through 773.28 of our rules govern challenges to ownership or control listing or findings. Generally speaking, an ownership or control *listing* arises when an applicant identifies, or ''lists,'' a person as an owner or controller in a permit application. That information is, in turn, entered into AVS by a regulatory authority. By contrast, an ownership or control *finding* under 30 CFR 774.11(f) constitutes a regulatory authority's fact-specific determination that a person owns or controls a surface coal mining operation.

In its judicial challenge to our 2000 final rule, NMA claimed that 30 CFR 773.26(a) is confusing. That section explains how and where a person may challenge an ownership or control listing or finding. NMA claimed that the provision does not clearly delineate the appropriate forum in which to bring a challenge. NMA also expressed concern that the provision seems to refer only to applicants and permittees, but not other persons who are identified in AVS as owners or controllers.

Section 773.25 of our 2000 final rule provides that any person listed in a permit application or in AVS as an owner or controller, or found by a regulatory authority to be an owner or controller, may challenge the listing or finding. As we explained in the preamble, our intent was, in fact, to allow *any* person listed in a permit application or in AVS, or found to be an owner or controller, to initiate a challenge at *any* time, regardless of whether there is a pending permit application or an issued permit. *See* 65 FR 79631. Section 773.26(a) was not intended to limit, in any way, the universe of persons who may avail themselves of the challenge procedures under 30 CFR 773.25; rather, it merely specifies the procedure and forum in which to challenge an ownership or control listing or finding.

Nonetheless, in order to provide greater clarity to the provisions in 773.26(a), and in accordance with our settlement with NMA, we proposed (in our 2003 proposed rule) to revise our regulations at 30 CFR 773.26(a) to more clearly specify the forum in which a person may initiate an ownership or control challenge. Today, we carry forward this aspect of our 2003 proposed rule. Specifically, we propose that challenges pertaining to a pending permit application must be submitted to the regulatory authority with jurisdiction over the pending application. We further propose that all other challenges concerning ownership or control of a surface coal mining operation must be submitted to the regulatory authority with jurisdiction over the relevant surface coal mining operation.

We note that, in meeting its obligations under section 510(c) of the Act and the State counterparts to that provision, each State, when it decides an ownership or control challenge under its counterpart to 30 CFR 773.28, must apply its own ownership and control rules to determine whether the applicant owns or controls (or owned or controlled) any surface coal mining

operations with violations. *See generally* 65 FR 79637. Further, we stress that an ownership or control decision by one State is not necessarily binding on any other State. This provision comports with principles of State primacy, and recognizes that not all States will have identical ownership and control rules.

In our 2003 proposed rule, we also proposed to add new 30 CFR 773.26(e), in accordance with our settlement with NMA. Today, we carry forward this aspect of our 2003 proposed rule. This new provision would allow a person who is unsure why he or she is shown in AVS as an owner or controller of a surface coal mining operation to request an informal explanation from our (AVS Office). The new provision would require us to respond to such a request within 14 days. Our response would be informal and would set forth in simple terms why the person is shown in AVS. In most, if not all, cases, the explanation would be as simple as specifying that the person was found to be an owner or controller under 30 CFR 774.11(f) (of which the person should already be aware due to that section's written notice requirement) or was listed as an owner or controller in a permit application. Understanding the basis for being shown in AVS will give persons a better sense of the type of evidence they will need to introduce in an ownership or control challenge. *See also* 30 CFR 773.27(c), which provides examples of materials a person may submit in support of his or her ownership or control challenge.

O. Section 773.27—Burden of Proof for Ownership or Control Challenges

As mentioned above, our rules contain provisions for challenging ownership or control listings or findings. Under current 30 CFR 773.27(a), a successful challenger must prove by a preponderance of the evidence that he or she is not, or was not, an owner or controller. In its judicial challenge to our 2000 final rule, NMA argued that we must demonstrate at least a *prima facie* case so that the challenger can know what evidence he or she must rebut.

The preamble to our 2000 final rule already made it clear that we had to establish a *prima facie* case when making a finding of ownership or control:

> [I]n making a finding [of ownership or control] under final § 774.11(f), the regulatory authority must indeed make a *prima facie* determination of ownership and control, based on the evidence available to the regulatory authority. In making a *prima facie* determination, the finding should include evidence of facts which demonstrate that the person subject to the finding meets the definition of *own*, *owner*, or *ownership* or *control* or *controller* in § 701.5.

65 FR 79640. Nonetheless, in order to settle NMA's claim and to set forth more clearly the relative burdens of the parties, we agreed to propose revisions to section 30 CFR 773.27(a) and 774.11(f), as well as a related revision to 30 CFR 773.21(c) (*see* discussion above under heading K). The proposed revisions were part of our 2003 proposed rule. Today, we are proposing revisions that deviate slightly from the 2003 proposed revisions but retain the general substance of our prior proposals. As explained in more detail below under heading R, we are proposing to amend 30 CFR 774.11(f) in order to clarify that a regulatory authority's finding of ownership or control must be based on evidence sufficient to establish a *prima facie* case of ownership or control. We propose to amend section 773.27(a) so that it reads:

> (a) When you challenge a listing of ownership or control, or a finding of ownership or control made under § 774.11(f) of this subchapter, you must prove by a preponderance of the evidence that you either—
>
> (1) Do not own or control the entire surface coal mining operation or relevant portion or aspect thereof; or
>
> (2) Did not own or control the entire surface coal mining operation or relevant portion or aspect thereof during the relevant time period.

Our proposed revision to paragraph (a) merely clarifies that a person can challenge either an ownership or control listing or a finding of ownership or control under 30 CFR 774.11(f). In our 2003 proposed rule, we proposed adding the term ''*prima facie*'' before the word ''finding'' in paragraph (a). However, we now believe the addition of that term is redundant given that our proposed revision to section 774.11(f) would clarify that our written findings of ownership or control must be based on evidence sufficient to establish a *prima facie* case. At paragraphs (a)(1) and (a)(2), we propose to clarify that the ''operation'' referred to in these provisions is a surface coal mining operation.

Under the burden of proof allocation we propose today, as under our current rules, if the challenge concerns a finding of ownership or control, the regulatory authority will have borne the initial burden of establishing a *prima facie* case of ownership or control by issuing its finding in accordance with section 774.11(f). If the challenge concerns an ownership or control listing, the regulatory authority's initial burden is substantially lower: The regulatory authority must specify only the circumstances of the listing, such as who listed the person, the date of the listing, and in what capacity the person was listed. In either type of challenge, after the regulatory authority meets its initial burden, the burden shifts to the challenger to prove, by a preponderance of the evidence, that he or she does not, or did not, own or control the relevant surface coal mining operation. The challenger bears the ultimate burden of persuasion.

P. Section 773.28—Written Agency Decision on Challenges to Ownership or Control Listings or Findings

We propose to revise the posting requirements of 30 CFR 773.28, our rules governing written agency decisions on challenges to ownership or control listings or findings. Current section 773.28(d) requires us to post final decisions on ownership or control challenges on AVS and on the AVS Office's Internet home page. We propose to remove the requirement to post these decisions on the Internet. However, because 30 CFR 773.28 pertains to final decisions on ownership or control challenges, we have decided to retain the requirement to post these decisions on AVS. Because these final decisions may have permit eligibility consequences, it is appropriate to make such decisions publicly available by posting them on AVS. This proposed revision is carried forward from our 2003 proposed rule. Our rationale for removing this and similar posting requirements is set forth more fully above, under the discussion of 30 CFR 773.21 (*see* heading K).

Q. Section 774.9—Information Collection

Current 30 CFR 774.9 contains a discussion of Paperwork Reduction Act requirements and the information collection aspects of 30 CFR part 774. In keeping with the Office of Management and Budget's guidelines, we propose to revise current section 774.9 by streamlining the codified information collection discussion. A more detailed discussion of the information collection burdens associated with part 774 is contained under the *Procedural Determinations* section (*see* heading V.10.), below.

R. Section 774.11—Post-Permit Issuance Requirements for Regulatory Authorities and Other Actions Based on Ownership, Control, and Violation Information

We propose several revisions to current 30 CFR 774.11 which, among other things, contains requirements for

regulatory authorities following the issuance of a permit. First, we propose to revise section 774.11(a)(3), which currently requires a regulatory authority to enter into AVS all ''[c]hanges of ownership or control within 30 days after receiving notice of a change.'' We propose to revise paragraph (a)(3) by removing ''Changes in ownership or control'' and replacing it with ''Changes to information initially required to be provided by an applicant under 30 CFR 778.11.'' We propose this revision because we are also proposing to revise the heading of current 30 CFR 778.11 by removing the phrase ''ownership and control.'' *See* discussion below, under heading V. Our rationale for these proposed revisions is that, under section 778.11, an applicant must submit information in addition to what could be called ''ownership and control'' information. This proposed revision is carried forward from our 2003 proposed rule.

Second, we propose to revise 30 CFR 774.11(e). Under the specified circumstances, 30 CFR 774.11(c) of our rules requires us to make a preliminary finding of permanent permit ineligibility. Section 30 CFR 774.11(d) provides for administrative review of a preliminary finding. Current 30 CFR 774.11(e) reads as follows: ''We must enter the results of the finding and any hearing into AVS.'' Confusion has arisen as to whether we must enter a preliminary finding into AVS, prior to administrative resolution.

To settle a claim brought by NMA, we agreed to clarify that a finding of permanent permit ineligibility would be entered into AVS only if it is affirmed on administrative review or if the person subject to the finding does not seek administrative review and the time for seeking administrative review has expired. In order to incorporate this clarification into our regulatory requirements, we propose to revise 30 CFR 774.11(e). Specifically, at the beginning of paragraph (e), we propose to add the subheading ''Entry into AVS.'' We further propose to create new paragraph (e)(1), which would read: ''If you do not request a hearing, and the time for seeking a hearing has expired, we will enter our finding into AVS,'' and new paragraph (e)(2), which would read: ''If you request a hearing, we will enter our finding into AVS only if that finding is upheld on administrative appeal.'' With a minor, non-substantive modification, this proposed revision is carried forward from our 2003 proposed rule.

Third, we propose to revise 30 CFR 774.11(f), which governs a regulatory authority's finding of ownership or control. As with the proposed revision of 30 CFR 773.27, discussed above under heading O, we propose to revise 30 CFR 774.11(f) to clarify that a regulatory authority's written finding of ownership or control must be based on evidence sufficient to establish a *prima facie* case. In the preamble to our 2000 final rule, we explained that a finding of ownership or control must be based on a *prima facie* determination of ownership or control (65 FR 79640); the revision we propose today makes this requirement explicit. In the context of a regulatory authority's finding of ownership or control, a *prima facie* case is one consisting of sufficient evidence to establish the elements of ownership or control and that would entitle the regulatory authority to prevail unless the evidence is overcome by other evidence.

In our 2003 proposed rule, we proposed that a regulatory authority's *prima facie* finding under section 774.11(f) must be based on reliable, credible, and substantial evidence. However, as with section 773.21 (*see* heading K, above), based on input received from our State co-regulators and other commenters, we have come to believe that requiring a *prima facie* finding of ownership or control to be based on ''reliable, credible, and substantial'' evidence is too high of a burden on a regulatory authority for an initial finding. Thus, we propose that our findings of ownership or control under section 774.11 ''must be based on evidence sufficient to establish a *prima facie* case of ownership or control.'' This evidentiary standard, we believe, is more in line with traditional notions of what it takes to establish a *prima facie* case and is consonant with the standard that typically applies to OSM's regulatory findings.

For logistical reasons, we also propose to merge the substance of current paragraph (f)(1) into proposed paragraph (f); merge the substance of current paragraph (f)(2) into proposed paragraph (g) (discussed below); and remove current paragraph (f)(3), to be consistent with the revisions we propose to 30 CFR 778.11(c)(5) and (d) (discussed below under heading V). These proposed changes include removing the current requirement at paragraph (f)(3) that, following a finding of ownership or control, a person must disclose his or her identity under 30 CFR 778.11(c)(5) and, if appropriate, certify that they are a controller under 30 CFR 778.11(d). As discussed below under heading V, we propose to remove the information disclosure requirements at 778.11(c)(5) and (d). Therefore, the cross-references to those provisions in section 774 would no longer make sense.

Fourth, we propose to revise 30 CFR 774.11 to address NMA's claim that our 2000 final rule denies a person the right to challenge a decision to ''link'' it by ownership or control to a violation before the ''link'' is entered into AVS. (*See* 30 CFR 701.5 for definition of *Applicant/Violator System* or *AVS.*) While we disagree with the characterization that we enter ''links'' to violations into AVS, today we propose to create a new paragraph (g). The new regulatory provision would specify that, after we issue a written finding of ownership or control under 30 CFR 774.11(f), and before we enter the finding into AVS, we will allow the person subject to the finding 30 days in which to submit any information tending to demonstrate a lack of ownership or control. After reviewing any information submitted, if we are persuaded that the person is not an owner or controller, we will serve the person with a written notice to that effect; if we still find the person to be an owner or controller or if the person does not submit any information within the 30-day period, we must enter our finding under paragraph (f) into AVS. The requirement to enter our decision into AVS is currently found in section 774.11(f)(2); we propose to move that requirement into proposed paragraph (g). The process envisioned in proposed paragraph (g) would be informal and non-adjudicatory. With a minor modification, this proposed revision is carried forward from our 2003 proposed rule.

Fifth, we propose to add a new paragraph (h), which would specify that we do not need to make a finding of ownership or control under paragraph (f) before entering into AVS the information that permit applicants are required to disclose under sections 778.11(b) and (c). For example, if we find that an applicant failed to disclose an operator in a permit application, we can enter the identity of the operator into AVS without making a finding of ownership or control. This is so because an applicant is required to identify its operator under section 507(b)(1) of the Act. 30 U.S.C. 1257(b)(1); 30 CFR 778.11(b)(3). However, proposed paragraph (h) would also make clear that the mere listing of a person in AVS pursuant to 30 CFR 778.11(b) or (c) does not create a presumption or constitute a determination that such person owns or controls a surface coal mining operation. Of course, some of the persons required to be disclosed under sections 30 CFR 778.11(b) and (c) will, in fact, be owners or controllers, but that

is because they meet the definition of *own, owner,* or *ownership* or *control* or *controller* at 30 CFR 701.5, not because they are listed in AVS. This proposal is carried forward from our 2003 proposed rule.

Finally, we propose to make non-substantive revisions to current paragraph (g) and redesignate that provision as paragraph (i). Proposed paragraph (i) would read: ''If we identify you as an owner or controller under paragraph (f) of this section, you may challenge the finding using the provisions of §§ 773.25, 773.26, and 773.27 of this subchapter.'' This proposed revision is carried forward from our 2003 proposed rule.

S. Section 774.12—Post-permit Issuance Information Requirements for Permittees

We propose to revise 30 CFR 774.12, which sets forth information reporting requirements for permittees after the issuance of a permit. More specifically, at paragraph (c), we propose to remove the reference to 30 CFR 778.11(d) (as we are proposing to remove that provision) and to add new paragraph (3), which would require a permittee to provide written notification to the surety, bonding entity, guarantor, or other person that provides the bonding coverage currently in effect whenever there is an addition, departure, or change in any position of any person the permittee was required to identify under 30 CFR 778.11(c). Sureties have expressed to us that it is important to review bond coverage following such events. We agree and believe notifying the bonding entities of such events is important to ensure that appropriate bond coverage remains in place. In addition, proposed paragraph (c)(3) would provide that the regulatory authority with jurisdiction over the permit may require written verification of continued appropriate bond coverage following such additions, departures, or changes. Given that some of these changes can be quite significant, we believe it is reasonable for a regulatory authority to require proof that bond coverage will continue and has not been jeopardized by the changes. We invite your comments as to whether there are practical or legal reasons weighing in favor of or against these proposed new provisions.

T. Section 774.17—Transfer, Assignment, or Sale of Permit Rights

In 2005, we proposed to revise our regulations governing the transfer, assignment, or sale of permit rights. Our proposal was expansive and constituted a significant departure from our existing regulations. As explained above under heading C, we have decided to scale back the scope of our proposal. Under today's proposal, the primary change to our transfer, assignment, or sale regulations would be our proposed revision to our definition of *transfer, assignment, or sale of permit rights* at 30 CFR 701.5. By contrast, we propose relatively minor revisions to our existing regulations at 30 CFR 774.17, which contains our regulatory procedures governing the transfer, assignment, or sale of permit rights.

Current 30 CFR 774.17(a) provides that ''[n]o transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the regulatory authority.'' Our requirement for ''prior written approval'' of a transfer, assignment, or sale has been construed by some as an attempt to require regulatory authority approval of private business transactions. We want to make clear that we have no involvement in private business transactions. However, we also stress that, under this proposal, a person's acquisition of a permit or the rights granted under a permit does not mean that the purchaser has acquired the right to mine. We continue to believe that only the regulatory authority can validate permit rights upon a transfer, assignment, or sale and that, in validating such permit rights, the regulatory authority must determine that the entity that proposes to mine as a result of the private transaction is eligible to conduct surface coal mining operations under the Act and its implementing regulations and that the entity has obtained sufficient bond coverage. Only upon validation by the regulatory authority can it be said that the successor in interest has become the new permittee and has permit rights.

However, we also recognize that requiring operations to cease while a permittee seeks regulatory approval of a transfer, assignment, or sale of permit rights could result in unnecessary disruptions to the nation's energy supply. Thus, we propose that operations on the permit may continue on a short-term basis, at the discretion of the regulatory authority, while the permittee seeks regulatory approval of a transfer, assignment, or sale, but only if the successor in interest can demonstrate to the satisfaction of the regulatory authority that sufficient bond coverage will remain in place. Prior to a decision on an application for a transfer, assignment, or sale, the regulatory authority retains all of its enforcement powers and should take immediate action if the successor in interest is not complying with the terms of the permit or any requirements of the Act or its implementing regulations. Revised paragraph (a) would read: ''(a) *General.* No transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the regulatory authority. At its discretion, the regulatory authority may allow a successor in interest to continue surface coal mining and reclamation operations under the permit during the pendency of an application for approval of a transfer, assignment, or sale of permit rights submitted under paragraph (b) of this section, provided that the successor in interest can demonstrate to the satisfaction of the regulatory authority that sufficient bond coverage will remain in place.'' We invite your comments as to whether there are practical or legal reasons weighing in favor of or against this proposed new provision.

At paragraph (d)(1), we propose to revise the cross-references to our permit eligibility rules. While the reference to section 773.12 remains correct, the reference to section 773.15 is no longer correct, due to revisions we adopted in our 2000 final rule. Thus, we propose to revise the paragraph so that it cross-references sections 773.12 and 773.14.

U. Section 778.8—Information Collection

Current 30 CFR 778.8 contains a discussion of Paperwork Reduction Act requirements and the information collection aspects of 30 CFR part 778. In keeping with the Office of Management and Budget's guidelines, we propose to revise current section 778.8 by streamlining the codified information collection discussion. A more detailed discussion of the information collection burdens associated with part 778 is contained under the *Procedural Determinations* section (*see* heading V.10.), below.

V. Section 778.11—Providing Applicant and Operator Information

We propose several revisions to current 30 CFR 778.11, which sets forth certain information disclosure requirements for permit applicants. First, in a proposal carried forward from our 2003 proposed rule, we propose to remove the term ''ownership and control'' from the heading of the section. Thus, the heading for 30 CFR 778.11 would be revised to read: ''Providing applicant and operator information.'' We are proposing this revision largely because, under section 778.11, an applicant must submit information in addition to what could be called ''ownership and control'' information and because we are also proposing to

remove current 30 CFR 778.11(c)(5) and (d), which require an applicant to disclose all of its owners and controllers in a permit application, including its ''certified controller'' under paragraph (d). (*See* discussions above under heading A and below under this heading). As a result of these proposed changes, and the other proposed revisions discussed below, revised 30 CFR 778.11 would comport more closely with certain of the permit information requirements contained in section 507(b) of the Act. 30 U.S.C. 1257(b). While some of the persons identified in revised 30 CFR 778.11 would in fact be owners or controllers under our regulatory definitions, the broad term ''applicant and operator'' information more aptly describes the range of information an applicant would be required to disclose.

Current 30 CFR 778.11(a)(1) requires an applicant to identify whether it and its operator are ''corporations, partnerships, sole proprietorships, or other business entities.'' As we did in our 2003 proposed rule, we today propose to add ''associations'' to this list of business entities to conform the provision more closely to section 507(b)(4) of the Act.

We propose to remove current paragraph 778.11(b)(4), which requires an applicant to disclose the identity of the person(s) responsible for submitting the Federal Coal Reclamation Fee Report (Form OSM–1) and for remitting the fee to OSM. As a practical matter, this information may not be known at the time of the application, and therefore, characterizing it as an application requirement seems improper. Moreover, the requirements for submission of OSM–1 forms and reclamation fee payments are clearly provided for under Subchapter R of our rules; an overlapping requirement is not necessary. Finally, the current provision requires States to obtain this information even though mining operators pay the reclamation fee to OSM. We see no reason to impose an information collection burden on the States when they have no use for the information. By removing the provision, we would also reduce the information collection burden on permit applicants. This proposed revision was not contained in either our 2003 or 2005 proposed rules.

We propose to replace current paragraph (b)(4) with a new provision that would require an applicant to disclose the identity of each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity of the applicant and operator. This proposed provision is based on our discussions with our State co-regulators, who explained that it is important for a regulatory authority to obtain this information at the time of application, particularly if we remove the requirement for applicants to disclose all of their owners and controllers (*see* discussion under this heading, below). Under this proposal, an applicant would only have to identify the business entities in its and its operator's organizational structures and not, for example, the officers, directors, and shareholders of each of those entities. This proposed provision was not contained in our 2003 or 2005 proposed rules.

We also propose to revise paragraph 778.11(c). A permit applicant must provide certain information for the persons listed in the provision. We propose to add ''partner'' and ''member'' to this list of persons and to reorder the list. We propose to add ''partner'' because that term is used in section 507(b)(4) of the Act and because partnerships are common business entities in the coal mining industry. Likewise, limited liability companies, comprised of ''members,'' have become prevalent in the industry. Thus, we propose to include the term ''member'' to ensure that we obtain the necessary information for members of a limited liability company. We also propose to redesignate current 30 CFR 778.11(c)(4) as 30 CFR 778.11(c)(6) and revise it to read: ''Person who owns, of record, 10 percent or more of the applicant or operator.'' This proposed change comports with section 507(b)(4) of the Act.

As we explain under heading A, above, in conjunction with revising the definition of *control* or *controller,* we propose to remove the requirement at current 30 CFR 778.11(c)(5), which requires an applicant to identify all of its owners or controllers in a permit application (though we would still obtain ownership information under proposed paragraph (c)(6) and some of the persons a permit applicant identifies under section 778.11 would likely, in fact, be controllers under our regulatory definition). We propose this revision because we believe it is important to establish ''bright line,'' objective permit information requirements. As explained above, we propose to retain a definition of control that vests regulatory authorities with discretion to make fact-specific findings of control on a case-by-case basis; we have concluded that it is difficult to impose an objective reporting requirement based on that type of definition. Even though we propose to remove this reporting requirement, we are confident that the disclosure requirements at sections 507(b) and 510(c) of the Act, as implemented in our regulations at 30 CFR 778.11, 778.12, and 778.14, will give regulatory authorities information sufficient to enforce the ownership and control provisions of section 510(c), as well as other provisions of the Act.

Finally, we propose to remove current 30 CFR 778.11(d), which was part of NMA's challenge to our 2000 final rule. This section provides that ''[t]he natural person with the greatest level of effective control over the entire proposed surface coal mining operation must submit a certification, under oath, that he or she controls the proposed surface coal mining operation.'' NMA challenged the provision on procedural and substantive grounds, claiming, among other things, that it is vague and raises self-incrimination concerns. In order to settle this claim, we agreed to propose a revision to clarify the applicability and scope of the provision, which we did in our 2003 proposed rule. However, after receiving input from our State co-regulators, we propose to remove this provision from our regulations. Our sense is that this concept is ultimately unworkable given that an applicant may not know the identity of this person at the time of application and the identity of the person may change over time. As a result of this proposed revision, we also propose to redesignate current paragraph 778.11(e) as 778.11(d).

Although we are proposing a new information collection at proposed paragraph (b)(4), the revisions we propose at 30 CFR 778.11 would result in a net reduction in the information disclosure requirements for applicants and in the information collection requirements for us and State regulatory authorities.

W. Section 843.21—Procedures for Improvidently Issued State Permits

We propose to remove 30 CFR 843.21 in its entirety. Section 843.21 sets forth Federal procedures relative to State-issued permits that may have been improvidently issued based on certain ownership or control relationships. This section provides for direct Federal inspection and enforcement, including our authority to issue notices of violation and cessation orders, if, after an initial notice, a State fails to take appropriate action or show good cause for not taking action with respect to an improvidently issued State permit. We have decided to propose its removal for the two reasons discussed in more detail below. Further, its removal will provide greater regulatory stability through

clarification of the State/Federal relationship related to permitting in primacy States, which has been a source of great confusion for many years. *See, e.g., Coteau Prop. Co.* v. *Dep't of the Interior,* 53 F.3d 1466, 1472 (8th Cir. 1995) (''there exists a state of general confusion regarding SMCRA's allocation of power between OSM and primacy states'').

First, we are proposing to remove section 843.21 because it is no longer needed. We first adopted regulations concerning improvidently issued permits on April 28, 1989 (54 FR 18438). (A discussion of the subsequent regulatory history and related litigation leading up to the present is found above under ''Background to the Proposed Rule.'') In our 2003 proposal (68 FR 75036), we proposed to eliminate the various provisions of 30 CFR 843.21 that required posting of notices and findings on the Internet. In addition, pursuant to our settlement with NMA, we proposed to clarify the basis for a notice under 30 CFR 843.21(a).

Since we issued our 2003 proposal, we have reviewed our historic use of this section. Since 1989, when this rule was first promulgated, we have found no record of OSM taking enforcement action under its provisions against a permittee holding a State-issued permit. From 1989 through 1995, we issued fewer than 50 initial notices of improvidently issued permits to State regulatory authorities. In those cases, the issue that gave rise to the initial notice was resolved prior to the point at which OSM would have taken direct enforcement action against the permittee holding the State-issued permit. Since 1996, we have not even issued an initial notice for an improvidently issued permit to any State regulatory authority. The fact that we have not had a need to use the provisions of section 843.21 at all in at least a decade demonstrates that State regulatory authorities are making proper permit eligibility determinations pursuant to section 510 of the Act, 30 U.S.C. 1260, and their State-program counterparts and, in the rare case of improvident permit issuance, properly applying State counterparts to our improvidently issued permit regulations. (Under our improvidently issued permit regulations—currently found at 30 CFR 773.21 through 773.23—and the State counterparts to those regulations, a regulatory authority can initiate procedures to suspend or rescind permits it has improvidently issued due to certain ownership or control relationships.)

Further, most, if not all, of the initial notices OSM did issue under section 843.21 prior to 1996 would not have been valid under the D.C. Circuit's subsequent decisions in *NMA* v. *DOI I* and *NMA* v. *DOI II*, which limited the scope of our rules implementing section 510(c) of the Act. (The *NMA* v. *DOI* decisions are discussed in greater detail above under ''Background to the Proposed Rule'' and at 65 FR 79582–84.) Consequently, we believe there is no longer a need for the provisions of 30 CFR 843.21 authorizing OSM to take direct enforcement action against an operation with a State-issued permit that may have been improvidently issued.

The second reason for proposing the removal of section 843.21 is that a recent event has caused us to examine further our oversight role relative to State permitting decisions. On October 21, 2005, the Department of the Interior's Assistant Secretary for Land and Minerals Management (ASLMM) issued a final decision concerning a citizen group's request that OSM conduct a Federal inspection in a case where the citizen's group was dissatisfied with a State regulatory authority's decision to issue a coal mining permit. (A copy of the ASLMM's October 21, 2005, final decision is contained in the administrative record for this rulemaking.) The citizen's group requested an inspection even though mining on the permit had not yet commenced and the citizen's group failed to prosecute a direct appeal of the State's permitting decision in State tribunals.

In her decision, the ASLMM pointed out that ''OSM intervention at any stage of the state permit review and appeal process would in effect terminate the state's exclusive jurisdiction over the matter and [would frustrate SMCRA's] careful and deliberate statutory design.'' *See also Bragg* v. *Robertson,* 248 F. 3d 275, 288–289, 293–295 (4th Cir. 2001) (regulation under SMCRA is ''mutually exclusive, either Federal or State law regulates coal mining activity in a State, but not both simultaneously''; primacy States have ''exclusive jurisdiction'' over surface coal mining operations on nonfederal lands within their borders). The final decision also explained that in a ''primacy state, permit decisions and any appeals are solely matters of the state jurisdiction in which OSM plays no role.'' In support of this statement, the final decision cited the following passage from *In re: Permanent Surface Mining Regulation Litig.,* 653 F.2d 514 (DC Cir. 1981) (*PSMRL*):

> In an approved and properly enforced state program, the state has the primary responsibility for achieving the purposes of the Act. First, *the State is the sole issuer of permits.* In performing this centrally important duty, the state regulatory authority decides who will mine in what areas, how long they may conduct mining operations, and under what conditions the operations will take place. See Act §§ 506, 510. It decides whether a permittee's techniques for avoiding environmental degradation are sufficient and whether the proposed reclamation plan is acceptable. Act § 510(b).
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> * * * * *
>
> *Administrative and judicial appeals of permit decisions are matters of state jurisdiction in which the Secretary [of the Interior] plays no role.* Act § 514.

Id. at 519 (emphasis added).

The ASLMM's decision has caused us to look more carefully at the statutory and regulatory scheme governing our oversight role related to State permitting decisions and, in particular, the propriety of retaining section 843.21. Inasmuch as current section 843.21 authorizes direct Federal enforcement against State permittees based on State permitting decisions, it is inconsistent with the ASLMM's decision, and arguably inconsistent with *PSMRL's* admonition that a primacy State is the ''sole issuer of permits'' within the State.

Further, under SMCRA, State permitting is entirely separate from Federal inspections and associated Federal enforcement. The statutory provisions related to permit application review and permit decisions are found at section 510 of the Act, 30 U.S.C. 1260, and appeals of permitting decisions are provided for under section 514 of the Act, 30 U.S.C. 1264. Nothing in these statutory provisions discusses inspections—the predicate to Federal enforcement under section 521 of the Act (30 U.S.C. 1271)—in connection with State permitting decisions, and certainly nothing in these provisions mandates Federal intervention in State permitting decisions.

The Act's provisions for Federal inspections expressly provide that such inspections are of mining ''operations.'' *See* SMCRA section 517(a), 30 U.S.C. 1267(a) (referring to inspections of surface coal mining and reclamation operations) and SMCRA section 521(a) (referring to inspections of surface coal mining operations). The definitions of *surface coal mining and reclamation operations* and *surface coal mining operations* at SMCRA sections 701(27) and (28), 30 U.S.C. 1291(27) and (28), do not mention anything about permits or permitting decisions. Instead, those definitions refer to activities and the areas upon which those activities occur. In short, the purpose of a Federal inspection is to determine what is happening at the mine, and, thus,

SMCRA's inspection and enforcement provisions do not readily apply to State permitting decisions because they are not activities occurring at the mine. *See*, *e.g.*, *Coteau*, 53 F.3d at 1473 (''Permitting requirements such as revelation of ownership and control links are not likely to be verified through the statutorily-prescribed method of physical Federal inspection of the mining operation * * *''). In sum, we believe that Congress provided for inspection and enforcement for activities occurring at the mine, and purposely excluded permitting activities from the operation-specific inspection and enforcement process. Instead, the Secretary of the Interior's ''ultimate power over lax state enforcement is set out in section 521(b) of the Act [30 U.S.C. 1271(b)].'' *PSMRL*, 653 F.2d at 519. The Secretary's power under section 521(b) includes taking over an entire State permit-issuing process. *Id.*

We recognize that in the preamble to our December 19, 2000, final rule—in which we, among other things, repromulgated section 843.21—we stated that, in *NMA* v. *DOI II*, the U.S. Court of Appeals for the DC Circuit upheld our ability to take remedial action relative to improvidently issued State permits. 65 FR 79653. We still believe that that is one possible reading of the decision; however, after further review, we believe the better interpretation is that *NMA* v. *DOI II*, when taken together with the same court's decision in *PSMRL*, the ASLMM's final decision, and the statutory framework discussed above, does not support retention of section 843.21.

In *NMA* v. *DOI II*, the DC Circuit addressed, among other things, NMA's assertion that our 1997 version of section 843.21 (*see* 62 FR 19450) impinged on State primacy. The DC Circuit agreed with NMA and invalidated our improvidently issued State permit regulations. 177 F.3d at 9. In invalidating section 843.21, the court noted that section 521 of the Act ''sets out specific procedural requirements to be met before the Secretary may take remedial action against a state permittee.'' *Id.* Ultimately, the court concluded that our 1997 version of section 843.21 was invalid because it did not comply with the procedural requirements of section 521(a)(3) of the Act. *Id.* In our 2000 preamble, we interpreted the *NMA* v. *DOI II* decision as holding that our ability to take enforcement action against improvidently issued State permits is authorized by section 521 of the Act, as long as we adhere to the specific procedures set forth in that section. Thus, in our 2000 final rule, we attempted to cure the perceived defect in the 1997 version of section 843.21 by repromulgating it in accordance with the procedures set forth in section 521 of the Act. 65 FR 79652. NMA timely challenged our 2000 rule, including section 843.21, but we ultimately settled that litigation by agreeing to propose new rules.

As mentioned above, we reassessed the viability of section 843.21, including our analysis of the *NMA* v. *DOI II* decision, in light of the ASLMM's final decision. Upon reexamination, another possible reading of *NMA* v. *DOI II*, as it relates to our 1997 version of section 843.21, is that the court identified section 521(a)(3) of the Act as the only procedures under which we can take enforcement action against a State permittee, but did not expressly hold that our improvidently issued State permits regulations could, if amended, fall within the contours of section 521(a)(3). For a number of reasons, we now believe this is the better reading of *NMA* v. *DOI II*.

For example, we have already discussed the fact that a Federal inspection of mining *operations* is a predicate to Federal enforcement under section 521(a) and that there is a mismatch between these types of inspections and alleged permitting defects. Further, the ASLMM's decision and SMCRA's statutory scheme suggest that there is no Federal role in State permitting decisions. Finally, up until our 2000 final rule, our provisions related to Federal enforcement against State permittees resulting from the inspections identified in section 521(a) were contained in 30 CFR 843.12, and it is clear from the regulatory history that we have historically intended sections 843.11 and 843.12 to be the only regulatory provisions for Federal enforcement actions against State permittees based on the inspections identified in section 521(a) of the Act. When we repromulgated section 843.21, we unintentionally created overlapping provisions implementing section 521(a) of the Act. Removing section 843.21 would remove any confusion or uncertainty created by these unintentionally overlapping provisions.

Based on the preceding discussion, we have reexamined the need and statutory basis for current section 843.21. While we recognize that there may be legal arguments in support of retaining the rule, we have determined that its removal would be more consistent with the ASLMM's decision discussed above and the framework of SMCRA. As such, we propose to delete 30 CFR 843.21.

X. Sections 847.11 and 847.16—Criminal Penalties and Civil Actions for Relief

During the course of litigation over our 2000 final rule, NMA claimed that certain of the rule's ''alternative enforcement'' provisions unlawfully abrogate State prosecutorial discretion by making it mandatory for States to seek criminal penalties or institute civil actions for relief when certain specified conditions occur. *See* sections 30 CFR 847.11 (criminal penalties), 847.16 (civil actions for relief), and 847.2(c) (requiring State regulatory programs to include criminal penalty and civil action provisions that are no less stringent than the Federal requirements). Upon further reflection, we agreed that the regulatory authority—Federal or State—should retain the discretion to evaluate the severity of a violation and ultimately to determine whether referral for alternative enforcement is warranted. As such, and in order to settle NMA's claim, we proposed in 2003 to revise our regulations at 30 CFR 847.11 and 847.16 to remove the mandatory nature of referrals for alternative enforcement. In today's proposed rule, we carried forward this aspect of our 2003 proposed rule. Specifically, we propose to change the word ''will'' to ''may'' in the operative provisions to underscore that a regulatory authority ''may,'' but is not obligated to, refer a particular matter for alternative enforcement.

III. Clarifications to the Preamble to Our 2000 Ownership and Control Final Rule

As explained above, as part of our settlement with NMA, we agreed to publish certain clarifications to the preamble supporting our 2000 final rule. Like the corresponding preamble provisions in our 2000 final rule, the clarifications we announce today do not impose regulatory requirements. As such, we are not seeking public comments on these issues, and we do not expect to address these topics again in any final rule.

1. In *NMA* v. *DOI I*, the court of appeals explained that, as a general rule, we may not deny a permit based on violations of persons who own or control the applicant (so-called ''upstream'' owners and controllers). However, the court explained: ''OSM has leeway in determining who the applicant is. As [NMA] concedes, OSM has the authority, in instances where there is subterfuge, to pierce the corporate veil in order to identify the real applicant.'' *NMA* v. *DOI I*, 105 F.3d at 695. Thus, the court held, ''once OSM

has determined that it has the true applicant before it, OSM's power is constrained by the specific statutory language of section 510(c)—only those violations of operations owned or controlled by the applicant are relevant.'' *Id.*

At 65 FR 79609 through 79611 of the preamble of our 2000 final ownership and control rule, there is substantial discussion of the ''true applicant'' concept and a related discussion of corporate veil-piercing. In that portion of the 2000 final rule's preamble, our intent was to explain why we chose not to define the term ''true applicant,'' as well as to identify a non-exclusive list of theories that may be available to a regulatory authority in attempting to ascertain the identity of the true applicant. This general preamble language was not intended to impose any regulatory requirement on regulatory authorities.

Nonetheless, confusion has arisen as to whether we are directing State regulatory authorities, via preamble language, to use any of the identified theories to identify the true applicant. To settle a claim brought by NMA in its judicial challenge to our 2000 final rule, we today clarify that we are not directing State regulatory authorities to use any of the three identified tools, or any other particular means, in ascertaining whether the nominal permit applicant is also the true applicant. Should a State attempt to pierce a corporate veil or otherwise ascertain the identity of the true applicant, it is for the State to decide which legal authorities it can and will advance. Ultimately, however, each permitting authority—whether State or Federal—must be satisfied that it indeed has the ''true applicant before it.'' *NMA* v. *DOI I*, 105 F.3d at 695. As we stated in the preamble of the 2000 final rule:

> In most cases, the nominal applicant (the person whose name appears on the permit application) will also be the true applicant. * * * However, if the regulatory authority has reason to believe that the nominal applicant is not the true applicant, the regulatory [authority] should conduct an investigation to determine the identity of the true applicant. In short, each regulatory authority should consider the totality of circumstances in determining whether the nominal applicant is also the true applicant.

65 FR 79610–11.

2. Section 773.12 of our 2000 final rule requires regulatory authorities to determine whether permit applicants are eligible to receive a permit under section 510(c) of SMCRA, based on certain ownership or control relationships. At 65 FR 79616, in response to public comments, we explained that permit revisions and renewals are not necessarily exempt from the requirements of section 510(c) of SMCRA. Specifically, we stated that regulatory authorities may evaluate all permitting actions, including revisions and renewals, for eligibility under section 510(c). Confusion has arisen as to whether we are directing States to conduct a section 510(c) permit eligibility review for permit revisions and renewals.

To settle a claim brought by NMA, today we clarify that we do not require States to conduct such a review for permit renewals and revisions other than transfers, assignments, or sales of permit rights under 30 CFR 774.17. However, in our view, States retain the discretion to require section 510(c) reviews for any revision or renewal. Nonetheless, we do not believe a section 510(c) review is necessarily warranted when a regulatory authority orders a revision under 30 CFR 774.10. In that circumstance, we believe that it would make little sense to conduct a section 510(c) review if such a review would preclude the permittee from correcting the problem that resulted in issuance of the revision order. Other than the clarification we announce today, the 2000 final rule's preamble discussion on this topic, including the legal rationale supporting our position, remains in force.

IV. Public Comment Procedures

Electronic or Written comments: If you submit written comments, they should be specific, confined to issues pertinent to this proposed rule, and explain the reason for any recommended change(s). We appreciate any and all comments, but the most useful and likely to influence decisions on a final rule will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications. Please note that, in the context of this proposed rule, we will not consider any comments received on our 2003 and 2005 proposals. 68 FR 75036; 70 FR 3840. To the extent your previous comments are applicable to this proposed rule, we request that you resubmit them if you want us to consider them in the context of this proposed rule.

Except for comments provided in an electronic format, you should submit three copies of your comments if practical. We will make every attempt to log all comments into the administrative record for this rulemaking, but comments received after the close of the comment period (see **DATES**) or at locations other than those listed above (see **ADDRESSES**) may not be included in the administrative record or considered when we develop any final rule.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record. We will honor this request to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, to the extent allowed by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, state the basis for your request, and submit your comment by regular mail, not electronically. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public hearings: We will hold a public hearing on the proposed rule upon request only. The time, date, and address for any hearing will be announced in the **Federal Register** at least 7 days prior to the hearing.

Any person interested in participating in a hearing should inform Mr. Earl Bandy (see **FOR FURTHER INFORMATION CONTACT**), either orally or in writing by 4:30 p.m., Eastern time, on October 31, 2006. If no one has contacted Mr. Bandy to express an interest in participating in a hearing by that date, a hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held, with the results included in the administrative record for this rulemaking.

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

Public meeting: If there is only limited interest in a hearing at a particular

location, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with us to discuss the proposed rule may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All meetings will be open to the public and, if possible, notice of the meetings will be posted at the appropriate locations listed under **ADDRESSES**. A written summary of each public meeting will be made a part of the administrative record for this rulemaking.

V. Procedural Determinations

1. Executive Order 12866—Regulatory Planning and Review

This proposed rule is not considered a significant regulatory action under the criteria of Executive Order 12866.

a. The proposed rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. The proposed revisions to the regulations will not have an adverse economic impact on the coal industry or State regulatory authorities.

The proposed revisions would result in a reduction in expenses for the coal industry and State regulatory authorities because of proposed programmatic changes to the regulations that would reduce the reporting burden for certain types of applicants and transactions. Expenses would be reduced primarily due to the fact that, as a result of our proposed revision to the definition of *transfer, assignment, or sale of permit rights* at 30 CFR 701.5, fewer transactions or events would qualify as a transfer, assignment, or sale requiring an application and regulatory approval under 30 CFR 774.17. In addition, permit applicants would no longer have to identify all of their controllers in a permit application under 30 CFR 778.11(c), and State regulatory authorities would no longer have to enter that information into AVS under 30 CFR 773.8(b)(1).

The programmatic changes to the regulations are estimated to result in a savings to the coal industry of approximately $251,000 per year, and a savings to the State and Federal regulatory authorities of approximately $127,000 per year. Paragraph 10, below, contains tables indicating the changes in the information collection burdens for Parts 773, 774, and 778. The tables for Parts 774 and 778 indicate an increase in total annual burden hours. However, the net increase for those parts is due to an increase in the number of respondents and not to a net increase in the per respondent burden hours. None of the changes in the proposed rule would significantly alter the fundamental conceptual framework of our regulatory program.

b. This proposed rulemaking would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

c. This proposed rulemaking would not alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

d. This proposed rulemaking does not raise novel legal or policy issues.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). As previously stated, the proposed revisions to the regulations would likely reduce the cost of doing business for the regulated industry and State regulatory authorities and, therefore, would not have an adverse economic impact on the coal industry or State regulatory authorities. In addition, the proposed rulemaking would produce no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

3. Small Business Regulatory Enforcement Fairness Act

For the reasons previously stated, this proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act of 1995

For the reasons previously stated, this proposed rule would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The proposed rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement concerning information required under the Unfunded Mandates Reform Act (2 U.S.C. 1531) is not required.

5. Executive Order 12630—Takings

We have determined that this proposed rulemaking does not have any significant takings implications under Executive Order 12630. Therefore, a takings implication assessment is not required.

6. Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

7. Executive Order 13132—Federalism

For the reasons discussed above, this proposed rule does not have significant Federalism implications that warrant the preparation of a Federalism Assessment under Executive Order 13132.

8. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this proposed rule on Federally-recognized Indian tribes. We have determined that the proposed rule would not have substantial direct effects 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.

9. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not considered a significant energy action under Executive Order 13211. For the reasons previously stated, the proposed revisions to the regulations implementing SMCRA would not have a significant effect on the supply, distribution, or use of energy.

10. Paperwork Reduction Act

The proposed rulemaking requires information collection under the Paperwork Reduction Act. In accordance with 44 U.S.C. 3507(d), we have submitted the information collection and record keeping requirements for 30 CFR Parts 773, 774, and 778 to the Office of Management

and Budget (OMB) for review and approval.

30 CFR Part 773

Title: Requirements for Permits and Permit Processing.

OMB Control Number: 1029–0115.

Summary: Sections 507 and 510 of SMCRA set forth requirements pertaining to, among other things, information required from permit applicants, permit eligibility, and permit denial. Among other things, regulatory authorities use the information obtained from applicants in making permitting decisions. Our regulations at 30 CFR part 773 implement, in part, these statutory provisions.

Bureau Form Number: None.

Frequency of Collection: Occasionally.

Description of Respondents: Applicants for permits to conduct surface coal mining and reclamation operations and State regulatory authorities.

Total Annual Responses for All Respondents: 1,470.

Total Annual Burden Hours: 10,955.

INFORMATION COLLECTION FOR 30 CFR PART 773

Section	Applicant responses	Applicant burden hours	Regulatory authority responses	Regulatory authority burden hours	Total hours	Currently approved hours	Change to burden hours
773.6 (a) & (b)	326	1.75	316	1	887	818	7069
773.10(c)	0	0	33	5	165	150	15
773.12	0	0	282	32	9,024	9,312	(288)
773.14(b)	32	1	32	1	64	32	32
773.19(b)	0	0	282	.5	141	146	(5)
773.19(e)(2)	85	6	82	2	674	600	74
Totals	443		1,027		10,955	11,058	(103)

30 CFR Part 774

Title: Revision; Renewal; Transfer, Assignment, or Sale of Permit Rights; Post-Permit Issuance Requirements; and Other Actions Based on Ownership, Control, and Violation Information.

OMB Control Number: 1029–0125.

Summary: Sections 506 and 511 of SMCRA set forth requirements pertaining to, among other things, permit revisions; permit renewals; and transfers, assignments, or sales of permit rights. Section 507 and 510 set forth requirements pertaining to, among other things, information required from applicants and, by extension, permittees and permit eligibility determinations. Regulatory authorities use the information collected, among other things, to determine whether a person is eligible for certain permit revisions; permit renewals; and transfers, assignments, or sales of permit rights. Our regulations at 30 CFR part 774 implement, in part, these statutory provisions.

Bureau Form Number: None.

Frequency of Collection: Occasionally.

Description of Respondents: Applicants for certain permit revisions, permit renewals, and transfers, assignments, or sales of permit rights; permittees required to report changes to information initially disclosed under 30 CFR 778.11; and State regulatory authorities.

Total Annual Responses for all Respondents: 6,983.

Total Annual Burden Hours: 58,525.

INFORMATION COLLECTION FOR 30 CFR PART 774

Section	Applicant responses	Applicant burden hours	Regualtory authority responses	Regulatory authority burden hours	Total hours	Currently approved hours	Change to burden hours
774.12(a)	80	4	0	0	320	240	80
774.12(c)	433	1.5	408	.5	854	490	364
774.13	1,978	8	1,929	8	31,256	32,400	(1,144)
774.15	734	16	719	16.5	23,608	12,377	11,231
774.17(b)(1)	142	8	0	0			
774.17(b)(2)	142	.75	0	0			
774.17(d)(1)	0	0	138	8	2,487	3,657	(1,170)
774.17(e)(1)	0	0	138	.5			
774.17(e)(2)	142	.5	0	0			
Totals	3,651		3,332		58,525	49,164	9,361

30 CFR Part 778

Title: Permit Application—Minimum Requirements for Legal, Financial, Compliance, and Related Information.

OMB Control Number: 1029–0117.

Summary: Sections 507 and 510 of SMCRA require permit applicants to submit certain information to regulatory authorities. The required disclosures include information about the applicant's legal identity, business structure, and business relationships; permit and violation histories; and related information. Regulatory authorities use this information, in part, to make permit eligibility determinations. Our regulations at 30 CFR part 778 implement, in part, these statutory provisions.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for permits to conduct surface coal mining and reclamation operations and State regulatory authorities.

Total Annual Responses for All Respondents: 3,099.

Total Annual Burden Hours: 7,335.

INFORMATION COLLECTION FOR 30 CFR PART 778

Section	Applicant responses	Applicant burden hours	Regulatory authority responses	Regulatory authority burden hours	Total hours	Currently approved hours	Change to burden hours
778.9	962	1.15	0	0	1,109	1,024	85
778.11	81	5	0	0	429	526	(97)
778.12	81	4	0	0	324	180	144
778.13	81	4	0	0	324	180	144
778.14	81	2.4	0	0	194	120	74
778.15	326	5	316	1	1,946	1,806	140
778.16	218	8	215	1	1,896	1,710	186
778.17	326	2	316	1	968	903	65
778.22	49	2	47	1	145	135	10
Totals	2,205		894		7,335	6,584	751

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of OSM and State regulatory authorities, including whether the information will have practical utility;

(b) The accuracy of OSM's estimate of the burden of the proposed collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of collection on the respondents.

Under the Paperwork Reduction Act, we must obtain OMB approval of all information and recordkeeping requirements. No person is required to respond to an information collection request unless the form or regulation requesting the information has a currently valid OMB control (clearance) number. To obtain a copy of OSM's information collection clearance request, explanatory information, and related forms, contact John A. Trelease at (202) 308–2783 or by e-mail at *jtreleas@osmre.gov.*

By law, OMB must respond to OSM's request for approval within 60 days of the publication of this proposed rule, but may respond as soon as 30 days after publication. Therefore, to ensure consideration by OMB, you must send comments regarding these burden estimates or any other aspect of these information collection and recordkeeping requirements by November 9, 2006, to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via e-mail to *OIRA_DOCKET@omb.eop.gov*, or via telefacsimile to (202) 395–6566. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, Room 202–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or electronically to *jtreleas@osmre.gov.*

11. National Environmental Policy Act

We have reviewed this proposed rule and determined that it is categorically excluded from the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332 *et seq.* In addition, we have determined that none of the ''extraordinary circumstances'' exceptions to the categorical exclusion apply. This determination was made in accordance with the Departmental Manual (516 DM 2, Appendices 1.9 and 2).

12. Effect of the Proposed Rule on State and Indian Programs

Following publication of any final rule, we will evaluate the State and Indian programs approved under section 503 of SMCRA to determine any changes in those programs that may be necessary. When we determine that a particular State program provision should be amended, the particular State will be notified in accordance with the provisions of 30 CFR 732.17. On the basis of this proposed rule, we have made a preliminary determination that State program revisions will be required. The revisions in the proposed rule would apply to Indian lands as a result of the cross-referencing in 30 CFR 750.12.

13. Clarity of This Proposed Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading: for example, § 773.14.) (5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed rule? (6) What else could we do to make the proposed rule easier to understand? Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

List of Subjects

30 CFR Part 701

Law enforcement, Surface mining, Underground mining.

30 CFR Part 773

Administrative practice and procedure, Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 774

Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 778

Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 843

Administrative practice and procedure, Law enforcement, Reporting and record keeping requirements, Surface mining, Underground mining.

30 CFR Part 847

Administrative practice and procedure, Law enforcement, Penalties, Surface mining, Underground mining.

Dated: September 26, 2006.

Chad Calvert,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons given in the preamble, OSM proposes to amend 30 CFR parts 701, 773, 774, 778, 843, and 847 as set forth below.

PART 701—PERMANENT REGULATORY PROGRAM

1. The authority citation for part 701 continues to read as follows:

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

2. Amend § 701.5 as follows:

a. Revise the definition of *control* or *controller.*

b. Revise the definition of *own*, *owner*, or *ownership.*

c. Revise the definition of *transfer, assignment, or sale of permit rights.*

The revisions read as follows:

§ 701.5 Definitions.

* * * * *

Control or *controller*, when used in parts 773, 774, and 778 of this chapter, refers to or means—

(1) A permittee of a surface coal mining operation;

(2) An operator of a surface coal mining operation; or

(3) Any other person who has the ability to determine the manner in which a surface coal mining operation is conducted.

* * * * *

Own, *owner*, or *ownership*, as used in parts 773, 774, and 778 of this chapter (except when used in the context of ownership of real property), means being a sole proprietor or owning of record in excess of 50 percent of the voting securities or other instruments of ownership of an entity.

* * * * *

Transfer, assignment, or sale of permit rights means a change of a permittee.

* * * * *

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

3. The authority citation for part 773 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, 16 U.S.C. 470 *et seq.*, 16 U.S.C. 661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 469 *et seq.*, and 16 U.S.C. 1531 *et seq.*

4. Revise § 773.3 to read as follows:

§ 773.3 Information collection.

The collections of information contained in part 773 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–XXX1. The information collected will be used by the regulatory authority in processing surface coal mining permit applications. Persons intending to conduct surface coal mining operations must respond to obtain a benefit. A Federal 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. Response is required to obtain a benefit in accordance with SMCRA. Send comments regarding burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Room 202—SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

5. In § 773.7, revise paragraph (a) to read as follows:

§ 773.7 Review of permit applications.

(a) The regulatory authority will review an application for a permit, revision, or renewal; written comments and objections submitted; and records of any informal conference or hearing held on the application and issue a written decision, within a reasonable time set by the regulatory authority, either granting, requiring modification of, or denying the application. If an informal conference is held under § 773.6(c) of this part, the decision will be made within 60 days of the close of the conference.

* * * * *

6. In § 773.8, revise paragraph (b)(1) to read as follows:

§ 773.8 General provisions for review of permit application information and entry of information into AVS.

* * * * *

(b) * * *

(1) The information you are required to submit under §§ 778.11 and 778.12(c) of this subchapter.

* * * * *

7. In § 773.9, revise paragraph (a) to read as follows:

§ 773.9 Review of applicant and operator information.

(a) We, the regulatory authority, will rely upon the information that you, the applicant, are required to submit under § 778.11 of this subchapter, information from AVS, and any other available information, to review your and your operator's organizational structure and ownership or control relationships.

* * * * *

8. In § 773.10, revise paragraphs (b) and (c) to read as follows:

§ 773.10 Review of permit history.

* * * * *

(b) We will also determine if you or your operator have previous mining experience.

(c) If you or your operator do not have any previous mining experience, we may conduct an additional review under § 774.11(f) of this subchapter. The purpose of this review will be to determine if someone else with mining experience controls the mining operation.

9. In § 773.12, revise paragraphs (a)(1) and (a)(2), remove paragraphs (a)(3) and (b), and redesignate paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, to read as follows:

§ 773.12 Permit eligibility determination.

* * * * *

(a) * * *

(1) You directly own or control has an unabated or uncorrected violation; or

(2) You or your operator indirectly control has an unabated or uncorrected violation and your control was established or the violation was cited after November 2, 1988.

* * * * *

10. In § 773.14, revise paragraph (b) introductory text to read as follows:

§ 773.14 Eligibility for provisionally issued permits.

* * * * *

(b) We, the regulatory authority, will find you eligible for a provisionally issued permit under this section if you demonstrate that one or more of the following circumstances exists with respect to all violations listed in paragraph (a) of this section—

* * * * *

11. In § 773.21, revise paragraph (c) to read as follows:

§ 773.21 Initial review and finding requirements for improvidently issued permits.

* * * * *

(c) When we make a preliminary finding under paragraph (a) of this section, we must serve you with a written notice of the preliminary finding, which must be based on evidence sufficient to establish a *prima facie* case that your permit was improvidently issued.

* * * * *

12. Amend § 773.22, by removing paragraph (d) and redesignating

paragraphs (e), (f), (g), and (h) as (d), (e), (f), and (g), respectively.

13. In § 773.23, revise paragraph (c)(2) to read as follows:

§ 773.23 Suspension or rescission requirements for improvidently issued permits.

* * * * *

(c) * * *

(2) Post the notice at our office closest to the permit area.

* * * * *

14. In § 773.26, revise the table in paragraph (a) and add new paragraph (e) to read as follows:

§ 773.26 How to challenge an ownership or control listing or finding.

* * * * *

(a) * * *

If the challenge concerns . . .	Then you must submit a written explanation to . . .
(1) A pending State or Federal permit application . . .	The regulatory authority with jurisdiction over the application.
(2) Your ownership or control of a surface coal mining operation, and you are not currently seeking a permit . . .	The regulatory authority with jurisdiction over the surface coal mining operation.

* * * * *

(e) At any time, you, a person listed in AVS as an owner or controller of a surface coal mining operation, may request an informal explanation from the AVS Office as to the reason you are shown in AVS in an ownership or control capacity. Within 14 days of your request, the AVS Office will provide a response describing why you are listed in AVS.

15. In § 773.27, revise paragraph (a) to read as follows:

§ 773.27 Burden of proof for ownership or control challenges.

* * * * *

(a) When you challenge a listing of ownership or control, or a finding of ownership or control made under § 774.11(f) of this subchapter, you must prove by a preponderance of the evidence that you either—

(1) Do not own or control the entire surface coal mining operation or relevant portion or aspect thereof; or

(2) Did not own or control the entire surface coal mining operation or relevant portion or aspect thereof during the relevant time period.

* * * * *

16. In § 773.28, revise paragraph (d) to read as follows:

§ 773.28 Written agency decision on challenges to ownership or control listings or findings.

* * * * *

(d) We will post all decisions made under this section on AVS.

* * * * *

PART 774—REVISION; RENEWAL; TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS; POST-PERMIT ISSUANCE REQUIREMENTS; AND OTHER ACTIONS BASED ON OWNERSHIP, CONTROL, AND VIOLATION INFORMATION

17. The authority citation for part 774 continues to read as follows:

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

18. Revise § 774.9 to read as follows:

§ 774.9 Information collection.

(a) The collections of information contained in part 774 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–XXX2. Regulatory authorities will use this information to:

(1) Determine if the applicant meets the requirements for revision; renewal; transfer, assignment, or sale of permit rights;

(2) Enter and update information in AVS following the issuance of a permit; and

(3) Fulfill post-permit issuance requirements and other obligations based on ownership, control, and violation information.

(b) A Federal 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. Response is required to obtain a benefit in accordance with SMCRA. Send comments regarding burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Room 202–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

19. Amend § 774.11 as follows:

a. Revise the table in paragraph (a).

b. Revise paragraphs (e), (f), and (g).

c. Add new paragraphs (h) and (i).

The amendments read as follows:

§ 774.11 Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information.

(a) * * *

We must enter into AVS all . . .	Within 30 days after . . .
(1) Permit records	The permit is issued or subsequent changes made.
(2) Unabated or uncorrected violations.	The abatement or correction period for a violation expires.
(3) Changes to information initially required to be provided by an applicant under 30 CFR 778.11.	Receiving notice of a change.
(4) Changes in violation status.	Abatement, correction, or termination of a violation, or a decision from an administrative or judicial tribunal.

* * * * *

(e) Entry into AVS.

(1) If you do not request a hearing, and the time for seeking a hearing has expired, we will enter our finding into AVS.

(2) If you request a hearing, we will enter our finding into AVS only if that finding is upheld on administrative appeal.

(f) At any time, we may identify any person who owns or controls an entire operation or any relevant portion or aspect thereof. If we identify such a person, we must issue a written finding to the person and the applicant or permittee describing the nature and extent of ownership or control. Our written finding must be based on evidence sufficient to establish a *prima facie* case of ownership or control.

(g) After we issue a written finding under paragraph (f) of this section, we will allow you, the person subject to the finding, 30 days in which to submit any information tending to demonstrate your lack of ownership or control. If, after reviewing any information you submit, we are persuaded that you are not an owner or controller, we will serve you a written notice to that effect. If, after reviewing any information you submit, we still find that you are an owner or controller or if you do not submit any information within the 30-day period, we must enter our finding under paragraph (f) into AVS.

(h) We need not make a finding as provided for under paragraph (f) of this section before entering into AVS the information required to be disclosed under § 778.11(b) and (c) of this subchapter; however, the mere listing in AVS of a person identified in § 778.11(b) or (c) does not create a presumption or constitute a determination that such person owns or

controls a surface coal mining operation.

(i) If we identify you as an owner or controller under paragraph (f) of this section, you may challenge the finding using the provisions of §§ 773.25, 773.26, and 773.27 of this subchapter.

20. In § 774.12, revise paragraph (c) to read as follows:

§ 774.12 Post-permit issuance information requirements for permittees.

* * * * *

(c) Within 60 days of any addition, departure, or change in position of any person identified in § 778.11(c) of this subchapter, you must provide—

(1) The information required under § 778.11(d) of this subchapter;

(2) The date of any departure; and

(3) Written notification of the addition, departure, or change to the surety, bonding entity, guarantor, or other person that provides the bond coverage currently in effect. Further, as a result of these additions, departures, or changes, the regulatory authority may require written verification of continued appropriate bond coverage under subchapter J of this chapter.

21. In § 774.17, revise paragraph (a), paragraph (d) introductory text, and paragraph (d)(1) to read as follows:

§ 774.17 Transfer, assignment, or sale of permit rights.

* * * * *

(a) *General.* No transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the regulatory authority. At its discretion, the regulatory authority may allow a successor in interest to engage in surface coal mining and reclamation operations under the permit during the pendency of an application for approval of a transfer, assignment, or sale of permit rights submitted under paragraph (b) of this section, provided that the successor in interest can demonstrate to the satisfaction of the regulatory authority that sufficient bond coverage will remain in place.

* * * * *

(d) *Criteria for approval.* The regulatory authority may allow a permittee to transfer, assign, or sell permit rights to a successor, if it finds in writing that the successor—

(1) Is eligible to receive a permit in accordance with §§ 773.12 and 773.14 of this chapter;

* * * * *

PART 778—PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

22. The authority citation for part 778 continues to read as follows:

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

23. Revise § 778.8 to read as follows:

§ 778.8 Information collection.

The collections of information contained in part 778 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–XXX3. The information collected will be used by the regulatory authority to ensure that all legal, financial, and compliance information requirements are satisfied before issuance of a permit. Persons intending to conduct surface coal mining operations must respond to obtain a benefit. A Federal 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. Response is required to obtain a benefit in accordance with SMCRA. Send comments regarding burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Room 202–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

24. Amend § 778.11 as follows:

a. Revise the section heading.

b. Revise paragraph (a) introductory text and paragraphs (a)(1), (b)(4), and (c).

c. Remove paragraph (d).

d. Redesignate paragraph (e) as paragraph (d).

e. Revise newly designated paragraph (d) introductory text.

The revisions read as follows:

§ 778.11 Providing applicant and operator information.

(a) You, the applicant, must provide in the permit application—

(1) A statement indicating whether you and your operator are corporations, partnerships, associations, sole proprietorships, or other business entities;

* * * * *

(b) * * *

(4) Each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity.

(c) For you and your operator, you must provide the information required by paragraph (d) of this section for every—

(1) Officer.

(2) Partner.

(3) Member.

(4) Director.

(5) Person performing a function similar to a director.

(6) Person who owns, of record, 10 percent or more of the applicant or operator.

(d) You must provide the following information for each person listed in paragraph (c) of this section—

* * * * *

PART 843—FEDERAL ENFORCEMENT

25. The authority citation for part 843 continues to read as follows:

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

§ 843.21 [Removed]

26. Remove § 843.21.

PART 847—ALTERNATIVE ENFORCEMENT

27. The authority citation for part 847 continues to read as follows:

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

28. In § 847.11, revise the introductory text to read as follows:

§ 847.11 Criminal penalties.

Under sections 518(e) and (g) of the Act, we, the regulatory authority, may request the Attorney General to pursue criminal penalties against any person who—

* * * * *

29. In § 847.16, revise paragraph (a) introductory text to read as follows:

§ 847.16 Civil actions for relief.

(a) Under section 521(c) of the Act, we, the regulatory authority, may request the Attorney General to institute a civil action for relief whenever you, the permittee, or your agent—

* * * * *

[FR Doc. E6–16575 Filed 10–6–06; 8:45 am]

BILLING CODE 4310–05–P

Federal Register

Tuesday,
October 10, 2006

Part III

Nuclear Regulatory Commission

Privacy Act of 1974; Republication of Systems of Records Notices; Notice

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Republication of Systems of Records Notices

AGENCY: Nuclear Regulatory Commission.

ACTION: Republication of Systems of Records Notices.

SUMMARY: The Nuclear Regulatory Commission (NRC) has conducted a comprehensive review of all its Privacy Act systems of records. The NRC is revising and republishing all its systems of records (systems) notices as a result of this review. The systems revisions are minor corrective and administrative changes that do not meet the threshold criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records.

DATES: *Effective Date:* All revisions included in this republication are complete and accurate as of September 27, 2006.

FOR FURTHER INFORMATION CONTACT: Sandra S. Northern, Privacy Program Officer, FOIA/Privacy Act Team, Records and FOIA/Privacy Services Branch, Information and Records Services Division, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6879; e-mail: *ssn@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Republication of NRC's Revised Systems of Records Notices

With the exception of one revised system of records, these notices were last published in the **Federal Register** on September 24, 2004 (69 FR 57580). The revised system of records was NRC–20, Official Travel Records, published in the **Federal Register** on December 20, 2005 (70 FR 75500), and became effective on January 30, 2006.

Privacy Act Systems Nuclear Regulatory Commission

NRC Systems of Records

1. Parking Permit Records—NRC.
2. Biographical Information Records—NRC.
3. Enforcement Actions Against Individuals—NRC.
4. Conflict of Interest Files—NRC.
5. Contracts Records Files—NRC.
6. Department of Labor (DOL) Discrimination Cases—NRC.
7. Call Detail Records—NRC.
8. Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records—NRC.
9. Office of Small Business and Civil Rights Discrimination Complaint Files—NRC.
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.
11. General Personnel Records (Official Personnel Folder and Related Records)—NRC.
12. Child Care Tuition Assistance Program Records—NRC.
13. Incentive Awards Files—NRC.
14. Employee Assistance Program Files—NRC.
15. (Revoked.)
16. Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.
17. Office of Workers' Compensation Program Records—NRC.
18. Office of the Inspector General (OIG) Investigative Records—NRC.
19. Official Personnel Training Records Files—NRC.
20. Official Travel Records—NRC.
21. Payroll Accounting Records—NRC.
22. Personnel Performance Appraisals—NRC.
23. Office of Investigations Indices, Files, and Associated Records—NRC.
24. Property and Supply Records—NRC.
25. Oral History Program—NRC.
26. Full Share Program Records—NRC.
27. Radiation Exposure Information and Reporting System (REIRS) Files—NRC.
28. Merit Selection Records—NRC.
29. (Revoked.)
30. (Revoked.)
31. (Revoked.)
32. Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC.
33. Special Inquiry File—NRC.
34. (Revoked.)
35. Drug Testing Program Records—NRC.
36. Employee Locator Records Files—NRC.
37. Information Security Files and Associated Records—NRC.
38. Mailing Lists—NRC.
39. Personnel Security Files and Associated Records—NRC.
40. Facility Security Access Control Records—NRC.
41. Tort Claims and Personal Property Claims Records—NRC.
42. Strategic Workforce Planning Records—NRC.
43. Employee Health Center Records—NRC.
44. Employee Fitness Center Records—NRC.

These systems of records are those systems maintained by the NRC that contain personal information about individuals from which information is retrieved by an individual's name or identifier.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records, and the routine uses of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and request amendment of records pertaining to themselves.

The Privacy Act (Act) provides certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to protect records contained in an agency system of records from unauthorized disclosure, ensure that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement of General Routine Uses.

1. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority.

2. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract or issuing a security clearance, license, grant or other benefit.

3. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit.

4. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations.

5. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager.

NRC–1

SYSTEM NAME:

Parking Permit Records—NRC.

SYSTEM LOCATION:

Administrative Services Center, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and contractors who apply for parking permits for NRC-controlled parking spaces.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of the applications and the revenue collected for the Headquarter's garage. The applications include, but are not limited to, the applicant's name, address, telephone number, length of service, vehicle, rideshare, and handicap information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511; 41 CFR 102–74.265 *et seq.*, Parking Facilities; Management Directive 13.4, ''Transportation Management,'' Part I, ''White Flint North Parking Procedures''.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To record amount paid and revenue collected for parking;

b. To contact permit holder;

c. To determine priority for issuance of permits;

d. To provide statistical reports to city, county, State, and Federal Government agencies; and

e. For the routine uses specified in paragraph numbers 1, 4, 5, and 6 in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Accessed by name, tag number, and permit number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets under visual control of the Administrative Services Center. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records is limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are destroyed when 3 years old in accordance with GRS 3.3a(1)(b) by shredding or being placed in the Classified and Sensitive Unclassified Waste receptacle. The automated records are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Applications submitted by NRC employees and contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–2

SYSTEM NAME:

Biographical Information Records—NRC.

SYSTEM LOCATION:

Office of Public Affairs, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Commissioners and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data about the Commissioners and senior NRC staff members, including photographs of Commissioners.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841, 5843(a), 5844(a), 5845(a), and 5849.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement of General Routine Uses. Biographies of current Commissioners are available on the NRC's Web site.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Information on Commissioners retained until updated or no longer needed. Senior NRC staff information retained until updated or association with NRC is discontinued. Paper records discarded in the Classified and Sensitive Unclassified Waste receptacle.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by each individual and approved for use by the individual involved.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–3

SYSTEM NAME:

Enforcement Actions Against Individuals—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the NRC Regional Offices at the locations listed in Addendum I, Part 2, and in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in NRC-licensed activities who have been subject to NRC enforcement actions or who have been the subject of correspondence indicating that they are being, or have been, considered for enforcement action.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes, but is not limited to, individual enforcement actions, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters of Reprimand, Demands for Information, and letters to individuals who are being or have been considered for enforcement action. Also included are responses to these actions and letters. In addition, the files may contain other relevant documents directly related to those actions and letters that have been issued. Files are arranged numerically by Individual Action (IA) numbers, which are assigned when individual enforcement actions are considered. In instances where only letters are issued, these letters also receive IA numbers. The system includes a computerized database from which information is retrieved by names of the individuals subject to the action and IA numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2113, 2114, 2231; 42 U.S.C. 2167, as amended; 42 U.S.C. 2201(I), as amended; and 42 U.S.C. 2282, as amended; 10 CFR 30.10, 40.10, 50.5, 60.11, 61.9b, 70.10, 72.12, and 110.7b.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To respond to general information requests from the Congress;

b. To deter future violations, certain information in this system of records may be routinely disseminated to the public by means such as: publishing in the **Federal Register** certain enforcement actions issued to individuals and making the information available in the Public Electronic Reading Room accessible through the NRC Web site, *http://www.nrc.gov*.

c. When considered appropriate for disciplinary purposes, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a bar association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensing activities;

d. Where appropriate to ensure the public health and safety, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a Federal or State agency with licensing jurisdiction;

e. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906; and

f. For the routine uses specified in paragraphs 1 through 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Records are accessed by individual action file number or by the name of the individual.

SAFEGUARDS:

Paper records are maintained in lockable file cabinets and are under visual control during duty hours. Access to computer records requires use of proper password and user identification codes. Access to and use of these records is limited to those NRC employees whose official duties require access.

RETENTION AND DISPOSAL:

Significant Enforcement Actions Case Files are permanent records and are transferred to NARA with related indexes when 20 years old in accordance with NARA approved schedule N1–431–00–05, Item 3.a(1) and 3.a(4). All other enforcement actions and violations are destroyed 10 years after the actions are cut off, in accordance with NARA approved schedule N1–431–00–05, Item 3.b(1) and 3.b(4).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in the records is primarily obtained from NRC inspectors

and investigators and other NRC employees, individuals to whom a record pertains, authorized representatives for these individuals, and NRC licensees, vendors, other individuals regulated by the NRC, and persons making allegations to the NRC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–4

SYSTEM NAME:

Conflict of Interest Files—NRC.

SYSTEM LOCATION:

Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employees, Special Government employees, former employees, advisory committee members, and consultants of NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (i.e., name, birth date, home address, position title, home and business telephone numbers, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (i.e., nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, and pension or other retirement interests);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Advice and determinations (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of Government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 2634–2641, 5801; 18 U.S.C. 201–209; Executive Order 12731; Ethics in Government Act of 1978, as amended by Public Law 109–55, sec. 1003(a) and (b).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide the Department of Justice, Office of Personnel Management, Office of Government Ethics, Office of Special Counsel, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office, or Board concerning potential violations of Federal law; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders. Records are also maintained on computer media.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Records are maintained in locked file cabinets and in computer files that can only be accessed by the appropriate personnel.

RETENTION AND DISPOSAL:

Financial disclosure records are destroyed when 6 years old in accordance with GRS 25–2.a and GRS 25–2.b; except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for Legal Counsel, Legislation, and Special Projects, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies, or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned, other NRC offices, or other persons such as attorneys.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–5

SYSTEM NAME:

Contracts Records Files—NRC.

SYSTEM LOCATION:

Primary system—Division of Contracts, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, at the locations listed in Addendum I, Parts 1 and 2, in working files maintained by the assigned office project manager and in the NRC's Agencywide Documents Access and Management System (ADAMS).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees substantially involved with contracting, such as Project Officers and other acquisition officials. Persons who are employed as NRC contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records. They also contain evaluations, recommendations, and reports of NRC acquisition officials, assessment of contractor performance, invoice payment records, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3301; 31 U.S.C. 3511; 48 CFR Subpart 4.8; NRC Management Directive 3.53, Records Management.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide information to the Federal Procurement Data Center, Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Paper records are accessed by contract number or purchase order number; and are cross-referenced to the automated system that contains the name of the contractor, vendor, project officer, procurement official, contractor manager and taxpayer identification number (TIN) .

SAFEGUARDS:

File folders are maintained in unlocked conserver files in a key code locked room. Access to and use of these records are limited to those persons whose official duties require such access. Access to automated systems is protected by password and roles and responsibilities.

RETENTION AND DISPOSAL:

Records for transactions of more than $100,000 are destroyed 6 years and 3 months after final payment and contract closeout, in accordance with GRS 3–3.a(1)(a). Transactions of $100,000 or less are destroyed 3 years after final payment and closeout in accordance with GRS 3–3.a(1)(b). Records are destroyed through disposal in the Classified and Sensitive Unclassified Waste system, except for confidential business (proprietary) information which is destroyed by shredding. Electronic records are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor or NRC employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–6

SYSTEM NAME:

Department of Labor (DOL) Discrimination Cases—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and in enforcement coordinators' offices at NRC Regional Offices at the addresses listed on Addendum I, Part 2. The duplicate systems in the Regional Offices would ordinarily be limited to the cases filed in each Region.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints with the Department of Labor (DOL) concerning alleged acts of discrimination in violation of section 211 of the Energy Reorganization Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files arranged alphabetically by name to track complaints filed by individuals with DOL under section 211 of the Energy Reorganization Act. These files include documents related to, and provided by, the DOL including copies of complaints, correspondence between the parties, and decisions by the Regional Administrators of DOL's Occupational, Safety, and Health Administration, Administrative Law Judges, and the Administrative Review Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201, as amended; 42 U.S.C. 2282, as amended; 42 U.S.C. 5851, as amended; 10 CFR 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, and 72.10.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

Any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders.

RETRIEVABILITY:

Records are accessed by the name of the individual who has filed a complaint with DOL.

SAFEGUARDS:

Paper records are maintained in lockable file cabinets. Access to and use of these records are limited to those NRC employees whose official duties require access.

RETENTION AND DISPOSAL:

Nonrecord materials are destroyed when no longer needed by NRC.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains

information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Information received from the Department of Labor is treated by DOL as public information and subject to disclosure under applicable laws.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individuals to whom a record pertains, attorneys for these individuals, union representatives serving as advisors to these individuals, NRC licensees, NRC staff, and DOL.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–7

SYSTEM NAME:

Call Detail Records—NRC.

SYSTEM LOCATION:

Office of Information Services, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, MD, and NRC's Regional offices I–IV listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals utilizing NRC telecommunication services, including the recipients of long distance and cellular calls.

CATEGORIES OF RECORDS IN THE SYSTEM:

Call detail records of calls originating from or otherwise billed to NRC including, but not limited to, originating and destination telephone numbers, cities, States, date, time, cost, duration, and agency billing hierarchy code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 *et seq.*, 3301; 41 CFR 101–35.1, Use of Government Telephones; 41 CFR 101, Subchapter B, Management and Use of Information and Records; NRC Management Directive 3.53, Records Management.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To determine an individual's responsibility for telephone calls;

b. To assist in the planning and effective management of NRC telecommunication services, and to determine that those services are being used in an efficient and economical manner;

c. To verify invoices for telecommunication services; and

d. For the routine uses specified in paragraphs 1, 3, 5, and 6 of the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures under 5 U.S.C. 552a(b)(12) may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files and on computer media.

RETRIEVABILITY:

Accessed by telephone number, organizational code, or billing date.

SAFEGUARDS:

Maintained in locking file cabinets or locked rooms. Computer files are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are destroyed when 3 years old in accordance with GRS 12–4. Paper disposal in Classified and Sensitive Unclassified Waste receptacle.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Infrastructure and Computer Operations Division, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Regional Offices I–IV: The appropriate Director, Division of Resource Management and Administration, at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Call detail data from telecommunications service providers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–8

SYSTEM NAME:

Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system may be maintained, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and at NRC's Regional Offices at locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed written complaints brought to the Office of Human Resource's attention or initiated grievances or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management, and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to disciplinary actions, adverse actions, appeals, complaints, grievances, arbitrations, and negative determinations regarding within-grade salary increases. It contains information relating to determinations affecting individuals made by the NRC, Office of Personnel Management, Merit Systems Protection Board, arbitrators or courts of law. The records may include the initial appeal or complaint, letters or notices to

the individual, records of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3132(a), 5 U.S.C. 3591, 5 U.S.C. 4303, as amended, 5 U.S.C. 7503; 42 U.S.C. 2201(d), as amended.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board under applicable requirements related to grievances and appeals;

b. To provide appropriate data to union representatives and third parties (that may include the Federal Services Impasses Panel and Federal Labor Relations Authority) in connection with grievances, arbitration actions, and appeals; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and computer media.

RETRIEVABILITY:

Records are retrieved by individual's name.

SAFEGUARDS:

Maintained in locked file cabinets and in a password-protected automated system. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records related to grievances, appeals, and adverse actions are destroyed seven years after the cases are closed in accordance with GRS 1–30.a and GRS 1–30.b, and computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Organization and Labor Relations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; official documents relating to the appeal, grievance, or complaint; Official Personnel Folder; and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–9

SYSTEM NAME:

Office of Small Business and Civil Rights Discrimination Complaint Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Small Business and Civil Rights, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system exists, in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment and current and former NRC employees who have initiated EEO counseling and/or filed a formal complaint of employment discrimination under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, and the Rehabilitation Act. Individuals in the United States in education programs or activities receiving Federal financial assistance from the NRC who initiated an informal complaint and/or filed a formal complaint of sex discrimination under Title IX of the Education Amendments Act. Individuals in the United States in programs or activities receiving Federal financial assistance from the NRC who initiated an informal complaint and/or filed a formal complaint of discrimination under Title VI of the Civil Rights Act, the Age Discrimination in Employment Act of 1975, Section 504 of the Rehabilitation Act of 1973, and Title IV of the Energy Reorganization Act of 1974, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records may contain copies of written reports by counselors; investigative files; administrative files, including documentation of withdrawn and/or dismissed complaints; complainant's name, title, and grade; types and theories of discrimination alleged; description of action and conditions giving rise to complaints, settlement agreements, and compliance documents; description of corrective and/or remedial actions; description of disciplinary actions, if any; request for hearings, procedural information, and hearing transcripts; procedural information and forms regarding Alternative Dispute Resolution (ADR); Equal Employment Opportunity Commission (EEOC), Merit System Protection Board (MSPB), Department of Education, and Department of Justice findings, analyses, decisions and orders; final agency decisions and final actions; and notices of intent to file in Federal district court, notices of cases filed in Federal district court, and Federal court decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 2301; 5 U.S.C. 2302; 29 U.S.C. 206(d), as amended; 29 U.S.C. 633a, as amended; 29 U.S.C. 791 *et seq.*; 42 U.S.C. 2000e–16, as amended; 42 U.S.C. 5891; Executive Order (E.O.) 11246; E.O. 11375, as amended by E.O. 11478; E.O. 12086, as amended by E.O. 12608; E.O. 13166; 10 CFR part 4; 10 CFR part 5; 29 CFR part 1614; and Public Law 107–174, Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To furnish information related to discrimination complaints to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, the Department of Justice, the Department of Education, Health and Human Services, Office of Management and Budget, and Congress, under applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and computer media.

RETRIEVABILITY:

Accessed by name and docket number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Automated system is password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Official Discrimination Complaint Case Files are destroyed four years after the resolution of the case in accordance with GRS 1–25.a. Computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Civil Rights Program Manager, Office of Small Business and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, mediators, investigators, NRC staff, Office of Human Resources, the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, the Department of Justice and/or Department of Education officials, affidavits or statements from complainants, testimony of witnesses, and official documents relating to the complaints.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

NRC–10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.

SYSTEM LOCATION:

Primary system—FOIA/Privacy Team, Records and FOIA/Privacy Services Branch, Information and Records Services Division, Office of Information Services, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made FOIA or PA requests for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of the written requests from individuals or organizations made under the FOIA or PA, the NRC response letters, and related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a; 42 U.S.C. 2201, as amended.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. If an appeal or court suit is filed with respect to any records denied;

b. For preparation of reports required by 5 U.S.C. 552 and 5 U.S.C. 552a;

c. To another Federal agency when consultation or referral is required to process a request; and

d. For any of the routine uses specified in the Prefatory Statement of General Routine Uses. Some of the FOIA records are made publicly available in the Public Electronic Reading Room accessible through the NRC Web site, *http://www.nrc.gov.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, audio and video tapes, and computer media.

RETRIEVABILITY:

Accessed by unique assigned number for each request and by requester's name.

SAFEGUARDS:

Records are maintained in locked file cabinets that are kept in locked rooms. Computerized records are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained in hard copy or electronic record format for 2 years from date of reply if the request is granted in accordance with GRS 14–11.a(1), 6 years if denied in accordance with GRS 14–11.a(3)(a), and 6 years from date of final determination, if appealed, in accordance with GRS 14–12.a. The FOIA/PA official files are on paper and in electronic form. FOIA/PA records are disposed of in the Classified and Sensitive Unclassified Waste system.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Act and Privacy Act (FOIA/PA) Officer, FOIA/Privacy Team, Records and FOIA/Privacy Services Branch, Information and Records Services Division, Office of Information Services, U.S. Nuclear

Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Requests are made by individuals. The response to the request is based upon information contained in NRC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters and all Senior Executive Service (SES) personnel, Office of Human Resources, NRC, One and Two White Flint North, 11555 and 11545 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2. NRC has an interagency agreement with the U.S. Department of the Interior, Federal Personnel/Payroll System, in Denver, Colorado, to maintain electronic personnel and payroll information for its employees as of November 2, 2003.

Duplicate system—Duplicate systems exist, in part, within the organization where the employee actually works for administrative purposes, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains personnel records that document an individual's Federal career and includes notification of personnel action (SF–50) and documents supporting the action taken; life insurance, thrift savings plan, health benefits and related beneficiary forms; letters of disciplinary action; notices of reductions-in-force; and other records retained in accordance with Office of Personnel Management's Guide to Personnel Recordkeeping. These records include employment information such as personal qualification statements (SF–171 and OF–612), resumes, and related documents including information about an individual's birth date, social security number, veterans preference status, tenure, minority group designator, physical handicaps, past and present salaries, grades, position titles; employee locator forms identifying home and work address, phone numbers and emergency contacts; and certain medical records related to initial appointment and employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; 42 U.S.C. 290dd–2; 42 U.S.C. 2201(d); Executive Order 9397.

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

In accordance with an interagency agreement the NRC may disclose records to the U.S. Department of the Interior (DOI), Federal Personnel/Payroll System (FPPS), in order to effect the maintenance of electronic personnel records on behalf of the NRC related to its employees.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses; or, where determined to be appropriate and necessary, the NRC may authorize DOI to make the disclosure:

a. By the Office of Personnel Management (OPM) and/or Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To store all personnel actions and related documentation, OPM investigations, OIG investigations, security investigations, determine eligibility for Federal benefits, employment verification, and to update monthly Enterprise Human Resources Integration data repository;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and/or Merit Systems Protection Board for review and audit purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. For medical records, to provide information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workers' Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on computer media. Beginning November 2, 2003, electronic records are maintained in the Department of the Interior's (DOI) Federal Personnel/Payroll System (FPPS). Electronic records prior to November 2, 2003, are maintained at NRC in the Human Resources Management System (HRMS).

RETRIEVABILITY:

Records are retrieved by name and/or social security number.

SAFEGUARDS:

Official Personnel Folders are maintained in locking cabinets in a keypad locked room and related documents may be maintained in unlocked file cabinets or an electromechanical file organizer. Automated systems are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

The Official Personnel Folder (OPF) is maintained in accordance with *The Guide to Personnel Recordkeeping,* May 2005 and GRS 1–1. Correspondence and forms maintained on the left side of the OPF are temporary records and are maintained for the periods of time specified in *The Guide to Personnel Recordkeeping* or other agency guidelines in accordance with GRS 1–10. Computer records are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters and all NRC SES employees—Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For Region I–IV non-SES employees—The appropriate Regional Personnel Officer at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; is derived from information supplied by that individual; or is provided by agency officials, other Federal agencies, universities, other academic institutions, or persons, including references, private and Federal physicians, and medical institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5) and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–12

SYSTEM NAME:

Child Care Tuition Assistance Program Records—NRC.

SYSTEM LOCATION:

Federal Employee Education and Assistance Fund (FEEA), 8441 W. Bowles Avenue, Suite 200, Littleton, Colorado (or current contractor facility).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who voluntarily apply for child care tuition assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include application forms for child care tuition assistance containing personal information about the employee (parent), their spouse (if applicable), their child/children, and their child care provider, including name, social security number, employer, grade, home and work telephone numbers, home and work addresses, total family income, name of child on whose behalf the parent is applying for tuition assistance, child's date of birth; information on child care providers used, including name, address, provider license number and State where issued, tuition cost, and provider tax identification number; and copies of IRS Form 1040 or 1040A for verification purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 590g; Executive Order 9397.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the Office of Personnel Management to provide statistical reports; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained on paper forms and on computers at the FEEA contractor site.

RETRIEVABILITY:

Information may be retrieved by employee name or social security number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable file cabinets and computer records are protected by the use of passwords.

RETENTION AND DISPOSAL:

The records in this system are currently unscheduled and must be retained until the National Archives and Records Administration (NARA) approves a records disposition schedule for this material.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is obtained from NRC employees who apply for child care tuition assistance and their child care provider. Furnishing of the information is voluntary.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–13

SYSTEM NAME:

Incentive Awards Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in part, within the organization where the employee actually works, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains employee's name, title, office, grade, and salary; justification to support recommendation and authorization for cash award; monetary amount of cash award; actions by approving officials; record of individuals receiving awards; suggestions and evaluations of suggestions; citation to be used; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4513, 5336.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. By other Government agencies or organizations to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and/or Merit Systems Protection Board;

d. By other Government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and computer media.

RETRIEVABILITY:

Information is accessed by name, type of award, office, and year of award.

SAFEGUARDS:

Maintained in locking file cabinets and in a password-protected computer system. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Records relating to meritorious and distinguished service awards made at the Commission level, excluding those in the Official Personnel Folder, are permanent in accordance with NRCS 2–22.3.a;

b. Case files pertaining to NRC-sponsored awards, excluding those for departmental-level awards, are destroyed 2 years after approval or disapproval in accordance with GRS 1–12.a(1);

c. Correspondence pertaining to awards from other Federal agencies or non-Federal organizations are destroyed when 2 years old in accordance with GRS 1–12.a(2);

d. Letters of commendation and appreciation, excluding copies filed in the Official Personnel Folder, are destroyed when 2 years old in accordance with GRS 1–12.c;

e. Lists and indexes to agency award nominations are destroyed when superseded or obsolete in accordance with GRS 1–12.d; and

f. Computer files are continually updated and information deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Recruitment Team Leader, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees, other agencies and organizations, and Official Personnel Folders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–14

SYSTEM NAME:

Employee Assistance Program Files—NRC.

SYSTEM LOCATION:

Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees or family members who have been counseled by or referred to the Employee Assistance Program (EAP) for problems relating to alcoholism, drug abuse, job stress, chronic illness, family or relationship concerns, and emotional and other similar issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees or their families who have participated in the EAP and the results of any counseling or referrals which may have taken place. The records may contain information as to the nature of each individual's problem, subsequent treatment, and progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; 21 U.S.C. 1101; 42 U.S.C. 290dd-1 and 290dd-2; 44 U.S.C. 3101; 44 U.S.C. 3301.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR Part 2, as authorized by 42 U.S.C. 290dd-2, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Information accessed by the EAP identification number and name of the individual.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Employee Assistance and Wellness Services Manager.

RETENTION AND DISPOSAL:

Employee counseling files are destroyed 3 years after termination of counseling in accordance with GRS 1–26.a. Information contained in the related statistical database is destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance and Wellness Services, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains

information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information compiled by the Manager, Employee Assistance and Wellness Services, and the Employee Assistance Program contractor during the course of counseling with an NRC employee or members of the employee's family.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–15 (Revoked.)
NRC–16

SYSTEM NAME:

Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.

SYSTEM LOCATION:

For power reactors, at the appropriate Regional Office at the address listed in Addendum I, Part 2; for nonpower (test and research) reactor facilities, at the Operator Licensing and Human Performance Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The Operator Licensing Tracking System (OLTS) is located at NRC Headquarters and is accessible by the four Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed under 10 CFR part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to 10 CFR part 55 applicants for a license, licensed operators, and individuals who previously held licenses. This includes applications for a license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2137 and 2201(I).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses: a. To determine if the individual meets the requirements of 10 CFR part 55 to take an examination or to be issued an operator's license; b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators; c. To provide examination, testing material, and results to facility management; and d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper logs, paper in file folders, and computer media.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in locked file cabinets or an area that is locked. Computer files are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Reactor Operator Licensees Records: Inactive case files (*i.e.*, after latest license expiration/termination/revocation, application denial or withdrawal, or issuance of denial letter), are retired after 3 years to the Federal Records Center, and destroyed after 10 years in accordance with NRCS 2–24.13.

b. Operator Licensing Tracking System: Retained as long as system is operational. Destroyed 2 years after system terminates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing and Human Performance Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the Part 50 licensee, a licensed physician, members of the Operator Licensing and Human Performance Branch or regional operator licensing branches, and other NRC and contractor personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–17

SYSTEM NAME:

Office of Workers' Compensation Program Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Office of Human Resources, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees who report an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the location and descriptions of the injury or illness, treatment, and disposition as well as copies of Office of Workers' Compensation Program claim forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902, as amended; 29 U.S.C. 657(c), as amended; Executive Order (E.O.) 12196 as amended by E.O.s 12223, 12608; E.O. 12258; E.O. 12399; E.O. 12489; E.O. 12534; E.O. 12610; E.O. 12692.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To prepare periodic statistical reports on employees' health and injury status for transmission to and review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative under duly promulgated regulations;

c. For transmittal to the Office of Personnel Management, Merit Systems Protection Board, and/or Equal Employment Opportunity Commission as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and computer media.

RETRIEVABILITY:

Records retrieved by employee name or assigned claim number.

SAFEGUARDS:

Maintained in locked file cabinet under visual control of HR staff. Electronic records are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Employee case files are destroyed when 5 years old in accordance with GRS 1–34. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC Health Unit; NRC Headquarters and Regional Office reports; and forms with original information largely supplied by the employees or their representative, supervisors, witnesses, medical personnel, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–18

SYSTEM NAME:

Office of the Inspector General (OIG) Investigative Records—NRC.

SYSTEM LOCATION:

Office of the Inspector General, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in complaints or actual investigative cases, reports, accompanying documents, and correspondence prepared by, compiled by, or referred to the OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system comprises five parts: (1) An automated Investigative Database Program containing reports of investigations, inquiries, and other reports closed since 1989; (2) paper files of all OIG and predecessor Office of Inspector and Auditor (OIA) reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data, and work papers pertaining to all closed and pending investigations, inquiries, and other reports; (3) paper index card files of OIG and OIA cases closed from 1970 through 1989; (4) an automated Allegations Tracking System that includes allegations referred to the OIG between 1985 and 2005, whether or not the allegation progressed to an investigation, inquiry, or other report, and dates that the investigation, inquiry, or other report, was opened and closed; and (5) an automated Investigative Management System that includes allegations referred to the OIG from 2005, whether or not the allegation progressed to an investigation, inquiry or other report, and dates that an investigation, inquiry or other report was opened and closed and reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data and work papers pertaining to these cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended, 5 U.S.C. App. 3 (2004); 42 U.S.C. 2035(c), 2201(c) (1992), and 5841(f) (1986).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, OIG may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To any Federal, State, local, tribal, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity when records from this system of records, either by themselves or in combination with any other information, indicate a violation or potential violation of law, whether administrative, civil, criminal, or regulatory in nature.

b. To public or private sources to the extent necessary to obtain information from those sources relevant to an OIG investigation, audit, inspection, or other inquiry.

c. To a Federal, State, local, tribal, or foreign agency, or a public authority or professional organization if necessary to obtain information relevant to a decision by NRC or the requesting organization concerning the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit, or other personnel action related to the record subject.

d. To a court, adjudicative body before which NRC is authorized to appear, Federal agency, individual or entity designated by NRC or otherwise empowered to resolve disputes, counsel or other representative, or witness or potential witness when it is relevant and necessary to the litigation if any of the parties listed below is involved in the litigation or has an interest in the litigation:

1. NRC, or any component of NRC;

2. Any employee of NRC where the NRC or the Department of Justice has agreed to represent the employee; or

3. The United States, where NRC determines that the litigation is likely to affect the NRC or any of its components.

e. To a private firm or other entity that OIG or NRC contemplates it will contract or has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an investigation, audit, inspection, inquiry, or other activity related to this system of records. The contractor, private firm, or entity needing access to the records to perform the activity shall maintain Privacy Act safeguards with respect to information. A contractor, private firm, or entity operating a system of records under 5 U.S.C. 552a(m) shall comply with the Privacy Act.

f. To another agency to the extent necessary for obtaining its advice on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG.

g. To a member of Congress or to a congressional staff member in response to his or her inquiry made at the written request of the subject individual.

h. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure Pursuant to 5 U.S.C. 552a(b)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored manually on index cards, in files, and in various computer media.

RETRIEVABILITY:

Information is retrieved from the Investigative Database Program by the name of an individual, by case number, or by subject matter. Information in the paper files backing up the Investigative Database Program and older cases closed by 1989 is retrieved by subject matter and/or case number, not by individual identifier. Information is retrieved from index card files for cases closed before 1989 by the name or numerical identifier of the individual or entity under investigation or by subject matter. Information in both the Allegations Tracking System and the Investigative Management System is retrieved by allegation number, case number, or name.

SAFEGUARDS:

The automated Investigative Database Program is accessible from a single terminal and is password protected. Index card files for older cases (1970–1989) are maintained in secure office facilities. Both the Allegations Tracking System and the Investigative Management System are accessible from single terminals and double-password-protected. Paper files backing up the automated systems and older case reports and work papers are maintained in approved security containers and locked filing cabinets in a locked room; associated indices, records, diskettes, tapes, etc., are stored in locked metal filing cabinets, safes, storage rooms, or similar secure facilities. All records in this system are available only to authorized personnel who have a need to know and whose duties require access to the information.

RETENTION AND DISPOSAL:

a. *Investigative Case Files:*

1. Files containing information or allegations that are of an investigative nature but do not relate to a specific investigation—Destroy when 5 years old in accordance with NARA approved schedule N1–431–00–2, Item 1.d.

2. All other investigative files, except those that are unusually significant—Place in inactive file when case is closed. Cut off inactive file at end of fiscal year. Destroy 10 years after cutoff in accordance with NARA approved schedule N1–431–00–2, Item 1.c.

3. Significant cases (those that result in national media attention, congressional investigation, substantive changes in agency policy or procedures, or the subject of the investigation is the Chairman or a commissioner, an agency office director or deputy director or other high ranking official reporting to these positions). PERMANENT. Cut off closed cases annually. Transfer to National Archives of the United States 20 years after cut off in accordance with NARA approved schedule N1–431–00–2, Item 1.b.

b. *Index/Indices.* Destroy or delete with the related records or sooner if no longer needed.

c. *Investigative Database Program.* Delete after 10 years or when no longer needed, whichever is later.

d. *Allegations Tracking System/Investigative Management System.* Destroy when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Inspector General Act, 5 U.S.C. App. 3, and the Commission's Policy Statement on Confidentiality, Management Directive 8.8, ''Management of Allegations.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, the individual record subject; NRC officials and employees; employees of Federal, State, local, and foreign agencies; and other persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Under 5 U.S.C. 552a(j)(2), the Commission has exempted this system of records from subsections (c)(3) and (4), (d)(1)–(4), (e)(1)–(3), (5), and (8), and (g) of the Act. This exemption applies to information in the system that relates to criminal law enforcement and meets the criteria of the (j)(2) exemption. Under 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–19

SYSTEM NAME:

Official Personnel Training Records Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, at the Technical Training Center, Regional Offices, and within the organization where the NRC employee works, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other Government/non-Government training courses or programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's educational background and training courses including training requests and authorizations, evaluations, supporting documentation, and other related personnel information, including but not limited to, an individual's name, address, social security number, telephone number, position title, organization, and grade.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396; 5 U.S.C. 4103; Executive Order (E.O.) 9397; E.O. 11348, as amended by E.O. 12107.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. Extracted from the records and made available to the Office of Personnel Management; other Federal, State, and local government agencies; educational institutions and training facilities for purposes of enrollment and verification of employee attendance and performance; and

b. Disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on computer media.

RETRIEVABILITY:

Information is accessed by name, user identification number, course number, or course session number.

SAFEGUARDS:

Electronic records are maintained in a password protected computer system. Paper is maintained in lockable file cabinets and file rooms. Access to and use of these records is limited to those persons whose official duties require such access, with the level of access controlled by roles and responsibilities.

RETENTION AND DISPOSAL:

Paper forms are retained for 5 years, then destroyed by shredding in accordance with GRS 1–29.b. Electronic records are maintained until no longer needed for statistical and historical reference.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Training and Development, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions and learning activities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–20

SYSTEM NAME:

Official Travel Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Financial Services, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in part, within the organization where the employee actually works for administrative purposes, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, prospective NRC employees, consultants, and invitational travelers for NRC programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain requests and authorizations for official travel, travel vouchers, passports, and related documentation; charge card applications, terms and conditions for use of charge cards, charge card training documentation, monthly reports regarding accounts, credit data, and related documentation; all of which may include, but are not limited to, an individual's name, address, social security number, and telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701; 31 U.S.C. 716, 1104, 1108, 3511, 3512, 3701, 3711, 3717, 3718, 3726; Federal Travel Regulations, 41 CFR Parts 301–304; Federal Property Management Regulations, 41 CFR Part 101–41; Executive Order 9397; Section 639 of the Consolidated Appropriations Act, 2005 (P.L. 108–447).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the U.S. Treasury for payment;

b. To the Department of State or an embassy for passports or visas;

c. To the General Services Administration and the Office of Management and Budget for required periodic reporting;

d. To the charge card issuing bank;

e. To the Department of Interior, National Business Center, for collecting severe travel card delinquencies by employee salary offset;

f. To a consumer reporting agency to obtain credit reports; and

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure Pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency, other than to obtain credit reports, are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders, on computer media, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security number, authorization number, and voucher payment schedule number.

SAFEGUARDS:

Maintained in key locked file cabinets and in conserver files in a passcode locked room. Passports and visas are maintained in a locked file cabinet. For electronic records, an identification number, a password, and assigned access to specific programs are required in order to retrieve information.

RETENTION AND DISPOSAL:

Paper records are retained for 6 years and 3 months after period covered by account, then destroyed through disposal in a Classified and Sensitive Unclassified Waste container in accordance with GRS 9. Electronic records are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payment Policy and Obligations Team, Division of Financial Services, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is provided by the individual, NRC Agency staff, NRC contractors, the charge card issuing bank, the consumer reporting agency, and outside transportation agents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Financial Services, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. NRC has an interagency agreement with the Department of the Interior's National Business Center (DOI/NBC), Federal Personnel/Payroll System (FPPS), in Denver, Colorado, to maintain electronic personnel information and perform payroll processing activities for its employees as of November 2, 2003.

Duplicate system—Duplicate systems exist, in part, within the organization where the employee actually works for administrative purposes, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, including special Government employees (i.e. consultants).

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, benefit enrollment and voluntary allowance deductions, and labor activities, which includes, but is not limited to, an individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 104–193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996; 5 U.S.C. 6334; 31 U.S.C. 716, 1104, 1105, 1108, 3325, 3511, 3512, 3701, 3711, 3717, 3718; Executive Order 9397.

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

In accordance with an interagency agreement the NRC may disclose records to the DOI/NBC/FPPS in order to effect all financial transactions on behalf of the NRC related to employee pay. Specifically, the DOI/NBC's FPPS may effect employee pay or deposit funds on behalf of NRC employees, and/or it may withhold, collect or offset funds from employee salaries as required by law or as necessary to correct overpayment or amounts due.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses; or, where determined to be appropriate and necessary, the NRC may authorize DOI/NBC to make the disclosure:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and consultants and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to Internal Revenue Service and appropriate State and local taxing authorities;

c. For FICA and Medicare deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers by the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for financial reporting;

i. For withholding and reporting of retirement, tax levies, bankruptcies, garnishments, court orders, re-employed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes;

k. For transmittal to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action;

l. For transmittal to the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the

Federal Parent Locator System by the Office of Child Support Enforcement;

m. For transmittal to the Office of Child Support Enforcement for release to the Department of Treasury for the purpose of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return;

n. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906;

o. Time and labor data are used by the NRC as a project management tool in various management records and reports (i.e. work performed, work load projections, scheduling, project assignments, budget), and for identifying reimbursable and fee billable work performed by the NRC; and

p. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on computer media (stored in memory, on disk, and magnetic tape), on microfiche, and in paper copy.

Electronic payroll, time, and labor records prior to November 2, 2003, are maintained in the Human Resources Management System (HRMS), the PAY PERS Historical database reporting system, and on microfiche at NRC. Electronic payroll records from November 2, 2003, forward are maintained in the DOI/NBC's FPPS in Denver, Colorado. Time and labor records are maintained in the HRMS at NRC.

RETRIEVABILITY:

Information is accessed by employee identification number, name and social security number.

SAFEGUARDS:

Records are maintained in buildings where access is controlled by a security guard force. File folders, microfiche, tapes, and disks, including backup data, are maintained in secured locked rooms and file cabinets after working hours. All records are in areas where access is controlled by keycard and is limited to NRC and contractor personnel who need the information to perform their official duties. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

a. Individual employee pay record for each employee and consultant maintained in the electronic Human Resources Management System (HRMS) is updated in accordance with GRS 2–1.a.

b. Individual employee pay records containing pay data on each employee and consultant maintained in the Annual and Quarterly Employee History Records on microfiche are transferred to the National Personnel Records Center and destroyed when 56 years old in accordance with GRS 2–1.b.

c. Copies of non-current payroll data maintained on microfiche are destroyed 15 years after close of pay year in which generated in accordance with GRS 2–2.

d. Employee and Consultant Payroll Records:

1. U.S. savings bond authorizations are destroyed when superseded or after separation of employee in accordance with GRS 2–14.a.

2. Combined Federal Campaign allotment authorizations are destroyed after Government Accounting Office (GAO) audit or when 3 years old, whichever is sooner, in accordance with GRS 2–15.a.

3. Union dues and savings allotment authorizations are destroyed after GAO audit or when 3 years old, whichever is sooner, in accordance with GRS 2–15.b.

4. Payroll Change Files consisting of records used to change or correct an individual's pay transaction are destroyed after GAO audit or when 3 years old, whichever is sooner, in accordance with GRS 2–23.a.

5. Tax Files consisting of State and Federal withholding tax exemption certificates, such as Internal Revenue Service (IRS) Form W–4 and the equivalent State form are destroyed 4 years after the form is superseded or obsolete or upon separation of employee in accordance with GRS 2–13.a.

6. Agency copy of employee wages and tax statements, such as IRS Form W–2 and State equivalents, are destroyed when 4 years old in accordance with GRS 2–13.b.

7. Leave record prepared upon transfer or separation of employee maintained in the Payroll office is destroyed when 3 years old in accordance with GRS 2–9.b.

e. Time and attendance source records maintained by Time and Attendance clerks and certifying officials are destroyed after GAO audit or when 6 years old, whichever is sooner, in accordance with GRS 2–7.

f. Electronic time and attendance input records maintained in the HRMS are destroyed after GAO audit or when 6 years old, whichever is sooner, in accordance with GRS 2–8.

g. Payroll system reports providing fiscal information on agency payroll consisting of hardcopy and microfiche reports generated by the HRMS are destroyed when 3 years old, excluding the long-term Employee History Reports, in accordance with GRS 2–22.c.

h. Payroll system reports serving as error reports, ticklers, system operation reports are destroyed when related actions are completed or when no longer needed, not to exceed 2 years, in accordance with GRS 2–22.a.

i. Official notice of levy or garnishment (IRS Form 668A or equivalent), change slip, work papers, correspondence, release and other forms, and other records relating to charge against retirement funds or attachment of salary for payment of back income taxes or other debts of Federal employees are destroyed 3 years after garnishment is terminated in accordance with GRS 2–18.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Time, Labor and Payroll Services Team, Division of Financial Services, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from sources, including but not limited to, the individual to whom it pertains, the Office of Human Resources and other NRC officials, and other agencies and entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC.

SYSTEM LOCATION:

Primary system—Part A: For Headquarters personnel, Office of Human Resources, NRC, 11545 and 11555 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

Part B: Office of Human Resources, NRC, 11555 Rockville Pike, Rockville, Maryland.

NRC has an interagency agreement with the U.S. Department of the Interior, Federal Personnel/Payroll System, in Denver, Colorado, to maintain electronic personnel and payroll information for its employees as of November 2, 2003.

Duplicate system—Duplicate systems may exist in part, within the organization where the employee actually works, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees other than contractor employees, Commissioners, or temporary personnel employed for less than 1 year.

Part A: Senior Level System employees, GG–1 through GG–15 employees, hourly wage employees, and administratively determined rate employees.

Part B: Senior Executive Service and equivalent employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains performance appraisals, including elements and standards, summary ratings and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301, *et seq.*; 5 U.S.C. 4311 *et seq.*; 42 U.S.C. 2201(d), 5841; and 5 CFR 293.404(a).

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

In accordance with an interagency agreement the NRC may disclose records to the U.S. Department of the Interior (DOI), Federal Personnel/Payroll System (FPPS), in order to effect the maintenance of electronic personnel records on behalf of the NRC related to its employees.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. By agency management and the Office of Human Resources for personnel functions; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in folders and on computer media. Summary ratings from 11/2/2003 forward are stored in the Department of the Interior's Federal Personnel/Payroll System (FPPS). Prior to 11/2/2003 they are maintained at the NRC in the Human Resources Management System (HRMS).

RETRIEVABILITY:

Records are accessed by name and/or social security number.

SAFEGUARDS:

Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the information to perform their official duties. Access to the two Headquarters buildings in Rockville, Maryland, is controlled by a security guard force. Paper records are maintained in folders in locking file cabinets. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

Part A: Records are normally retained for 4 years, then destroyed by incineration in accordance with GRS 1–23.a(4). If an employee separates, the records are forwarded to the next Government agency employer or to the National Personnel Records Center in accordance with GRS 1–23.a(3)(a).

Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later, then destroyed by incineration in accordance with GRS 1–23.b(3). If the employee separates, the records are forwarded to the next Government agency employer or to the National Personnel Records Center in accordance with GRS 1–23.b(2)(a).

Electronic records: Deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later in accordance with GRS 20–3.a.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Regional personnel: Regional Personnel Officer at the appropriate Regional Office I–IV listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors and any documents and sources used to develop critical elements and performance standards for that Senior Executive Service position.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f).

NRC–23

SYSTEM NAME:

Office of Investigations Indices, Files, and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Investigations, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Records exist within the NRC Regional Office locations, listed in Addendum I, Part 2, during an active investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in potential or actual investigations and matters of concern to the Office of Investigations and correspondence on matters directed or referred to the Office of Investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Office of Investigations correspondence, cases, memoranda, materials including, but not limited to, investigative reports, confidential source information, correspondence to and from the Office of Investigations, memoranda, fiscal data, legal papers, evidence, exhibits, technical data, investigative data, work papers, and management information data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c), 42 U.S.C. 2201(c) (1992), as amended by Public Law 109–58, and 42 U.S.C. 5841.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the persons or entities mentioned therein if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant.

b. A record in the system of records relating to an investigation or matter falling within the purview of the Office of Investigations may be disclosed as a routine use to the referring agency, group, organization, or individual.

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual.

d. A record in the system of records relating to an investigation or matter may be disclosed as a routine use to a foreign country under an international treaty or agreement.

e. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to the agency.

f. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information stored on paper, photographs, audio/video tapes, and computer media.

RETRIEVABILITY:

Information retrieved by document text and/or case number.

SAFEGUARDS:

Hard copy files maintained in approved security containers and locking filing cabinets. All records are under visual control during duty hours and are available only to authorized personnel who have a need to know and whose duties require access to the information. The electronic management information system is operated within the NRC's secure LAN/WAN system. Access rights to the system only available to authorized personnel.

RETENTION AND DISPOSAL:

1. Significant headquarters official case files (received media attention, were of significant interest to Congress, involved extensive litigation, etc.) are retained by the Government permanently in accordance with NRCS 2–17.2.a. Hold in office for 1 year after closing, then retire to the Office of Information Services. Transfer closed case files in 20-year blocks to the National Archives.

2. Other headquarters official case files—Hold in office 1 year after closing, then retire to the Office of Information Services. Destroy 20 years after cases are closed in accordance with NRCS 2–17.2.b.

3. Regional office or investigator working files—Retained in regional files for 6 months. At the end 6 months, they are forwarded to headquarters and combined with the headquarters files in accordance with NRCS 2–17.2.c.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURES:

Same as ''Notification procedure.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Commission's Policy Statement on Confidentiality, Management Directive 8.8, ''Management of Allegations,'' and the procedures covering confidentiality in Chapter 7 of the Office of Investigations Procedures Manual and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials, employees, and licensees; Federal, State, local, and foreign agencies; and other persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–24

SYSTEM NAME:

Property and Supply Records—NRC.

SYSTEM LOCATION:

Space, Planning, and Property Management Branch, Division of Facilities and Security, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in part, with designated property custodians at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors who have custody of Government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of NRC sensitive and nonsensitive equipment, which

includes but is not limited to, acquisition and depreciated costs, date of acquisition, item description, manufacturer, model number, serial number, stock number, tag number, property custodians, name of individual to whom property is assigned, user id, office affiliation, office location. Also included are furniture and supply records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, as amended by Public Law 109–148; 40 U.S.C. 506; Executive Order 9397.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To maintain an inventory and accountability of Government property;

b. To provide information for clearances of employees who separate from the NRC;

c. To report excess agency property to GSA; and

d. For any of the routine uses specified in paragraph numbers 1, 3, 5, and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in automated system. Data entry paper records in file folders.

RETRIEVABILITY:

Accessed by NRC tag number, user id, organization, office location and stock number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Electronic records are password protected.

RETENTION AND DISPOSAL:

The hardcopy records are retained for up to 3 years; then they are destroyed by shredding or in the regular trash disposal system in accordance with GRS 8–3. The automated records are destroyed when determined no longer needed (NC1–431–81–2 Item 13.I.4).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Space, Planning, and Property Management Branch, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system is provided by property custodians, contract specialists, and purchase card holders and/or other individuals buying equipment or supplies on behalf of the NRC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–25

SYSTEM NAME:

Oral History Program—NRC.

SYSTEM LOCATION:

Office of the Secretary, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for the purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161(b).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For incorporation in publications on the history of the nuclear regulatory program; and

b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape and transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file room. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Transcripts are retained permanently in accordance with NRC Schedule 1.2.2.a and NARA Citation N1–431–01–2, Item 4.a(1). Transfer to National Archives when 20 years old.

Tapes are retained until no longer needed then erased and reused.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his or her staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–26

SYSTEM NAME:

Full Share Program Records—NRC.

SYSTEM LOCATION:

Administrative Services Center, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who apply for subsidized mass transit costs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of an individual's application to participate in the program which includes, but is not limited to, the applicant's name, home address, office telephone number, social security number, and information regarding the employee's commuting schedule and mass transit system(s) used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 132, as amended by Public Law 108–311, sec. 207(13); 31 U.S.C. 3511; 41 CFR 102–74.210; 41 CFR 301–10.100; 41 CFR 301–10–190; 41 CFR 102–71.20; Executive Order (E.O.) 9397; E.O. 13150, Federal Workforce Transportation; Qualified Transportation Fringe Benefits, 26 CFR Parts 1 and 602; NRC Management Directive 3.4, ''Transportation Management.''

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide statistical reports to the city, county, State, and Federal government agencies;

b. To provide the basis for program approval and issue monthly subsides; and

c. For the routine uses specified in paragraph numbers 1, 4, 5, and 6 in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Accessed by name and scanned NRC badge. Access by social security number when an individual's photo identification badge is scanned to record receipt of their transit subsidy.

SAFEGUARDS:

Paper records are maintained in locked file cabinets under visual control of the Administrative Services Center. Computer files are maintained on a hard drive and accessible by user login. Access to and use of these records are limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are destroyed when 3 years old in accordance with GRS 9–7. Paper copies are destroyed by shredding or disposal in Classified and Sensitive Unclassified Waste receptacle. Computer files are destroyed by deleting the record from the file when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–27

SYSTEM NAME:

Radiation Exposure Information and Reporting System (REIRS) Files—NRC.

SYSTEM LOCATION:

Primary system—Oak Ridge Associated Universities (ORAU), 210 Badger Road, Oak Ridge, Tennessee 37830 (or current contractor facility).

Duplicate system—Duplicate systems exist, in part, regarding employee exposure records, with the NRC's Radiation Safety Officers at Regional office locations listed in Addendum 1, Part 2, in the Office of Nuclear Reactor Regulations, and in the Office of Nuclear Material Safety and Safeguards, at Headquarters, White Flint North Complex, Rockville, Maryland. Duplicates of records submitted by licensees exist, in part, in the Office of Nuclear Regulatory Research, Two White Flint North, Rockville, Maryland. The Office of Administration, One White Flint North, Rockville, Maryland, maintains the employee dosimeter tracking system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC–licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported under 10 CFR 20.2201–20.2204 and 20.2206 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials offsite from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's name, sex, social security number, birth date, period of employment, place and period date of exposure; name and license number of individual's employer; name and number of licensee reporting the information; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and nuclide(s) involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902; 29 U.S.C. 668; 42 U.S.C. 2051, 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o); 10 CFR 20.2106, 20.2201–20.2204, and 20.2206; Executive Order 9397; Executive Order (E.O.) 12196, as amended by E.O.s 12223, 12608; E.O. 12258; E.O. 12399; E.O. 12489; E.O. 12534; E.O. 12610; E.O. 12692.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide data to other Federal and State agencies involved in monitoring and/or evaluating radiation

exposure received by individuals as enumerated in the paragraph ''Categories of individuals covered by the system'';

b. To return data provided by licensee upon request; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and on computer media. The computerized records maintained in Oak Ridge, TN, are in a centralized database management system. Backup tapes of the database are generated and maintained at a secure, off site location for disaster recovery purposes. During the processing and data entry, paper records are temporarily stored in designated business offices that are locked when not in use and are accessible only to authorized personnel. Upon completion of data entry and processing, the paper records are stored in an off site security storage facility accessible only to authorized personnel.

RETRIEVABILITY:

Records are accessed by individual name, social security number, date of birth, and/or by licensee name or number.

SAFEGUARDS:

Information maintained at ORAU is accessible to the Office of Nuclear Regulatory Research and individuals that have been authorized access by NRC, including all Radiation Safety Officers and ORAU employees that are directly involved in the REIRS project. Reports received and reviewed by the NRC's Office of Nuclear Regulatory Research, Office of Nuclear Reactor Regulations, Office of Nuclear Material Safety and Safeguards, and Regional offices are in lockable file cabinets and bookcases in secured buildings. A log is maintained of both telephone and written requests for information.

The data maintained in the REIRS database are protected from unauthorized access by several means. The database server resides in a protected environment with physical security barriers under key–card access control. Accounts authorizing access to the server and databases are maintained by the ORAU REIRS system administrator. In addition, ORAU maintains a computer security ''firewall'' that further restricts access to the ORAU computer network. Authorization for access must be approved by NRC, ORAU project management, and ORAU computer security. Transmittal of data via the Internet is protected by data encryption.

RETENTION AND DISPOSAL:

Licensee submitted exposure data:

a. Original paper documents from which all data are entered into REIRS are destroyed 2 years after input into REIRS in accordance with NRCS 2–21.8.a;

b. Original paper documents from which only selected data are entered into REIRS are retained permanently in accordance with NRCS 2–21.8.b;

c. Log books are currently unscheduled and must be retained until the National Archives and Records Administration (NARA) approves a records disposition schedule for this material;

d. Paper documents generated for QC purposes are destroyed 2 years after input into REIRS;

e. Floppy disks and compact disks are destroyed 2 years after input into REIRS; and

f. Electronic licensee submitted data maintained in the REIRS database is permanent. NRC employee exposure data:

a. Paper records created before 04/01/2000 are destroyed 75 years from the date of the creation of the record in accordance with NARA approved schedule N1–431–00–13, Item 16.a.

b. Paper records created after 04/01/2000 are scanned into ADAMS. Paper records are destroyed 2 months after the creation of an ADAMS electronic record in accordance with NARA approved schedule N1–431–00–13, Item 16.b.

c. Electronic files used to create ADAMS records (i.e. WordPerfect, Lotus, InForms, e-mail, etc.), including electronic records received from outside the agency are destroyed after the creation of ADAMS electronic record or when no longer needed for reference or updating, whichever is later in accordance with NARA approved schedule N1–431–00–13, Item 16.c.

d. Remit Program (used to transmit electronic data, originating from contractor reports, to REIRS). Data deleted after information has been transferred to REIRS and verified in accordance with GRS 20–1.b.

e. Employee exposure data maintained in REIRS is currently unscheduled and must be retained until the NARA approves a records disposition schedule for this material.

f. Dosimeter Tracking System (paper and electronic). System data is currently unscheduled and must be retained until the NARA approves a records disposition schedule for this material.

SYSTEM MANAGER(S) AND ADDRESS:

REIRS Project Manager, Radiation Protection, Environmental Risk, and Waste Management Branch, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from licensees; the subject individual; the individual's employer; the person in charge of the facility where the individual has been assigned; NRC Form 5, ''Occupational Exposure Record for a Monitoring Period,'' or equivalent, contractor reports, and Radiation Safety Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–28

SYSTEM NAME:

Merit Selection Records—NRC.

SYSTEM LOCATION:

Primary system—Electronic records: Atlantech Online, Inc., 1010 Wayne Avenue, Suite 630, Silver Spring, Maryland (or current contractor facility). Paper records: Headquarters personnel, Office of Human Resources, NRC, White Flint North Complex, 11555 and 11545 Rockville Pike, Rockville, Maryland. Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

Duplicate system—Duplicate systems exist, in part, within the organization with the position vacancy, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have registered in the system or applied for Federal employment with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains application information of persons applying to NRC for Federal employment or merit promotion within the NRC, including application for Federal employment (OF–612, resume or similar documents); vacancy announcements; job descriptions; examination results; supervisory evaluation or performance appraisal forms; reference forms; and related correspondence. These records include, but are not limited to, applicant information relating to education, training, employment history, earnings, past performance, awards and commendations, citizenship, veteran's preference, birth date, social security number, and home address and telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301, 5101, 7201; 42 U.S.C. 2000e; 42 U.S.C. 2201(d); Executive Order (E.O.) 9397; E.O. 11478, as amended by E.O.s 11590, 12106; E.O. 12106, as amended by E.O.s 12379, 12450.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To prepare reports for a variety of internal and external sources including the Office of Personnel Management, Merit Systems Protection Board; EEOC and EEO Investigators; Union representatives and EEO Committee representatives, and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders (merit files) and on computer media (NRCareers.)

RETRIEVABILITY:

Records are retrieved by vacancy announcement number, applicant name, or social security number.

SAFEGUARDS:

Maintained in lockable file cabinets and in a password protected automated system, NRCareers. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Records of each vacancy (vacancy, rating criteria, applications, selection certificate) filed under merit competition procedures will be maintained for 24 months from the date of selection;

b. Electronic records contained in NRCareers are destroyed when 2 years old or when no longer needed, whichever is later; and

c. General correspondence records are destroyed when 3 years old in accordance with GRS 1–3.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For applicants to the Honor Law Graduate Program—Chief, Program Support Branch, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, individual's current and previous supervisors within and outside NRC, preemployment evaluation data furnished by references and educational institutions whose names were supplied by applicant, and information from other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f).

NRC–29 (Revoked.)
NRC–30 (Revoked.)
NRC–31 (Revoked.)
NRC–32

SYSTEM NAME:

Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC.

SYSTEM LOCATION:

Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Other NRC systems of records contain payment and/or collection transaction records and background information that may duplicate some of the records in this system. These other systems include, but are not limited to:

NRC–5, Contracts Records Files—NRC;

NRC–7, Call Detail Records—NRC;

NRC–10, Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC;

NRC–18, Office of the Inspector General (OIG) Investigative Records—NRC;

NRC–19, Official Personnel Training Records Files—NRC;

NRC–20, Official Travel Records—NRC;

NRC–21, Payroll Accounting Records—NRC;

NRC–24, Property and Supply Records—NRC; and

NRC–41, Tort Claims and Personal Property Claims Records—NRC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals the NRC owes/owed money to or who receive/received a payment from NRC and those who owe/owed money to the United States. Individuals receiving payments include, but are not limited to, current and former employees, contractors, consultants, vendors, and others who travel or perform certain services for NRC. Individuals owing money include, but are not limited to, those who have received goods or services from NRC for which there is a charge or fee (NRC licensees, applicants for NRC licenses, Freedom of Information Act requesters, *etc.*) and those who have been overpaid and owe NRC a refund (current and former employees, contractors, consultants, vendors, *etc.*).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in the system includes, but is not limited to, names, addresses, telephone numbers, Social Security Numbers (SSN), Taxpayer Identification Numbers (TIN), Individual Taxpayer Identification Numbers (ITIN), Data Universal Numbering System (DUNS)

number, fee categories, application and license numbers, contract numbers, vendor numbers, amounts owed, background and supporting documentation, correspondence concerning claims and debts, credit reports, and billing and payment histories. The overall agency accounting system contains data and information integrating accounting functions such as general ledger, funds control, travel, accounts receivable, accounts payable, equipment, and appropriation of funds. Although this system of records contains information on corporations and other business entities, only those records that contain information about individuals that is retrieved by the individual's name or other personal identifier are subject to the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a(b)(12); 5 U.S.C. 5514; 15 U.S.C. 1681; 26 U.S.C. 6103(m)(2); 31 U.S.C. 37, subchapters I and II; 31 U.S.C. 3701(a)(3); 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3717; 31 U.S.C. 3718; 31 U.S.C. 3720; 42 U.S.C. 2201; 42 U.S.C. 5841; Cash Management Improvement Act Amendments of 1992 (Pub. L. 102–589); Debt Collection Improvement Act of 1996 (Pub. L. 104–134); 31 CFR Chapter IX, Parts 900–904; 10 CFR Parts 15, 16, 170, 171; Executive Order 9397; Executive Order (E.O.) 11222, as amended by E.O.s 11590, 12107, 12565.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To debt collection contractors (31 U.S.C. 3718) or to other Federal agencies such as the Department of the Treasury (Treasury) for the purpose of collecting and reporting on delinquent debts as authorized by the Debt Collection Act of 1982 or the Debt Collection Improvement Act (DCIA) of 1996;

b. To Treasury; the Defense Manpower Data Center, Department of Defense; the United States Postal Service; government corporations; or any other Federal, State, or local agency to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to identify and locate individuals, including Federal employees, who are delinquent in their repayment of certain debts owed to the U.S. Government, including those incurred under certain programs or services administered by the NRC, in order to collect debts under common law or under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996 which include by voluntary repayment, administrative or salary offset, and referral to debt collection contractors.

c. To the Department of Justice, United States Attorney, Treasury, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

d. To credit reporting agencies/credit bureaus for the purpose of either adding to a credit history file or obtaining a credit history file or comparable credit information for use in the administration of debt collection. As authorized by the DCIA, NRC may report current (not delinquent) as well as delinquent consumer and commercial debt to these entities in order to aid in the collection of debts, typically by providing an incentive to the person to repay the debt timely.

e. To any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the Federal Government on NRC's behalf by counseling the debtor for voluntary repayment or by initiating administrative or salary offset procedures, or other authorized debt collection methods under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996. Under the DCIA, NRC may garnish non-Federal wages of certain delinquent debtors so long as required due process procedures are followed. In these instances, NRC's notice to the employer will disclose only the information that may be necessary for the employer to comply with the withholding order.

f. To the Internal Revenue Service (IRS) by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by NRC against the taxpayer under 26 U.S.C. 6103(m)(2) and under 31 U.S.C. 3711, 3717, and 3718 or common law. Redisclosure of a mailing address obtained from the IRS may be made only for debt collection purposes, including to a debt collection agent to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996, except that redisclosure of a mailing address to a reporting agency is for the limited purpose of obtaining a credit report on the particular taxpayer. Any mailing address information obtained from the IRS will not be used or shared for any other NRC purpose or disclosed by NRC to another Federal, State, or local agency which seeks to locate the same taxpayer for its own debt collection purposes.

g. To refer legally enforceable debts to the IRS or to Treasury's Debt Management Services to be offset against the debtor's tax refunds under the Federal Tax Refund Offset Program.

h. To prepare W–2, 1099, or other forms or electronic submittals, to forward to the IRS and applicable State and local governments for tax reporting purposes. Under the provisions of the DCIA, NRC is permitted to provide Treasury with Form 1099–C information on discharged debts so that Treasury may file the form on NRC's behalf with the IRS. W–2 and 1099 Forms contain information on items to be considered as income to an individual, including certain travel related payments to employees, payments made to persons not treated as employees (*e.g.*, fees to consultants and experts), and amounts written-off as legally or administratively uncollectible, in whole or in part.

i. To banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the individual has given his or her credit card number for this purpose.

j. To another Federal agency that has asked the NRC to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to name, address, SSN, TIN, ITIN, and other information necessary to identify the individual; information about the money payable to or held for the individual; and other information concerning the administrative offset.

k. To Treasury or other Federal agencies with whom NRC has entered into an agreement establishing the terms and conditions for debt collection cross servicing operations on behalf of the NRC to satisfy, in whole or in part, debts owed to the U.S. Government. Cross servicing includes the possible use of all debt collection tools such as administrative offset, tax refund offset, referral to debt collection contractors, salary offset, administrative wage garnishment, and referral to the Department of Justice. The DCIA requires agencies to transfer to Treasury or Treasury-designated Debt Collection Centers for cross servicing certain nontax debt over 180 days delinquent. Treasury has the authority to act in the Federal Government's best interest to service, collect, compromise, suspend,

or terminate collection action under existing laws under which the debts arise.

l. Information on past due, legally enforceable nontax debts more than 180 days delinquent will be referred to Treasury for the purpose of locating the debtor and/or effecting administrative offset against monies payable by the Government to the debtor, or held by the Government for the debtor under the DCIA's mandatory, Government-wide Treasury Offset Program (TOP). Under TOP, Treasury maintains a database of all qualified delinquent nontax debts, and works with agencies to match by computer their payments against the delinquent debtor database in order to divert payments to pay the delinquent debt. Treasury has the authority to waive the computer matching requirement for NRC and other agencies upon written certification that administrative due process notice requirements have been complied with.

m. For debt collection purposes, NRC may publish or otherwise publicly disseminate information regarding the identity of delinquent nontax debtors and the existence of the nontax debts under the provisions of the Debt Collection Improvement Act of 1996.

n. To the Department of Labor (DOL) and the Department of Health and Human Services (HHS) to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to match NRC's debtor records with records of DOL and HHS to obtain names, name controls, names of employers, addresses, dates of birth, and TINs. The DCIA requires all Federal agencies to obtain taxpayer identification numbers from each individual or entity doing business with the agency, including applicants and recipients of licenses, grants, or benefit payments; contractors; and entities and individuals owing fines, fees, or penalties to the agency. NRC will use TINs in collecting and reporting any delinquent amounts resulting from the activity and in making payments.

o. If NRC decides or is required to sell a delinquent nontax debt under 31 U.S.C. 3711(i), information in this system of records may be disclosed to purchasers, potential purchasers, and contractors engaged to assist in the sale or to obtain information necessary for potential purchasers to formulate bids and information necessary for purchasers to pursue collection remedies.

p. If NRC has current and delinquent collateralized nontax debts under 31 U.S.C. 3711(i)(4)(A), certain information in this system of records on its portfolio of loans, notes and guarantees, and other collateralized debts will be reported to Congress based on standards developed by the Office of Management and Budget, in consultation with Treasury.

q. To Treasury in order to request a payment to individuals owed money by the NRC.

r. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

s. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is stored on paper, microfiche, and computer media.

RETRIEVABILITY:

Automated information can be retrieved by name, SSN, TIN, DUNS number, license or application number, contract or purchase order number, invoice number, voucher number, and/or vendor code. Paper records are retrieved by invoice number.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force. Records are kept in lockable file rooms or at user's workstations in an area where access is controlled by keycard and is limited to NRC and contractor personnel who need the records to perform their official duties. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by NRC or contractor personnel.

RETENTION AND DISPOSAL:

Paper records are destroyed when six years and three months old in accordance with GRS 6–1.a except that administrative claims files, for which collection action is terminated without extension, are destroyed when ten years and three months old in accordance with GRS 6–10.b. Computer files are deleted after the expiration of the retention period authorized in accordance with GRS for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER:

Director, Division of Financial Management, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Record source categories include, but are not limited to, individuals covered by the system, their attorneys, or other representatives; NRC; collection agencies or contractors; employing agencies of debtors; and Federal, State and local agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–33

SYSTEM NAME:

Special Inquiry File—NRC.

SYSTEM LOCATION:

Primary system—Special Inquiry Group, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident

at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials or an allegation regarding the public health and safety related to the NRC's mission responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2051, 2201(c), (i) and (o).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual and may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country under an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management and may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, paper in file folders, and computer media. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in locking metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Paper records relating to subject files are retained permanently in accordance with NRCS 1–2.2.a. Paper records relating to case files are retained permanently in accordance with NRCS 2–20.9.a. Alphabetical indexes are retained permanently in accordance with NRCS 1–2.2.a. Microfiche records are retained permanently in accordance with NRCS 2–20.9.a.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; NRC licensees; nuclear reactor vendors and architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–34 (Revoked.)
NRC–35

SYSTEM NAME:

Drug Testing Program Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in part at the NRC Regional office locations listed in Addendum I, Part 2 (for a temporary period of time); and at contractor testing laboratories, collection/evaluation facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, applicants, consultants, licensees, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the drug testing program; requests for and results of initial, confirmatory and follow-up testing, if appropriate; additional information supplied by NRC employees, employment applicants, consultants, licensees, or contractors in challenge to positive test results; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7301 (note); 42 U.S.C. 290dd–2; Executive Order 12564; Pub. L. 100–71, Title V Sec. 503; Pub. L. 100–440, Title VI Sec. 628; Executive Order 9397.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which

the record was collected under the following routine uses:

a. To identify substance abusers within the agency;

b. To initiate counseling and/or rehabilitation programs;

c. To take personnel actions;

d. To take personnel security actions; and e. For statistical purposes. Information provided for this purpose shall not include personally identifiable information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and computer media. Specimens are maintained in appropriate environments.

RETRIEVABILITY:

Records are indexed and accessed by name, social security number, testing position number, specimen number, drug testing laboratory accession number, or a combination thereof.

SAFEGUARDS:

Records in use are protected to ensure that access is limited to those persons whose official duties require such access. Unattended records are maintained in NRC-controlled space in locked offices, locked desk drawers, or locked file cabinets. Stand-alone and network processing systems are password protected and removable media is stored in locked offices, locked desk drawers, or locked file cabinets when unattended. Network processing systems have roles and responsibilities protection and system security plans. Records at laboratory, collection, and evaluation facilities are stored with appropriate security measures to control and limit access to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Employee acknowledgment of notice forms may be destroyed when employee separates from testing designated position in accordance with GRS 1–36.b. Selection and scheduling records, chain of custody records, and test results are destroyed when three years old in accordance with GRS 1–36.c, except for records used in disciplinary actions which are destroyed four years after the case is closed. Collection and handling record books are destroyed three years after date of last entry in accordance with GRS 1–36.d. Electronic records of the Employee Drug Testing System are deleted when no longer needed in accordance with GRS 20–3.b. Index cards are destroyed with related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees, employment applicants, consultants, licensees, and contractors who have been identified for drug testing who have been tested; physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; NRC contractors for processing including, but not limited to, specimen collection, laboratories for analysis, and medical evaluations; and NRC staff administering the drug testing program to ensure the achievement of a drug-free workplace.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–36

SYSTEM NAME:

Employee Locator Records Files—NRC.

SYSTEM LOCATION:

Primary system—Part 1: Human Resources Services and Operations, Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 2: Infrastructure and Computer Operations Division, Office of Information Services, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 3: Division of Administrative Services, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, for Incident Response Operations within the Office of Nuclear Security and Incident Response, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, and at the NRC's Regional Offices, at the locations listed in Addendum I, Part 2.

Duplicate system—Duplicate systems may exist, in part, within the organization where an individual actually works, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, contractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include, but are not limited to, an individual's name, home address, office organization and location (building, room number, mail stop), telephone number (home, business, cell, and pager), social security number, person to be notified in case of emergency (name, address, telephone number), and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3301; Executive Order 9397.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. Notification (of individual identified by employee) in case of an emergency;

b. Notification of employee regarding matters of official business;

c. Verification of accuracy of and updates of payroll/personnel system files on employee home address and zip code;

d. Conducting statistical studies;

e. Agency telephone directory;

f. Internal agency mail services, and

g. The routine use specified in paragraph number 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and computer media.

RETRIEVABILITY:

Accessed by name and/or social security number.

SAFEGUARDS:

Electronic records are password protected. Paper records are maintained in locked files and/or in controlled access area. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Paper records (NRC Form 15) are destroyed when superseded or after data is transferred to a database through disposal in the Classified and Sensitive Unclassified Waste receptacles. The electronic record may be deleted after the expiration of the retention period authorized for the paper copy file, or when no longer needed, whichever is later, in accordance with GRS 20–3.b.2.

SYSTEM MANAGER(S) AND ADDRESS:

Part 1: Chief, Human Resources Services and Operations, Office of Human Resources; Part 2: Telecommunications Team Leader, Computer Operations and Telecommunications Branch, Infrastructure Computer Operations Division, Office of Information Services; Part 3: Team Leader, Mail Services, Administrative Services Center, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, Employee Express, NRC Form 15, ''Employee Locator Notification,'' general personnel records, and other related records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–37

SYSTEM NAME:

Information Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Division of Security Operations, Office of Nuclear Security and Incident Response, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, contractors, consultants, licensees, and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and types of information, the approving authority, and related documents; and

b. Names of individuals who classify and/or declassify documents (e.g., for the protection of Classified National Security Information and Restricted Data) as well as information identifying the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165 and 2201(i); Executive Order 12958, as amended.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To prepare statistical reports for the Information Security Oversight Office.

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Accessed by name and/or assigned number.

SAFEGUARDS:

Maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate. Records are processed only on systems approved for processing classified information or accessible through password protected systems for unclassified information. The classified systems are stand alone systems located within secure facilities or with removable hard drives that are either stored in locked security containers or in alarmed vaults cleared for open storage of TOP SECRET information.

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records—retained 2 years, then destroyed by shredding in accordance with GRS 18–1;

b. Top Secret Accounting and Control files: Registers—retained 5 years after documents shown on form are downgraded, transferred, or destroyed by shredding; Accompanying forms—retained until related document is downgraded, transferred, or destroyed by shredding in accordance with GRS 18–5.a and 18–5.b; and

c. Automated records are updated monthly and quarterly, and are maintained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security Operations, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12958, as amended, and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons, including NRC employees, contractors, consultants, and licensees, as well as information furnished by other Government agencies or their contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f).

NRC–38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary system—Reproduction and Distribution Services Section, Division of Administrative Services, Office of Administration, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including NRC staff, with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3301.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For distribution of documents to persons and organizations listed on the mailing list; and

b. For the routine use specified in paragraph number 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media.

RETRIEVABILITY:

Records are accessed by company name, individual name, and file code identification number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated records are password protected.

RETENTION AND DISPOSAL:

Documents requesting changes are destroyed, paper through disposal in Classified and Sensitive Unclassified Waste receptacle, after appropriate revision of the mailing list or after 3 months in accordance with GRS 13.4.a, whichever is sooner; lists are retained until canceled or revised, then destroyed through disposal in Classified and Sensitive Unclassified Waste receptacle in accordance with GRS 13.4.b. Computer files are deleted after canceled or revised or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Reproduction and Distribution Services Section, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC staff, NRC licensees, and individuals expressing an interest in NRC activities and publications.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Division of Facilities and Security, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other Government agency personnel, other persons who have been considered for an access authorization, special nuclear material access authorization, unescorted access to NRC buildings or nuclear power plants, NRC building access, access to Federal automated information systems or data, or participants in the criminal history program; aliens who visit NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about individuals, which include, but are not limited to, their name(s), address, date and place of birth, social security number, identifying information, citizenship, residence history, employment history, military history, financial history, foreign travel, foreign contacts, education, spouse/cohabitant and relatives, personal references, organizational membership, medical, fingerprints, criminal record, and security clearance history. These records also contain copies of personnel security investigative reports from other Federal agencies, summaries of investigative reports, results of Federal agency indices and database checks, records necessary for participation in the criminal history program, reports of personnel security interviews, clearance actions information (*e.g.*, grants and terminations), access approval/disapproval actions related to NRC building access or unescorted access to nuclear plants, or access to Federal automated information systems or data, violations of laws, reports of security infraction, and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 318; 42 U.S.C. 2165 and 2201(i); Executive Order (E.O.) 9397; E.O. 10450, as amended by E.O.s 10491, 10531, 10548, 10550, 11605, 11785, 12107; E.O. 12958, amended by E.O. 13292; E.O. 12968; E.O. 10865, as amended by E.O.s 10909, 11382, modified by E.O. 12038; 10 CFR Parts 10, 11, 25, 73; Pub. L. 99–399 (100 Stat. 876); OMB Circular No. A–130, Revised; 5 CFR 731 and 732 and authorities cited therein; Pub. L. 99–500 (100 Stat. 1783–335).

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

Information in these records may be used by the Division of Facilities and Security and on a need-to-know basis by appropriate NRC officials, Hearing Examiners, Personnel Security Review Panel members, Office of Personnel

Management, Central Intelligence Agency, and other Federal agencies:

a. To determine clearance or access authorization eligibility;

b. To determine eligibility for access to NRC buildings or access to Federal automated information systems or data;

c. To certify clearance or access authorization;

d. To maintain the NRC personnel security program;

e. To provide licensees information needed for unescorted access or access to safeguard information determinations; and

f. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper, tapes, microfiche, and computer media.

RETRIEVABILITY:

Indexed and accessed by name, social security number, docket number, or a combination thereof.

SAFEGUARDS:

Records in use are protected to ensure that access is limited to those persons whose official duties require such access. Unattended records are maintained in NRC-controlled space in locked offices, locked desk drawers, or locked file cabinets. Mass storage of records are protected when unattended by a combination lock and alarm system. Unattended classified records are protected in appropriate security containers in accordance with Management Directive 12.1.

RETENTION AND DISPOSAL:

a. Personnel security clearance/access authorization files—destroy case files upon notification of death or 5 years from date of termination of access authorization or final administrative action in accordance with GRS 18–22.a (paper records) and GRS 20–3 (electronic version);

b. Request for Visit or Access Approval—maximum security areas retained 5 years after final entry or after date of document, as appropriate, in accordance with GRS 18–17.a; Other areas: Retained 2 years after final entry or after date of document, then destroyed by approved method of destruction in accordance with GRS 18–17.b;

c. Other security clearance/access authorization administration files—retained 2 years after final entry or after date of document, then destroyed by approved method of destruction in accordance with GRS 18–8; and

d. Criminal history record computer files are deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12958 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent the disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, visitors and others, as well as information furnished by other Government agencies or their contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–40

SYSTEM NAME:

Facility Security Access Control Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in part at NRC Regional Offices and the NRC Technical Training Center at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including current and former NRC employees, consultants, contractors, other Government agency personnel, and approved visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding: (1) NRC personal identification badges issued for continued access to NRC-controlled space; and (2) records regarding visitors to NRC. These records include, but are not limited to, an individual's name, social security number, electronic image, badge number, citizenship, employer, purpose of visit, person visited, date and time of visit, and other information contained on Government issued credentials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165 and 2201 (i), (k) and (p); 5 CFR Part 2634; Executive Order (E.O.) 9397; E.O. 12958, amended by E.O. 13292.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To control access to NRC classified information and to NRC spaces by human or electronic means.

b. Information (identification badge) may also be used for tracking applications within the NRC for other than security access purposes.

c. The electronic image used for the NRC employee personal identification badge may be used for other than security purposes only with the written consent of the subject individual.

d. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and computer media.

RETRIEVABILITY:

Information is indexed and accessed by individual's name, social security number, identification badge number, employer's name, date of visit, or sponsor's name.

SAFEGUARDS:

All records are maintained in NRC-controlled space that is secured after normal duty hours or in security areas

under guard presence. There is an approved security plan which identifies the physical protective measures and access controls (i.e., passwords and software design limiting access based on each individual's role and responsibilities relative to the system) specific to each system.

RETENTION AND DISPOSAL:

a. Records and forms related to NRC identification badges are retained in files and destroyed when superseded or obsolete in accordance with GRS 18–23.

b. Manual visitor logs are retained in cabinets and destroyed 2 years after date of entry in accordance with GRS 18–17.b.

c. The automated access control system reflects access to controlled areas and employee/contractor/visitor identification information. These records are disposed of after the retention period for those records identified in a. and b., or when no longer needed, whichever is later.

d. For automated systems back-up media (tapes/discs) is retained in cabinets for 2 years from date of archive and then destroyed; or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons including NRC employees, contractors, consultants, employees of other Government agencies, and visitors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–41

SYSTEM NAME:

Tort Claims and Personal Property Claims Records—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, in the Office of the Chief Financial Officer (OCFO), NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, and at the locations listed in Addendum I, Parts 1 and 2. Other NRC systems of records, including but not limited to, NRC–18, ''Office of the Inspector General (OIG) Investigative Records—NRC,'' and NRC–32, ''Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC,'' may contain some of the information in this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed claims with NRC under the Federal Tort Claims Act or the Military Personnel and Civilian Employees' Claims Act and individuals who have matters pending before the NRC that may result in a claim being filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information relating to loss or damage to property and/or personal injury or death in which the U.S. Government may be liable. This information includes, but is not limited to, the individual's name, home address and phone number, work address and phone number, claim forms and supporting documentation, police reports, witness statements, medical records, insurance information, investigative reports, repair/replacement receipts and estimates, litigation documents, court decisions, and other information necessary for the evaluation and settlement of claims and pre-claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* (2000); The Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. 3721.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, NRC may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To third parties, including claimants' attorneys, insurance companies, witnesses, potential witnesses, local police authorities where an accident occurs, and others who may have knowledge of the matter to the extent necessary to obtain information that will be used to evaluate, settle, refer, pay, and/or adjudicate claims.

b. To the Department of Justice (DOJ) when the matter comes within their jurisdiction, such as to coordinate litigation or when NRC's authority is limited and DOJ advice or approval is required before NRC can award, adjust, compromise, or settle certain claims.

c. To the appropriate Federal agency or agencies when a claim has been incorrectly filed with NRC or when more than one agency is involved and NRC makes agreements with the other agencies as to which one will investigate the claim.

d. The Department of the Treasury to request payment of an award, compromise, or settlement of a claim.

e. Information contained in litigation records is public to the extent that the documents have been filed in a court or public administrative proceeding, unless the court or other adjudicative body has ordered otherwise. This public information, including information concerning the nature, status, and disposition of the proceeding, may be disclosed to any person, unless it is determined that release of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure Pursuant to 5 U.S.C. 552a(b)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system of records to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system of records is stored on paper, in log books, and on computer media.

RETRIEVABILITY:

Information is indexed and accessed by the claimant's name and/or claim number.

SAFEGUARDS:

The paper records and log books are stored in locked file cabinets or locked file rooms and access is restricted to those agency personnel whose official duties and responsibilities require access. Automated records are protected by password.

RETENTION AND DISPOSAL:

a. Tort claims and employee claims are destroyed six years and three months after payment or disallowance in accordance with GRS 6–10.a.

b. Claims affected by a court order or subject to litigation are destroyed after the related action is concluded, or when six years and three months old, whichever is later, in accordance with GRS 6–10.c.

c. Log books are destroyed or deleted when no longer needed in accordance with GRS 23–8.

d. Copies of memoranda contained on electronic media are deleted when no longer needed in accordance with GRS 20–13.

e. Copies of tort claims and personal property claims that become part of NRC's Litigation Case File are retained by the Government permanently in accordance with NRCS 2–13.4.

SYSTEM MANAGER:

Assistant General Counsel for Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is obtained from a number of sources, including but not limited to, claimants, NRC employees involved in the incident, witnesses or others having knowledge of the matter, police reports, medical reports, investigative reports, insurance companies, and attorneys.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–42

SYSTEM NAME:

Strategic Workforce Planning Records—NRC.

SYSTEM LOCATION:

Primary system—Technical Training Center, NRC, 5746 Marlin Road, Suite 200, Chattanooga, Tennessee.

Duplicate system—Duplicate systems may exist, in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED:

Current, prospective, and former NRC employees, experts, consultants, contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specific information maintained on individuals includes individual skills assessments that identify the knowledge and skills possessed by the individual and the levels of skill possessed, and may include a skills profile containing, but not limited to, their name; service computation date; series and grade; education; work and skills experience; special qualifications; licenses and certificates held; and availability for geographic relocation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396; 5 U.S.C. 4103; 42 U.S.C. 2201; Executive Order (E.O.) 9397; E.O. 11348, as amended by E.O. 12107; Public Law 104–106, National Defense Authorization Act for Fiscal Year 1996, Sec. 5125, Agency Chief Information Officer.

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

The primary use of the records will be to assess the knowledge and skills needed to perform the functions assigned to individuals and their organizations.

Information in the system may be used by the NRC to assess the skills of the staff to develop an organizational training plan/program; to prepare individual training plans; to develop recruitment plans; and to assign personnel. Other offices may maintain similar kinds of records relative to their specific duties, functions, and responsibilities.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, which includes disclosure to other NRC employees who have a need for the information in the performance of their duties, NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the information was collected under the following routine uses:

a. To employees and contractors of other Federal, State, local, and foreign agencies or to private entities in connection with joint projects, working groups, or other cooperative efforts in which the NRC is participating.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form (Strategic Workforce Planning System).

RETRIEVABILITY:

Information may be retrieved by, but not limited to, the individual's name; office; skill level; various skills; education; or work experience.

SAFEGUARDS:

Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel. Access to computerized records requires use of password and user identification codes. Level of access is determined by roles and responsibilities.

RETENTION AND DISPOSAL:

System input records are destroyed after the information is converted to electronic medium and verified in accordance with GRS 20–2.a and b. System data maintained electronically are currently unscheduled and must be retained until a records disposition schedule for this information is approved by the National Archives and Records Administration. Hard copy records documenting skills requirements, assessments, strategies, and plans for meeting the requirements are currently unscheduled and must be

retained until a records disposition schedule for this information is approved by the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Chief, Workforce Planning and Information Management, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is obtained from a number of sources, including but not limited to, the individual to whom it pertains, system of records NRC–11, supervisors and other NRC officials, contractors, and other agencies or entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–43

SYSTEM NAME:

Employee Health Center Records—NRC.

SYSTEM LOCATION:

Primary system—Employee Health Center, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, at health care facilities operating under a contract or agreement with NRC for health-related services in the vicinity of each of NRC's Regional offices listed in Addendum I, Part 2. NRC's Regional offices may also maintain copies of occupational health records for their employees.

This system may contain some of the information maintained in other systems of records, including NRC–11, ''General Personnel Records (Official Personnel Folder and Related Records)—NRC,'' NRC–17, ''Office of Workers'' Compensation Program Records—NRC,'' and NRC–44, ''Employee Fitness Center Records—NRC.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of voluntary employee use of health services provided by the Health Center, and of emergency health services rendered by Health Center staff to individuals for injuries and illnesses suffered while on NRC premises. Specific information maintained on individuals may include, but is not limited to, their name, date of birth, and Social Security number; medical history and other biographical data; test reports and medical diagnoses based on employee health maintenance physical examinations or health screening programs (tests for single medical conditions or diseases); history of complaint, diagnosis, and treatment of injuries and illness rendered by the Health Center staff; immunization records; records of administration by Health Center staff of medications prescribed by personal physicians; medical consultation records; statistical records; daily log of patients; and medical documentation such as personal physician correspondence, test results submitted to the Health Center staff by the employee; and occupational health records. Forms used to obtain or provide information include, but are not limited to, the following:

(1) Employee Health Record.
(2) Immunization/Health Profile.
(3) Problem List.
(4) Progress Notes.
(5) Consent for Release of Medical Information.
(6) Against Medical Advice (AMA) Release.
(7) Patient Treatment Record.
(8) Injection Record.
(9) Allergy.
(10) Respirator Certification Form.
(11) Pre-travel Questionnaire.
(12) Flu Vaccine Form.
(13) Pneumonia Vaccine Form.
(14) TB Test Form.
(15) Office of Workers' Compensation Programs (OWCP) Occupational Injury Form.
(16) Medical History.
(17) Medical Examination.
(18) Prostate Symptoms Questionnaire.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; Executive Order 9397.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions in an effort to prevent further outbreak of the disease or condition.

b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

c. To disclose information to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.

d. To Health Center staff and medical personnel under a contract or agreement with NRC who need the information in order to schedule, conduct, evaluate, or follow up on physical examinations, tests, emergency treatments, or other medical and health care services.

e. To refer information to private physicians designated by the individual when requested in writing.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche, on computer media, and on file cards, logs, x-rays, and other medical reports and forms.

RETRIEVABILITY:

Records are retrieved by the individual's name, date of birth, and Social Security number, or any combination of those identifiers.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force

and entry to each floor is controlled by keycard. Records in the system are maintained in lockable file cabinets with access limited to agency or contractor personnel whose duties require access. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by authorized personnel.

RETENTION AND DISPOSAL:

Records documenting an individual employee's medical history, physical condition, and visits to Government health facilities, for nonwork-related purposes, are maintained for six years from the date of the last entry as are records on consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment in accordance with GRS 1–19. Health Center control records such as logs or registers reflecting daily visits are destroyed three months after the last entry if the information is summarized on a statistical report in accordance with GRS 1–20a and two years after the last entry if the information is not summarized in accordance with GRS 1–20b. Occupational health records/long-term medical records are retained in accordance with GRS 1–21a. Employees are given copies of their records if requested upon separation from the agency.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance and Wellness Services, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9; and provide their full name, any former name(s), date of birth, and Social Security number.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a number of sources including, but not limited to, the individual to whom it pertains; laboratory reports and test results; NRC Health Center physicians, nurses, and other medical technicians or personnel who have examined, tested, or treated the individual; the individual's coworkers or supervisors; other systems of records; the individual's personal physician(s); NRC Fitness Center staff; other Federal agencies; and other Federal employee health units.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–44

SYSTEM NAME:

Employee Fitness Center Records—NRC.

SYSTEM LOCATION:

Primary system—Fitness Center, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Regional offices, listed in Addendum I, Part 2, only maintain lists of their employees who receive subsidy from NRC for off-site fitness center memberships.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who apply for membership in the Fitness Center as well as current and inactive Fitness Center members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes employees' applications to participate in NRC's Fitness Center, information on individuals' degree of physical fitness and their fitness activities and goals, and various forms, memoranda, and correspondence related to Fitness Center membership and financial/payment matters. Specific information contained in the application for membership includes the employee applicant's name, gender, age, Social Security number, height, weight, and medical information, including a history of certain medical conditions; the name of the individual's personal physician and any prescription or over-the-counter drugs taken on a regular basis; and the name and address of a person to be notified in case of emergency. Forms used to obtain or provide information include, but are not limited to, the following:

(1) Application Package.
(2) Release of Medical Information/Physician's Statement.
(3) Fitness Assessment.
(4) Pre-exercise Health Screening.
(5) Account Logs.
(6) Terminated Memberships.
(7) New Memberships.
(8) Monthly Dues Collected.
(9) Accident Report.
(10) ''Dear Participant'' Letter.
(11) Refund Request.
(12) Regional Employee Sign-in Log.
(13) Member of the Month.
(14) User Suggestion Form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; Executive Order 9397.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the individual listed as an emergency contact, in the event of an emergency.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 or 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures Pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media and in paper form in logs and files.

RETRIEVABILITY:

Information is indexed and accessed by an individual's name and/or Social Security number.

SAFEGUARDS:

Records are maintained in a building where access is controlled by a security guard force. Access to the Fitness Center is controlled by keycard and bar code

verification. Records in paper form are stored alphabetically by individuals' names in lockable file cabinets maintained in the NRC Fitness Center where access to the records is limited to agency and Fitness Center personnel whose duties require access. The records are under visual control during duty hours. Automated records are protected by screen saver. Access to automated data requires use of proper password and user identification codes. Only authorized personnel have access to areas in which information is stored.

RETENTION AND DISPOSAL:

Fitness Center records are currently unscheduled and must be retained until the National Archives and Records Administration approves a records disposition schedule for this material.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance and Wellness Services, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is principally obtained from the individuals upon whom the records are maintained. Other sources of information include, but are not limited to, the NRC Fitness Center Director and other staff, physicians retained by the NRC, and the individuals' personal physicians.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Addendum I—List of U.S. Nuclear Regulatory Commission Locations

Part 1—NRC Headquarters Offices

1. One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

2. Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852–2738.

3. Warehouse, 5000 Boiling Brook Parkway, Rockville, Maryland 20852–2738.

Part 2—NRC Regional Offices

1. NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

2. NRC Region II, Sam Nunn Atlanta Federal Center, 23 T85, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3415.

3. NRC Region III, 2443 Warrenville Road, Suite 210, Lisle, Illinois 60532–4352.

4. NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–8064.

5. High-Level Waste Management Office, 1551 Hillshire Drive, Las Vegas, Nevada 89134.

6. NRC Technical Training Center, 5746 Marlin Road, Suite 200, Chattanooga, Tennessee 37411–5677.

Dated at Rockville, Maryland, this 27th day of September, 2006.

For the Nuclear Regulatory Commission.

Edward T. Baker III,

Director, Office of Information Services.

[FR Doc. E6–16557 Filed 10–6–06; 8:45 am]

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LIST OF PUBLIC LAWS

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S. 260/P.L. 109–294

Partners for Fish and Wildlife Act (Oct. 3, 2006; 120 Stat. 1351)

H.R. 5441/P.L. 109–295

Department of Homeland Security Appropriations Act, 2007 (Oct. 4, 2006; 120 Stat. 1355)

H.R. 3408/P.L. 109–296

To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act. (Oct. 5, 2006; 120 Stat. 1464)

S. 176/P.L. 109–297

To extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska. (Oct. 5, 2006; 120 Stat. 1471)

S. 244/P.L. 109–298

To extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming. (Oct. 5, 2006; 120 Stat. 1472)

S. 1025/P.L. 109–299

Wichita Project Equus Beds Division Authorization Act of 2005 (Oct. 5, 2006; 120 Stat. 1473)

S. 1275/P.L. 109–300

To designate the facility of the United States Postal Service located at 7172 North Tongass Highway, Ward Cove, Alaska, as the "Alice R. Brusich Post Office Building". (Oct. 5, 2006; 120 Stat. 1475)

S. 1323/P.L. 109–301

To designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the "Dorothy and Connie Hibbs Post Office Building". (Oct. 5, 2006; 120 Stat. 1476)

S. 2690/P.L. 109–302

To designate the facility of the United States Postal Service located at 8801 Sudley Road in Manassas, Virginia, as the "Harry J. Parrish Post Office". (Oct. 5, 2006; 120 Stat. 1477)

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1–199	(869–060–00025–9)	61.00	Jan. 1, 2006
200–End	(869–060–00026–7)	58.00	Jan. 1, 2006
10 Parts:			
1–50	(869–060–00027–5)	61.00	Jan. 1, 2006
51–199	(869–060–00028–3)	58.00	Jan. 1, 2006
200–499	(869–060–00029–1)	46.00	Jan. 1, 2006
500–End	(869–060–00030–5)	62.00	Jan. 1, 2006
11	(869–060–00031–3)	41.00	Jan. 1, 2006
12 Parts:			
1–199	(869–060–00032–1)	34.00	Jan. 1, 2006
200–219	(869–060–00033–0)	37.00	Jan. 1, 2006
220–299	(869–060–00034–8)	61.00	Jan. 1, 2006
300–499	(869–060–00035–6)	47.00	Jan. 1, 2006
500–599	(869–060–00036–4)	39.00	Jan. 1, 2006
600–899	(869–056–00037–5)	56.00	Jan. 1, 2005
900–End	(869–060–00038–1)	50.00	Jan. 1, 2006
13	(869–060–00039–9)	55.00	Jan. 1, 2006
14 Parts:			
1–59	(869–060–00040–2)	63.00	Jan. 1, 2006
60–139	(869–060–00041–1)	61.00	Jan. 1, 2006
140–199	(869–060–00042–9)	30.00	Jan. 1, 2006
200–1199	(869–060–00043–7)	50.00	Jan. 1, 2006
1200–End	(869–060–00044–5)	45.00	Jan. 1, 2006
15 Parts:			
0–299	(869–060–00045–3)	40.00	Jan. 1, 2006
300–799	(869–060–00046–1)	60.00	Jan. 1, 2006
800–End	(869–060–00047–0)	42.00	Jan. 1, 2006
16 Parts:			
0–999	(869–060–00048–8)	50.00	Jan. 1, 2006
1000–End	(869–060–00049–6)	60.00	Jan. 1, 2006
17 Parts:			
1–199	(869–060–00051–8)	50.00	Apr. 1, 2006
200–239	(869–060–00052–6)	60.00	Apr. 1, 2006
240–End	(869–060–00053–4)	62.00	Apr. 1, 2006
18 Parts:			
1–399	(869–060–00054–2)	62.00	Apr. 1, 2006
400–End	(869–060–00055–1)	26.00	[6]Apr. 1, 2006
19 Parts:			
1–140	(869–060–00056–9)	61.00	Apr. 1, 2006
141–199	(869–060–00057–7)	58.00	Apr. 1, 2006
200–End	(869–060–00058–5)	31.00	Apr. 1, 2006
20 Parts:			
1–399	(869–060–00059–3)	50.00	Apr. 1, 2006
400–499	(869–060–00060–7)	64.00	Apr. 1, 2006
500–End	(869–060–00061–5)	63.00	Apr. 1, 2006
21 Parts:			
1–99	(869–060–00062–3)	40.00	Apr. 1, 2006
100–169	(869–060–00063–1)	49.00	Apr. 1, 2006
170–199	(869–060–00064–0)	50.00	Apr. 1, 2006
200–299	(869–060–00065–8)	17.00	Apr. 1, 2006
300–499	(869–060–00066–6)	30.00	Apr. 1, 2006
500–599	(869–060–00067–4)	47.00	Apr. 1, 2006
600–799	(869–060–00068–2)	15.00	Apr. 1, 2006
800–1299	(869–060–00069–1)	60.00	Apr. 1, 2006
1300–End	(869–060–00070–4)	25.00	Apr. 1, 2006
22 Parts:			
1–299	(869–060–00071–2)	63.00	Apr. 1, 2006
300–End	(869–060–00072–1)	45.00	[10]Apr. 1, 2006
23	(869–060–00073–9)	45.00	Apr. 1, 2006
24 Parts:			
0–199	(869–060–00074–7)	60.00	Apr. 1, 2006
200–499	(869–060–00075–5)	50.00	Apr. 1, 2006
500–699	(869–060–00076–3)	30.00	Apr. 1, 2006
700–1699	(869–060–00077–1)	61.00	Apr. 1, 2006
1700–End	(869–060–00078–0)	30.00	Apr. 1, 2006
25	(869–060–00079–8)	64.00	Apr. 1, 2006
26 Parts:			
§§ 1.0–1–1.60	(869–060–00080–1)	49.00	Apr. 1, 2006
§§ 1.61–1.169	(869–060–00081–0)	63.00	Apr. 1, 2006
§§ 1.170–1.300	(869–060–00082–8)	60.00	Apr. 1, 2006
§§ 1.301–1.400	(869–060–00083–6)	47.00	Apr. 1, 2006
§§ 1.401–1.440	(869–060–00084–4)	56.00	Apr. 1, 2006
§§ 1.441–1.500	(869–060–00085–2)	58.00	Apr. 1, 2006
§§ 1.501–1.640	(869–060–00086–1)	49.00	Apr. 1, 2006
§§ 1.641–1.850	(869–060–00087–9)	61.00	Apr. 1, 2006
§§ 1.851–1.907	(869–060–00088–7)	61.00	Apr. 1, 2006
§§ 1.908–1.1000	(869–060–00089–5)	60.00	Apr. 1, 2006
§§ 1.1001–1.1400	(869–060–00090–9)	61.00	Apr. 1, 2006
§§ 1.1401–1.1550	(869–060–00091–2)	58.00	Apr. 1, 2006
§§ 1.1551–End	(869–060–00092–5)	50.00	Apr. 1, 2006
2–29	(869–060–00093–3)	60.00	Apr. 1, 2006
30–39	(869–060–00094–1)	41.00	Apr. 1, 2006
40–49	(869–060–00095–0)	28.00	Apr. 1, 2006
50–299	(869–060–00096–8)	42.00	Apr. 1, 2006

Title	Stock Number	Price	Revision Date
300–499	(869–060–00097–6)	61.00	Apr. 1, 2006
500–599	(869–060–00098–4)	12.00	[5]Apr. 1, 2006
600–End	(869–060–00099–2)	17.00	Apr. 1, 2006
27 Parts:			
1–399	(869–060–00100–0)	64.00	Apr. 1, 2006
400–End	(869–060–00101–8)	18.00	Apr. 1, 2006
28 Parts:			
0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–060–00104–2)	50.00	July 1, 2006
100–499	(869–060–00105–1)	23.00	July 1, 2006
500–899	(869–060–00106–9)	61.00	July 1, 2006
900–1899	(869–060–00107–7)	36.00	[7]July 1, 2006
1900–1910 (§§ 1900 to 1910.999)	(869–060–00108–5)	61.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
1911–1925	(869–060–00110–7)	30.00	July 1, 2006
1926	(869–060–00111–5)	50.00	July 1, 2006
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
0–199	(869–060–00116–6)	41.00	July 1, 2006
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–060–00119–1)	61.00	July 1, 2006
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–060–00122–1)	37.00	July 1, 2006
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–060–00124–7)	47.00	July 1, 2006
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–056–00126–6)	61.00	July 1, 2005
*200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
400–End & 35	(869–060–00130–1)	61.00	July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
200–299	(869–060–00132–8)	37.00	July 1, 2006
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–060–00135–2)	60.00	July 1, 2006
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
*1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–056–00141–0)	61.00	July 1, 2005
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–060–00143–3)	58.00	July 1, 2006
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
*63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–056–00148–7)	50.00	July 1, 2005
63 (63.1440–63.6175)	(869–056–00149–5)	32.00	July 1, 2005
*63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–056–00151–7)	35.00	[7]July 1, 2005
64–71	(869–060–00152–2)	29.00	July 1, 2006
*72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
86 (86.1–86.599–99)	(869–060–00155–7)	58.00	July 1, 2006
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
*87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–056–00159–2)	61.00	July 1, 2005
150–189	(869–056–00160–6)	50.00	July 1, 2005
190–259	(869–060–00161–1)	39.00	July 1, 2006
260–265	(869–060–00162–0)	50.00	July 1, 2006
*266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–056–00165–7)	56.00	[8]July 1, 2005
*425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–060–00167–1)	61.00	July 1, 2006
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–060–00170–1)	21.00	[11] July 1, 2006
102–200	(869–056–00171–1)	56.00	July 1, 2005
*201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–056–00173–8)	61.00	Oct. 1, 2005
400–429	(869–056–00174–6)	63.00	Oct. 1, 2005
430–End	(869–056–00175–4)	64.00	Oct. 1, 2005
43 Parts:			
1–999	(869–056–00176–2)	56.00	Oct. 1, 2005
1000–end	(869–056–00177–1)	62.00	Oct. 1, 2005
44	(869–056–00178–9)	50.00	Oct. 1, 2005
45 Parts:			
1–199	(869–056–00179–7)	60.00	Oct. 1, 2005
200–499	(869–056–00180–1)	34.00	Oct. 1, 2005
500–1199	(869–056–00171–9)	56.00	Oct. 1, 2005
1200–End	(869–056–00182–7)	61.00	Oct. 1, 2005
46 Parts:			
1–40	(869–056–00183–5)	46.00	Oct. 1, 2005
41–69	(869–056–00184–3)	39.00	[9]Oct. 1, 2005
70–89	(869–056–00185–1)	14.00	[9]Oct. 1, 2005
90–139	(869–056–00186–0)	44.00	Oct. 1, 2005
140–155	(869–056–00187–8)	25.00	Oct. 1, 2005
156–165	(869–056–00188–6)	34.00	[9]Oct. 1, 2005
166–199	(869–056–00189–4)	46.00	Oct. 1, 2005
200–499	(869–056–00190–8)	40.00	Oct. 1, 2005
500–End	(869–056–00191–6)	25.00	Oct. 1, 2005
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
20–39	(869–056–00193–2)	46.00	Oct. 1, 2005
40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–056–00199–1)	50.00	Oct. 1, 2005
3–6	(869–056–00200–9)	34.00	Oct. 1, 2005
7–14	(869–056–00201–7)	56.00	Oct. 1, 2005
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29–End	(869–056–00203–3)	47.00	Oct. 1, 2005
49 Parts:			
1–99	(869–056–00204–1)	60.00	Oct. 1, 2005
100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
200–299	(869–056–00207–6)	32.00	Oct. 1, 2005
300–399	(869–056–00208–4)	32.00	Oct. 1, 2005
400–599	(869–056–00209–2)	64.00	Oct. 1, 2005
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–056–00211–4)	28.00	Oct. 1, 2005
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–056–00213–1)	11.00	Oct. 1, 2005
17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–056–00215–7)	61.00	Oct. 1, 2005
17.99(i)–end and 17.100–end	(869–056–00217–3)	47.00	Oct. 1, 2005
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

[10] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

[11] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.