AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

9–19–07 Wednesday
Vol. 72 No. 181 Sept. 19, 2007

Pages 53411–53672

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 553

RIN 3206–AI32

Reemployment of Civilian Retirees To Meet Exceptional Employment Needs

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to amend the criteria under which OPM may grant dual compensation (salary offset) waivers on a case-by-case basis, or delegate waiver authority to agencies. The intended effect of these regulations is to more closely mirror the statutory authority and ensure that the Director and her designee(s) possess the full degree of discretion afforded by the statute in making particular decisions.

DATES: This rule is effective October 19, 2007.

FOR FURTHER INFORMATION CONTACT: Janice Warren, by telephone (202) 606–2367; by fax: (202) 606–2329; by TTY: (202) 418–3134; or e-mail: *janice.warren@opm.gov.*

SUPPLEMENTARY INFORMATION: On July 21, 2006, OPM issued proposed regulations at 71 FR 41376 to allow OPM to grant or delegate to agencies the authority to grant dual compensation waivers in situations resulting from emergencies posing an immediate and direct threat to life or property or situations resulting from unusual circumstances that do not involve an emergency. The proposed rule also made changes to the section headings and removed any information concerning military employees (i.e., retired members of the uniformed services).

Comments

OPM received written comments from three Federal agencies, and four individuals that are pertinent to the proposed changes. A discussion of the comments is provided below.

Two agencies suggested OPM add criteria to §§ 553.201(f) and 202 to address situations where agencies need to reemploy individuals for succession planning or knowledge transfer purposes. One individual suggested OPM amend §§ 553.201(f) and 202(b) to establish that an agency's need for sustaining critical competencies in accordance with agency human capital plans constitutes an unusual circumstance. OPM is not adopting the suggestion to amend §§ 553.201(f) and 202(b). OPM seeks to maintain maximum flexibility and discretion in its use of this authority. Agency needs to address gaps in critical competencies or skills, and/or addressing knowledge transfer needs, in and of themselves, will not normally be found to constitute ''other unusual circumstances'' for purposes of these provisions.

We do recognize that examples of what an agency may request under these sections may be helpful. Other unusual circumstances may include, but are not limited to, an agency's need to conform to a Congressional or other mandate to meet a new or expanded mission requirement by a particular date or the need to appoint on a temporary basis an annuitant who possesses a security clearance, authorization, or other similar credential required to perform new or expanded mission-critical work which no other employee could obtain within a reasonable time. We intend to issue supplemental guidance to help an agency determine whether it can demonstrate that these criteria have been met.

One of these agencies suggested OPM limit waivers granted on a case-by-case basis or through a delegation of authority to six months when the approval was used to address knowledge transfer. We did not adopt the suggestion to limit waivers to address knowledge transfer to six months because OPM prefers to maintain maximum flexibility and discretion in response to agency knowledge management needs. OPM encourages agencies to follow succession or workforce planning practices, including knowledge management, as part of sound human capital management.

One agency asked OPM to clarify the use of the term ''temporary basis'' as used in § 553.201(c) and (f). The agency commented this term implies that individuals who receive waivers under part 553 may only receive a temporary appointment in conjunction with the waiver. The term ''temporary basis'' derives from 5 U.S.C. 8344(i)(1)(B) and 8468(f)(1)(B) and reflects the time-limited or non-permanent nature of emergencies or other unusual circumstances for which waivers under this part may be granted. Though agencies typically give temporary appointments to individuals for whom OPM has granted a waiver, agencies may use any appropriate appointing authority, per § 553.201(b)(1), when reemploying individuals.

Two individuals were opposed to the changes OPM proposed to part 553. One individual commented the proposed rule would encourage agencies to reemploy annuitants rather than recruit and train new employees to close skills gaps. The other individual commented the proposed rule to broaden authority to re-employ annuitants would increase skills gap deficiencies because agencies will rely disproportionately on this authority in lieu of hiring, training, and developing newer employees. OPM disagrees, noting these provisions are limited to situations involving exceptional recruiting difficulties and emergencies or other unusual circumstances. In addition, salary offset waivers granted under these provisions are not intended to be a substitute for succession planning. Further, use of this authority may be appropriate for knowledge management purposes, which supports the training and development of newer employees.

One individual suggested OPM amend §§ 553.201(f) and 202(b) by including information pertaining to retention incentives, as an alternative for people who might otherwise retire and seek reemployment under this part. OPM did not adopt this suggestion because consideration or use of retention incentives is not a prerequisite to seeking salary offset waivers or delegations of authority under this part. For this reason, we do not believe including information on such incentives in §§ 553.201 and 202 is appropriate. Agencies that choose to

offer retention incentives prior to consideration of salary-offset waivers can find the applicable provisions in 5 CFR part 575, subpart C.

One individual suggested OPM impose a 5-year waiting period from when an individual retires before an agency may reemploy the individual with a salary offset waiver. OPM did not adopt this suggestion because salary offset waivers are intended to address emergency situations, exceptional recruitment difficulties, or other unusual circumstances. A waiting period would inappropriately delay an agency's ability to respond to the particular circumstance for which a waiver or delegation of authority is being sought.

One individual suggested that salary offset waivers will allow annuitants to be reemployed as contractors, on the basis of their friendships with officials in the employing agency, under the pretense that no qualified employee is available to perform the work. The provisions in part 553 do not apply to contractors, who are not considered reemployed annuitants for these purposes.

OPM also received comments from four Federal agencies, two private organizations, and one individual, which went beyond the scope of the proposed amendments to the regulation. Because these comments were not pertinent to the proposed amendments, OPM is not responding to them. The comments are listed below.

Two agencies commented on the issue of delegating salary offset waiver authority to Federal agencies. One of these agencies suggested OPM delegate waiver authority to agency heads for all waivers expected to last less than one year.

The other agency suggested OPM provide for re-delegation of OPM-approved waiver authority, from the agency head to components within the agency.

This same agency suggested we add language to § 553.203 which states that reemployed annuitants under this part are subject to Social Security tax.

This same agency also suggested OPM establish guidelines for agencies to follow when submitting salary offset waiver requests.

One agency suggested the final rules allow agencies to waive the salary offset to fill positions on either a full-time, part-time or as-needed work schedule limited to 180 days or less.

This same agency suggested the final regulations allow agencies with specific non-annual, but recurring or cyclical work to rehire annuitants with a salary off-set waiver to assist in completing these on-going projects.

One agency asked OPM to describe whether use of this authority will result in any costs to the employing agency (*i.e.*, the agency to which OPM has granted a waiver on a case-by-case basis or delegated authority).

One private organization asked whether the proposed rule would have any impact on firefighters hired under the administratively determined pay plan authority initially granted to the Forest Service in 1951.

One individual suggested all Federal retirees receive full salary compensation without an offset upon reemployment in the same manner as military retirees.

The same individual suggested reemployed annuitants should be allowed to contribute to the Thrift Savings Plan (TSP), without agencies being required to provide matching contributions.

An individual suggested OPM provide delegation of waiver authority to members of the Senior Executive Service (SES) or general military flag officers, in addition to heads of agencies.

One individual asked whether OPM would provide a website listing positions, which may be filled by reemployed annuitants with salary, offset waivers. Before filling positions with reemployed annuitants under part 553, agencies must follow the appropriate public notice requirements applicable to the position being filled.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain potential applicants and Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 553

Administrative practice and procedure, Government employees, Military personnel, Retirement, and Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM is amending 5 CFR part 553 as follows:

PART 553—REEMPLOYMENT OF CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

■ 1. The authority citation for part 553 continues to read as follows:

Authority: 5 U.S.C. 8344, 8468, Sec. 651, Pub. L. 106–65 (113 Stat. 664).

■ 2. The heading for part 553 is revised as set forth above.

Subpart B—Special Provisions for Reemployment Without Penalty To Meet Exceptional Recruiting or Retention Needs

■ 3. Section 553.201 is amended by revising the section heading, paragraphs (a) and (b)(2), and the introductory text to paragraph (c); removing paragraph (b)(4); redesignating paragraph (f) as paragraph (g); and adding a new paragraph (f) to read as follows:

§ 553.201 Requesting OPM approval for reemployment without reduction or termination of annuity in individual cases.

(a) *Request by agency head.* The head of an agency may request OPM to approve individual exceptions on a case-by-case basis to meet temporary hiring needs based on an emergency or other unusual circumstances or when the agency has encountered exceptional difficulty in recruiting or retaining a qualified candidate for a particular position. Authority to submit such a request may not be redelegated to an official below the agency's headquarters level.

(b) * * *

(2) The request must be submitted in accordance with the criteria set out in paragraphs (c), (d), (e), or (f) of this section.

* * * * *

(c) *Requests based on an emergency hiring need.* An agency may request reemployment without penalty for an individual whose services are needed on a temporary basis to respond to an emergency involving a direct threat to life or property. Requests submitted on that basis must meet the following criteria:

* * * * *

(f) *Requests based on other unusual circumstances.* An agency may request reemployment without penalty for an individual whose services are needed on a temporary basis due to other unusual circumstances. Agencies must provide justification describing the unusual circumstances.

* * * * *

■ 4. Section 553.202 is amended by revising the section heading and paragraph (b)(1) to read as follows:

§ 553.202 Request for delegation of authority to approve reemployment without reduction or termination of annuity in emergencies or other unusual circumstances.

* * * * *

(b) * * *

(1) Description of the situations for which authority is requested. The situation must result from emergencies posing immediate and direct threat to life or property or from other unusual circumstances.

* * * * *

■ 5. Section 553.203 is revised to read as follows:

§ 553.203 Status of individuals serving without reduction.

Annuitants reemployed with full salary and annuity under an exception granted in accordance with this part are not considered employees for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code. They may not elect to have retirement contributions withheld from their pay; they may not use any employment for which an exception is granted as a basis for a supplemental or recomputed annuity; and they may not participate in the Thrift Savings Plan.

[FR Doc. E7–18377 Filed 9–18–07; 8:45 am]

BILLING CODE 6325–39–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1605, 1631, 1651, 1655 and 1690

Employee Contribution Election and Contribution Allocations; Correction of Administrative Errors; Availability of Records; Death Benefits; Loan Program; Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) is amending the Thrift Savings Plan (TSP) regulations to provide additional means to verify that an amount is eligible for rollover to the TSP as authorized by the Treasury Regulations interpreting I.R.C. 401(a)(31), to provide that the procedures applicable to an employee who was misclassified as either CSRS or FERS and the retirement system is corrected to FICA also apply to an employee who elects retroactive non-appropriated fund retirement coverage, and to provide that it will authenticate records in a manner consistent with Federal law and regulations. The Agency is also amending the TSP regulations to provide that it will allow a non-spouse beneficiary to transfer a death benefit payment to an inherited IRA as authorized by the Pension Protection Act of 2006, to provide that a bankruptcy court now lacks jurisdiction over a TSP loan as provided in the Bankruptcy Abuse and Consumer Protection Act of 2005, and to eliminate examples of general and special powers of attorney (some of which are no longer acceptable to the Agency) and, instead, direct participants to a sample form at the TSP Web site.

DATES: Effective September 19, 2007.

FOR FURTHER INFORMATION CONTACT: Megan Graziano on (202) 942–1644.

SUPPLEMENTARY INFORMATION: The Agency administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

On August 10, 2007, the Agency published proposed rules with request for comments in the **Federal Register** (72 FR 44982). The Agency received one comment which stated that the Agency should accept any power of attorney that is properly executed and verifiable and that the Agency should not encourage the use of general powers of attorney. The Agency agrees and believes that this is consistent with the intent of the proposed rule. The remainder of this comment dealt with matters outside the scope of the proposed rule change. Therefore, the Executive Director is publishing the proposed rules as final without change.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on State, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

Submission to Congress and the Government Accountability Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 814(2).

List of Subjects

5 CFR Parts 1600, 1690

Government employees, Pensions, Retirement.

5 CFR Parts 1605, 1651

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1631

Courts, Freedom of information, Government employees.

5 CFR Part 1655

Credit, Government employees, Pensions, Retirement.

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment Board.

■ For the reasons set forth in the preamble, the Agency is amending 5 CFR chapter VI as follows:

PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS AND CONTRIBUTION

■ 1. The authority citation for part 1600 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b)(1)(A), 8432(j), 8474(b)(5) and (c)(1).

■ 2. Amend § 1600.32 by removing the second sentence of paragraph (a) and adding two sentences in its place, and revising paragraph (b)(2) to read as follows:

§ 1600.32 Methods for transferring eligible rollover distribution to TSP.

* * * * *

(a) * * * The administrator or trustee must either complete the appropriate section of the form and forward the completed form and the distribution to the TSP record keeper or the Agency must receive sufficient evidence from

which to reasonably conclude that a contribution is a valid rollover contribution. By way of example, sufficient evidence to conclude a contribution is a valid rollover contribution includes a copy of the plan's determination letter, a letter or other statement from the plan indicating that it is an eligible retirement plan, a check indicating that the contribution is a direct rollover or a tax notice from the plan to the participant indicating that the participant could receive a rollover from the plan.

(b) * * *

(2) The administrator or trustee must either complete the appropriate section of the form and forward the completed form and the distribution to the TSP record keeper or the Agency must receive sufficient evidence from which to reasonably conclude that a contribution is a valid rollover contribution. By way of example, sufficient evidence to conclude a contribution is a valid rollover contribution includes a copy of the plan's determination letter, a letter or other statement from the plan indicating that it is an eligible retirement plan, a check indicating that the contribution is a direct rollover or a tax notice from the plan to the participant indicating that the participant could receive a rollover from the plan.

* * * * *

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

■ 3. The authority citation for part 1605 is revised to read as follows:

Authority: 5 U.S.C. 8351, 8432a, and 8474(b)(5)(5) and (c)(1). Subpart B also issued under section 1043(b) of Public Law 104–106, 110 Stat. 186 and sec. 7202(m)(2) of Public Law 101–508, 104 Stat. 1388.

■ 4. Section 1605.14 is amended by revising the third sentence of paragraph (a)(1), revising paragraph (c)(2) and adding paragraph (e) to read as follows:

§ 1605.14 Misclassified retirement system coverage.

(a) * * *

(1) * * * If the participant requests a refund of employee contributions, the employing agency must submit a negative adjustment record to remove these funds under the procedure described in § 1605.12.

* * * * *

(c) * * *

(2) Employer contributions in the account are subject to the rules in paragraph (a)(2) of this section.

* * * * *

(e) The provisions of paragraph (c) of this section shall apply to any TSP contributions relating to a period for which an employee elects retroactive Nonappropriated Fund retirement coverage.

PART 1631—AVAILABILITY OF RECORDS

■ 5. The authority citation for part 1631 continues to read as follows:

Authority: 5 U.S.C. 552.

■ 6. Add § 1631.34 to read as follows:

§ 1631.34 Certification and authentication of records.

(a) Upon request, the records custodian or other qualified individual shall authenticate copies of books, records, papers, writings, and documents by attaching a written declaration that complies with current Federal Rules of Evidence. No seal or notarization shall be required. Copies of any books, records, papers, or other documents in the Federal Retirement Thrift Investment Board shall be admitted in evidence equally with the originals thereof when authenticated in this manner.

(b) Fees for copying and certification are set forth in 5 CFR 1630.16.

PART 1651—DEATH BENEFITS

■ 7. The authority citation for part 1651 continues to read as follows:

Authority: 5 U.S.C. 8424] (d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474 (c)(1).

■ 8. In § 1651.14, redesignate paragraphs (g) and (h) as paragraphs (h) and (i), and add new paragraph (g) to read as follows:

§ 1651.14 How payment is made.

* * * * *

(g) *Payment to inherited IRA on behalf of a non-spouse beneficiary.* If payment is to an inherited IRA on behalf of a non-spouse beneficiary, the check will be made payable to the account. Information pertaining to the inherited IRA must be submitted by the IRA trustee.

* * * * *

PART 1655—LOAN PROGRAM

■ 9. The authority citation for part 1655 continues to read as follows:

Authority: 5 U.S.C. 8433(g), 8439(a)(3) and 8474.

§ 1655.14 [Amended]

■ 10. In § 1655.14, the third sentence of paragraph (a) is removed.

§ 1655.15 [Amended]

■ 11. In § 1655.15 ''or'' is added to the end of paragraph (a)(5), a period replaces the semicolon at the end of paragraph (a)(6), ''or'' is removed from the end of paragraph (a)(6), and paragraph (a)(7) is removed.

PART 1690—THRIFT SAVINGS PLANS

■ 12. The authority citation for part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

■ 13. Amend § 1690.12 by revising the second sentence in paragraph (b) and the third sentence in paragraph (c) to read as follows:

§ 1690.12 Power of attorney.

* * * * *

(b) * * * Additional information regarding general powers of attorney can be accessed at *http://www.tsp.gov.*

(c) * * * Additional information regarding special powers of attorney, as well as a sample form, can be accessed at *http://www.tsp.gov.*

[FR Doc. E7–18463 Filed 9–18–07; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 12

[CBP Dec. 07–77; USCBP–2007–0075]

RIN 1505–AB86

Extension of Import Restrictions Imposed on Archaeological Material from Mali

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

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect both continuing and new import restrictions on certain archaeological material from Mali. Import restrictions that were previously imposed by Treasury Decision (T.D.) 97–80 and extended by T.D. 02–55, that are due to expire on September 19, 2007, are extended. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determination for the extension of import restrictions that previously existed and for amending the agreement so that it applies also to material from archaeological sites

throughout Mali, including those of the Paleolithic Era (Stone Age), necessitating additional subcategories of stone objects in the Designated List. Accordingly, these import restrictions will remain in effect until September 19, 2012, and title 19 of the CBP regulations is being amended to reflect this amended bilateral agreement. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the 1970 Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This document also contains the amended Designated List of Archaeological Material that describes the articles to which the restrictions apply, including the additional subcategories of stone objects.

EFFECTIVE DATE: September 19, 2007.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Intellectual Property Rights and Restricted Merchandise Branch, (202) 572–8710. For operational aspects, Michael Craig, Chief, Other Government Agencies Branch, (202) 863–6558.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with Mali on September 19, 1997, concerning the imposition of import restrictions on certain archaeological material in Mali from the region of the Niger River Valley and the Bandiagara Escarpment (Cliff). On September 23, 1997, the former United States Customs Service published T.D. 97–80 in the **Federal Register** (62 FR 49594), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological material covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are ''effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists'' (19 CFR 12.104g(a)).

On September 20, 2002, the former United States Customs Service published T.D. 02–55 in the **Federal Register** (67 FR 59159), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until September 19, 2007.

Amended Bilateral Agreement

Consistent with a request from the Government of the Republic of Mali and with the findings and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, made the requisite Determinations on July 3, 2007, that the cultural heritage of Mali continues to be in jeopardy from pillage that is occurring at archaeological sites throughout the country, and that, therefore, the import restrictions on archaeological material from sites in the region of the Niger River Valley and the Bandiagara Escarpment (Cliff), Mali, which were previously imposed by Treasury Decision (T.D.) 97–80 and extended by T.D. 02–55, are extended for an additional five year period until September 19, 2012, and include subcategories of stone objects from archaeological sites throughout Mali including those dating to the Paleolithic Era (Stone Age). Newly threatened archaeological sites include, but are not limited to those located in and near: The Tilemsi Valley; the Boucle du Baoule; the Bura Band; Tondidarou; Teghaza; Gao; Menaka; Karkarichinkat; Iforas Massif (Adrar des Iforas); Es-Souk; and Kidal. These sites represent a continuum of civilizations from the Paleolithic Era (Stone Age) to the colonial occupation of the 18th century, and lend an archaeological significance to the region. Accordingly, the title of the bilateral agreement was amended to read: ''Agreement between the Government of the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century.''

By exchange of diplomatic notes the Agreement will be extended and amended. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions on the currently protected cultural property as well as the new subcategories, and sites in the amended bilateral agreement.

Amended Designated List

The Designated List of articles that are protected pursuant to the bilateral agreement, as amended, on Archaeological Material from Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century has been revised and is published below. We note that subcategories of objects from archaeological sites of the Paleolithic Era (Stone Age) have been added, pursuant to 19 U.S.C. 2606.

It is noted that the material identified in T.D. 97–80 as ''Archaeological Material from the Region of the Niger River Valley, Mali and the Bandiagara Escarpment (Cliff), Mali'' is now referred to in the Determination to Extend as ''Archaeological Material From Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century.''

List of Archaeological Material From Mali From the Paleolithic Era (Stone Age) To Approximately the Mid-Eighteenth Century

I. Ceramics/Terra Cotta/Fired Clay

Types of ceramic forms (stylistically known as Djenne-jeno or Jenne, Bankoni, Guimbala, Banamba, Bougouni, Bura and other stylistic labels) that are known to come from the region include, but are not limited to:

A. Figures/Statues.

1. Anthropomorphic figures, often incised, impressed and with added motifs, such as scarification marks and serpentine patterns on their bodies, often depicting horsemen or individuals sitting, squatting, kneeling, embracing, or in a position of repose, arms elongated the length of the body or crossed over the chest, with the head tipped backwards. (H: 6–50 cm.)

2. Zoomorphic figures, often depicting a snake motif on statuettes or on the belly of globular vases. Sometimes the serpent is coiled in an independent form. A horse motif is common, but is usually mounted. Includes quadrupeds. (H: 6–40 cm.)

B. Common Vessels.

1. Funerary jars, ocher in color, often stamped with chevrons. (H: 50 to 80 cm.)

2. Globular vases often stamped with chevrons and serpentine forms. (H: under 10 cm.)

3. Bottles with a long neck and a belly that is either globular or streamlined. Some have lids shaped like a bird's head.

4. Ritual pottery of the Tellem culture, decorated with a characteristic plaited roulette.

a. Pot made on a convex mold built up by coiling.

b. Hemispherical pot made on three or four legs or feet resting on a stand. (H: 18 cm.)

5. Kitchen pottery of the Tellem culture with the paddle-and-anvil technique decorated with impressions from woven mats. (H: 20 cm.)

II. Leather

Objects of leather found in Tellem funerary caves of the Bandiagara Escarpment include, but are not limited to:

A. Clothing.

1. Sandals often decorated and furnished with a leather ankle protection.

2. Boots profusely painted with geometric designs.

3. Plaited bracelets.

4. Knife-sheaths.

5. Loinskin.

6. Bag.

III. Metal

Objects of metal from Mali include, but are not limited to:

A. Copper and Copper Alloy (Such as Bronze).

1. Figures/Statues.

a. Anthropomorphic figures, including equestrian figures and kneeling figures. (Some are miniatures no taller than 2 inches; others range from 6 to 30 inches.)

b. Zoomorphic figures, such as the bull and the snake.

2. Bells (4–5 in.) and finger bells (2–3 in.).

3. Pendants, known to depict a bull's head or a snake. (H: 2–4 in.)

4. Bracelets, known to depict a snake (5–6 in.).

5. Bracelets, known to be shaped as a head and antelope (3–4 in.).

6. Finger rings.

B. Iron.

1. Figures/Statues.

a. Anthropomorphic figures. (H: 5–30 in.)

b. Zoomorphic figures, sometimes representing a serpent. (H: 5–30 in.)

2. Headrests of the Tellem culture.

3. Ring-bells or fingerbells of the Tellem culture.

4. Bracelets and armlets of the Tellem culture.

5. Hairpins, twisted and voluted, of the Tellem culture.

IV. Stone

Objects of stone from Mali include, but are not limited to:

A. Carnelian beads (faceted).

B. Quartz lip plugs.

C. Funerary stelae (headstones) inscribed in Arabic.

D. Chipped lithics from the Paleolithic and later eras including axes, knives, scrapers, arrowheads, and cores.

E. Ground Stone from the Neolithic and later eras including axes, adzes, pestles, grinders, bracelets.

V. Glass Beads

A variety of glass beads have been recovered at archaeological sites in Mali.

VI. Textiles

Textile objects, or fragments thereof, have been recovered in the Tellem funerary caves of the Bandiagara Escarpment and include, but are not limited to:

A. Cotton.

1. Tunics.

2. Coifs.

3. Blankets.

B. Vegetable Fiber.

Skirts, aprons and belts—made of twisted and intricately plaited vegetable fiber.

C. Wool.

Blankets.

VII. Wood

Objects of wood may be found archaeologically (in funerary caves of the Tellem or Dogon peoples in the Bandiagara Escarpment, for example). Following are representative examples of wood objects usually found archaeologically:

A. Figures/Statues.

1. Anthropomorphic figures—usually with abstract body and arms raised standing on a platform, sometimes kneeling. (H: 10–24 in.)

2. Zoomorphic figures—depicting horses and other animals. (H: 10–24 in.)

B. Headrests.

C. Household Utensils.

1. Bowls.

2. Spoons—carved and decorated.

D. Agricultural/Hunting Implements.

1. Hoes and axes—with either a socketed or tanged shafting without iron blades.

2. Bows—with a notch and a hole at one end and a hole at the other with twisted, untanned leather straps for the ''string''.

3. Arrows, quivers.

4. Knife sheaths.

E. Musical Instruments.

1. Flutes with end blown, bi-toned.

2. Harps.

3. Drums.

More information on import restrictions can be obtained from the International Cultural Property Protection Web site (*http://exchanges.state.gov/culprop*). The restrictions on the importation of these archaeological materials from Mali are to continue in effect for an additional 5 years. Importation of such materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

■ For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

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

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2A. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Mali by removing the reference to ''T.D. 97–80 extended by T.D. 02–55'' and adding in its place ''CBP Dec. 07–77'' in the column headed ''Decision No.''.

■ B. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Mali by removing the reference to ''Archaeological material from the Niger River Valley Region, Mali, and the Bandiagara Escarpment (Cliff) forming part of the remains of the sub-Sahara culture.'' and adding in its place ''Archaeological Material from Mali from the Paleolithic Era (Stone Age) to approximately the Mid-Eighteenth Century'' in the column headed ''Cultural property''.

W. Ralph Basham,

Commissioner, U.S. Customs and Border Protection.

Approved: September 14, 2007.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 07–4659 Filed 9–19–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 750

[USN–2006–0038]

RIN 0703–AA78

General Claims Regulations

AGENCY: Department of the Navy, DoD.

ACTION: Interim Final Rule.

SUMMARY: This rule reflects administrative changes to the regulations concerning the administrative processing and consideration of claims on behalf of and against the United States. The revisions will ensure the proper administrative processing and consideration of claims on behalf of and against the United States. This rule is being published by the Department of the Navy for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1).

DATES: This rule is effective September 19, 2007. Comments must be received by November 19, 2007.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) 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 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. Dan Fields, Head, Tort Claims Branch, Claims and Tort Litigation Division (Code 15), Office of the Judge Advocate General, 1322 Patterson Avenue, SE., Washington Navy Yard, DC 20374, telephone 202–685–4600.

SUPPLEMENTARY INFORMATION: Executive Order 12866, ''Regulatory Planning and Review.'' It has been determined that the changes to 32 CFR part 750 are not considered 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 sector in 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 the 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 32 CFR part 750 does not contain Federal Mandates that result in expenditures 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 determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule implements the processing of the proper administrative processing and consideration of claims on behalf of and against the United States, and does not economically impact the Federal government's relations with the private sector.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35). This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

Executive Order 13132, ''Federalism''. It has been certified that 32 CFR part 750 does not have federalism implications as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 750 Claims

■ Accordingly, 32 CFR part 750 is amended to read as follows:

PART 750—GENERAL CLAIMS REGULATIONS

■ 1. The authority citation for part 750 is revised to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552, 10 U.S.C. 5013, and 5148.

Subpart A—General Provisions for Claims

■ 2. Section 750.1 is amended by revising paragraph (a)(1), the first two sentences of paragraph (a)(2), and paragraph (a)(3), and by adding footnote 1 to read as follows:

§ 750.1 Scope of subpart A.

(a) *General.* (1) The Judge Advocate General is responsible for the administration and supervision of the resolution of claims arising under the Federal Tort Claims Act (subpart B of this part), the Military Claims Act (subpart C of this chapter), the Nonscope Claims Act (subpart D of this part), the Personnel Claims Act (part 751 of this chapter), the Foreign Claims Act, the International Agreements Claims Act pertaining to cost sharing of claims pursuant to international agreements, the Federal Claims Collection Act (subpart A of part 757 of this chapter), the Medical Care Recovery Act and Health Care Services Incurred on Behalf of Covered Beneficiaries: Collection from Third-party Payers (subpart B of part 757 of this chapter), and postal claims.

(2) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation) (Code 15) is the manager of the Navy claims system established to evaluate, adjudicate, and provide litigation support for claims arising under the acts listed above and is responsible to the Judge Advocate General for the management of that

system. The claims system consists of the Claims and Tort Litigation Division of the Office of the Judge Advocate General (Code 15), and the attorneys and support personnel assigned to the Tort Claims Unit at Naval Station, Norfolk, Virginia. * * *

(3) Commanding officers of commands receiving claims are responsible for complying with the guidance on investigations in Sec. 750.2 and Sec. 750.3, the guidance on handling and forwarding claims found in Sec. 750.5, and the guidance provided in the JAG Instruction 5800.7E (JAGMAN) [1] of 20 June 2007.

* * * * *

■ 3. Section 750.2 is amended by revising paragraphs (c) and (f) to read as follows:

§ 750.2 Investigations: In general.

* * * * *

(c) *Recovery barred.* Even when recovery must be barred by statute or case law, all deaths, serious injuries, and substantial losses to property that are likely to give rise to claims must be investigated while the evidence is available. Claims against persons in the naval service arising from the performance of their official duties shall be investigated as though they were claims against the United States. When an incident involves an actual or potential claim against the United States for property damage only and the total amount likely to be paid does not exceed $5,000.00, an abbreviated investigative report may be submitted. Where this monetary figure may be exceeded, but the circumstances indicate an abbreviated report may be adequate to preserve the facts and protect the Government's claims interests, approval to submit a limited investigative report may be sought from the Office of the Judge Advocate General (Claims and Tort Litigation Division) (Code 15), the Tort Claims Unit Norfolk, or the nearest Naval Legal Service Command activity.

* * * * *

(f) *Advance copy.* An advance copy of an investigation conducted because a claim has been, or is likely to be, submitted shall be forwarded to the Tort Claims Unit Norfolk.

■ 4. Section 750.3 is amended by revising paragraphs (b)(6), (d) introductory text, (j)(1), and (j)(3) to read as follows:

§ 750.3 Investigations: The report.

* * * * *

(b) * * *

(6) To furnish claim forms to any person expressing an interest in filing a claim and to refer such personnel to the Office of the Judge Advocate General, Tort Claims Unit Norfolk, 9620 Maryland Avenue, Suite 100, Norfolk, Virginia 23511–2989.

* * * * *

(d) *Immediate report of certain events.* The Navy or Marine Corps activity most directly involved in the incident shall notify the Judge Advocate General immediately by message, electronic mail, or telephone in any of the following circumstances:

* * * * *

(j) * * *

(1) The command initiating the investigation in accordance with § 750.3 or § 750.5 shall review the report of investigation. If additional investigation is required or omissions or other deficiencies are noted, the investigation should be promptly returned with an endorsement indicating that a supplemental investigative report will be submitted. If the original or supplemental report is in order, it shall be forwarded by endorsement, with any pertinent comments and recommendations. An advance copy of the investigation shall be forwarded to the Tort Claims Unit Norfolk.

* * * * *

(3) It is essential that each investigative report reflect that a good faith effort was made to comply with the Privacy Act of 1974 (5 U.S.C. 552a) as implemented by 32 CFR 701, subpart F. Any indication of noncompliance shall be explained either in the preliminary statement of the forwarding endorsements and, when required, corrected.

■ 5. Section 750.4 is amended by revising paragraph (c) to read as follows:

§ 750.4 Claims: In general.

* * * * *

(c) *Assistance to claimants.* Claimants or potential claimants who inquire about their rights or the procedures to be followed in the resolution of their claims should be referred to the Tort Claims Unit Norfolk. The Tort Claims Unit Norfolk will provide claims forms, advise where the forms should be filed, and inform the requester of the type of substantiating information required. Claims officers may provide advice on the claims process but shall not provide advice or opinions about the merits or the wisdom of filing a particular claim. While claims officers have a responsibility to provide general information about claims, they must consider 18 U.S.C. 205, which makes it a crime for an officer or employee of the United States to act as an agent or an attorney in the prosecution of any claim against the United States.

■ 6. Section 750.5 is amended by revising paragraph (c) to read as follows:

§ 750.5 Claims: Proper claimants.

* * * * *

(c) *Subrogation.* A subrogor and a subrogee may file claims jointly or separately. When separate claims are filed and each claim individually is within the Tort Claims Unit Norfolk's adjudicating authority limits, they may be processed by the Tort Claims Unit, even if the aggregate of such claims exceeds the Tort Claims Unit's monetary authority. However, if the aggregate of the claims exceeds the sum for which approval of the Department of Justice (DoJ) is required, currently $200,000.00 under the Federal Tort Claims Act, then the Tort Claims Unit Norfolk must obtain DoJ approval via the Office of the Judge Advocate General, Claims and Tort Litigation Division, before the claims may be settled.

* * * * *

■ 7. Section 750.6 is revised to read as follows:

§ 750.6 Claims: Presentment.

(a) *Written demand and Standard Form 95.* A claim shall be submitted by presenting a written statement with the amount of the claim expressed in a sum certain, and, as far as possible, describing the detailed facts and circumstances surrounding the incident from which the claim arose. The Claim for Damage or Injury, Standard Form 95, shall be used whenever practical for claims under the Federal Tort and Military Claims Acts. Claims under the Personnel Claims Act shall be submitted on DD Form 1842.[2] The claim and all other papers requiring the signature of the claimant shall be signed by the claimant personally or by a duly authorized agent. If signed by an agent or legal representative, the claim shall indicate the title or capacity of the person signing and be accompanied by evidence of appointment. When more than one person has a claim arising from the same incident, each person shall file a claim separately.

(b) *To whom submitted.* Claims under the Federal Tort and Military Claims Acts should be submitted to the Tort Claims Unit Norfolk at the address

[1] JAG Instruction 5800.7E (JAGMAN) may be retrieved at the official Web site of the United States Navy Judge Advocate General's Corps at *http://www.jag.navy.mil.*

[2] The Claim for Damage or Injury, Standard Form 95 and the DD Form 1842 are available at the Web site of the United States Navy Judge Advocate General's Corps at *http://www.jag.navy.mil.*

provided in Sec. 750.3 above, or the Office of the Judge Advocate General, Claims and Tort Litigation Division, 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard, Washington, DC 20374–5066. Claims may also be submitted to the commanding officer of the Navy or Marine Corps activity involved if known, the commanding officer of any Navy or Marine activity, preferably the one nearest to where the accident occurred, or the local Naval Legal Service Command activity. The claim should be immediately forwarded to the Tort Claims Unit Norfolk.

■ 8. Section 750.7 is amended by correcting the word ''recipt'' to read ''receipt'' in paragraph (a), and revising paragraphs (b) and (c) to read as follows:

§ 750.7 Claims: Action by receiving command.

* * * * *

(b) *Determine the military activity involved.* The receiving command shall determine the Navy or Marine Corps activity most directly involved with the claim—usually the command where the incident is alleged to have occurred—and forward a copy of the claim to that activity. The original claim (and the transmittal letter, if a copy is forwarded to a more appropriate activity) should immediately be sent to the Tort Claims Unit Norfolk.

(c) *Initiate an investigation.* A JAGMAN Litigation Report Investigation shall be commenced immediately by the command most directly involved with the claim. Once the investigation has been completed, an advance copy shall be forwarded by the convening authority to the Tort Claims Unit Norfolk. Waiting until endorsements have been obtained before providing a copy of the investigation to the Tort Claims Unit Norfolk is neither required nor desirable. The facts of the incident must be made known to cognizant claims personnel as soon as possible.

■ 9. Section 750.8 is revised to read as follows:

§ 750.8 Claims Responsibility of the Tort Claims Unit Norfolk.

(a) *Reviewing prior actions.* The adjudicating authority (Tort Claims Unit Norfolk) determines whether an adequate investigation has been conducted, whether the initial receipt date is recorded on the face of the claim, and whether all holders of the investigation, if completed, are advised of the receipt of the claim.

(b) *Determining the sufficiency of the claim.* The claim should be reviewed and a determination of its sufficiency made. If the claim is not sufficient as received, it shall be immediately returned to the party who submitted it along with an explanation of the insufficiency. This does not constitute denial of the claim. The claim shall not be considered ''presented'' until it is received in proper form.

(c) *Adjudicating the claim.* (1) The Tort Claims Unit Norfolk shall evaluate and either approve or disapprove all claims within its authority, except where the payment of multiple Federal Torts Claims Act claims arising from the same incident will exceed $200,000.00 in the aggregate and thereby require approval of DoJ. In this latter instance, the Torts Claims Unit Norfolk shall contact the Office of the Judge Advocate General, Claims and Tort Litigation Division (OJAG Code 15).

(2) The Tort Claims Unit Norfolk shall evaluate and, where liability is established, attempt to settle claims for amounts within its adjudicating authority. Negotiation at settlement figures above the Tort Claims Unit Norfolk's payment limits may be attempted if the claimant is informed that the final decision on the claim will be made at a higher level.

(3) If a substantiated claim cannot be approved, settled, or compromised within the settlement authority limits of the Tort Claims Unit Norfolk, the Tort Claims Unit Norfolk shall contact OJAG Code 15 to seek additional settlement authority. To obtain the additional settlement authority, the following materials shall be forwarded to OJAG Code 15:

(i) A letter of transmittal containing a recommendation on resolution of the claim.

(ii) A memorandum of law containing a review of applicable law, an evaluation of liability, and a recommendation on the settlement value of the case. This memorandum should concentrate on the unusual aspects of applicable law, chronicle the attempts to resolve the case, provide information about the availability of witnesses, and outline any other information material to a resolution of the claim, i.e., prior dealings with the claimant's attorney, local procedural rules, or peculiarities that may make trial difficult. The memorandum should be tailored to the complexity of the issues presented and provide any expert opinions that have been obtained in the case by the Navy or the claimant.

(d) *Preparing litigation reports.* The Tort Claims Unit Norfolk will prepare a litigation report when a lawsuit is filed and the complaint is received. The report is sent directly to the DoJ official or the U.S. Attorney having cognizance of the matter. The report is a narrative summary of the facts upon which the suit is based and has as enclosures the claims file and a memorandum of law on the issues presented. A copy of the report and all enclosures should be sent to the Judge Advocate General (OJAG Code 15).

■ 10. Section 750.10 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 750.10 Claim: Settlement and release.

(a) *Fully and partially approved claims.* When a claim is approved for payment in the amount claimed, settlement agreement may not be necessary. * * *

* * * * *

■ 11. Section 750.11 is amended by revising paragraph (b) to read as follows:

§ 750.11 Claims: Denial.

* * * * *

(b) If the claim is cognizable under the Military Claims Act, appeal in writing to the Office of the Judge Advocate General, Claims and Tort Litigation Division within 30 days of the receipt of the denial notification. The notice of denial shall inform the claimant or his representative that is suit is not possible under the act.

■ 12. Section 750.12 is amended by revising the first sentence of paragraph (a) and revising paragraph (b) to read as follows:

§ 750.12 Claims: Action when suit filed.

(a) *Action required of any Navy official receiving notice of suit.* The commencement, under the civil action provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b)), of any action against the United States and involving the Navy, that comes to the attention of any official in connection with his official duties, shall be reported immediately to the Tort Claims Unit Norfolk to take any necessary action and provide prompt notification to the Judge Advocate General. * * *

(b) *Steps upon commencement of civil action.* Upon receipt by the Judge Advocate General or Tort Claims Unit Norfolk of notice from the DoJ or other source that a civil action involving the Navy has been initiated under the civil action provisions of the Federal Tort Claims Act, and there being no investigative report available at the headquarters, a request shall be made to the commanding officer of the appropriate Naval Legal Service Command activity for an investigative report into the incident. If there is not a completed investigation, the request shall be forwarded to the appropriate naval activity to convene and complete such a report. The commanding officer

of the Naval Legal Service Command activity shall contact the Tort Claims Unit Norfolk to determine whether an administrative claim had been filed and, if available information indicates none had, the Tort Claims Unit Norfolk shall advise the Office of the Judge Advocate General (Claims and Tort Litigation Division) immediately.

■ 13. Section 750.13 is amended by revising paragraphs (a)(7), (b)(1), (b)(2), and (b)(3); and removing footnote 1 in paragraph (a).

§ 750.13 Claims: Single service responsibility.

* * * * *

(a) * * *

(7) Federal Claims Collection Act (31 U.S.C. Sections 3701, 3702, and 3711), claims and demands by the United States Government; and

* * * * *

(b) * * *

(1) Department of the Army: Austria, Belgium, El Salvador, the Federal Republic of Germany, Grenada, Honduras, Hungary, Korea, Iraq, Kuwait, Latvia, Lithuania, the Marshall Islands, the Netherlands, Poland, Romania, Slovakia, Slovenia and Switzerland, and as the Receiving State Office in the United States under 10 U.S.C. Sections 2734a—2734b and the NATO Status of Forces Agreement, and other Status of Forces Agreements with countries not covered by the NATO agreement. Claims arising from Operation Joint Endeavor, including the former Yugoslavia, Hungary, Slovakia and the Czech Republic, as well as the Rwanda Refugee Crisis Area are also assigned to the Army.

(2) Department of the Navy: Bahrain, Greece, Iceland, Israel, Italy, Spain and the United Arab Emirates.

(3) Department of the Air Force: Australia, Azores, Canada, Cyprus, Denmark, India, Japan, Luxembourg, Morocco, Nepal, Norway, Pakistan, Saudi Arabia, Tunisia, Turkey, the United Kingdom, Egypt, Oman, and claims involving, or generated by, the United States Central Command (CENTCOM) and the United States Special Operations Command (SOCOM), that arise in countries not specifically assigned to the Departments of the Army and the Navy.

* * * * *

§ 750.27 [Amended]

■ 14. Section 750.27 is amended by removing the extra word ''any'' following the word ''any'' in paragraph (a)(2)(i).

§ 750.33 [Amended]

■ 15. Section 750.33(c) is amended by removing the word ''CHAMPUS'' and adding in its place the word ''TRICARE''.

■ 16. Section 750.34 is amended by revising the first sentence of paragraph(c)(1), revising paragraphs (c)(2)(i), (c)(2)(ii), and removing the table in (c)(2)(ii) to read as follows:

§ 750.34 Settlement and payment.

* * * * *

(c) *Payment of the claim*—(1) *Statutory authority.* Pursuant to 28 U.S.C. 2672 and in accordance with 28 CFR 14.6(a), the Secretary of the Navy or designee, acting on behalf of the United States may compromise or settle any claim filed against the Navy under the FTCA, provided any award, compromise, or settlement by the Navy in excess of $200,000.00 may be effected only with the prior written approval of the Attorney General or designee. * * *

* * * * *

(2) *Specific delegation and designation*—(i) *Payment authority.*

Delegated and Designated Authority Federal Tort Claims Act

Judge Advocate General—$200,000.00
Deputy Judge Advocate General—$200,000.00
Assistant Judge Advocate General (General Law)—$200,000.00
Deputy Assistant Judge Advocate General (Claims and Tort Litigation) and Deputy Division Director—$200,000.00
Head, Tort Claims Branch (Claims and Tort Litigation)—$200,000.00

Any payment of over $200,000.00 must be approved by DoJ. The Judge Advocate General, the Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), Deputy Assistant Judge Advocate General (Claims and Tort Litigation), and the Head, Tort Claims Branch (Claims and Tort Litigation) may deny Federal Tort Claims in any amount.

(ii) *Adjudicating authority.* The Department of the Navy's tort claims adjudication function is consolidated as the Tort Claims Unit Norfolk (TCU) located at Naval Station, Norfolk, VA. The address is as follows: Department of the Navy, Office of the Judge Advocate General, Tort Claims Unit Norfolk, 9620 Maryland Avenue Suite 100, Norfolk, VA 23511–2989.

* * * * *

Subpart C—Military Claims Act

■ 17. Section 750.44 is amended by adding paragraph (n) to read as follows:

§ 750.44 Claims not payable.

* * * * *

(n) Any claim to which the exceptions in 28 U.S.C. 2680 apply.

■ 18. Section 750.45 is amended by revising paragraph (d) to read as follows:

§ 750.45 Filing claim.

* * * * *

(d) *Where to file.* The claim shall be submitted by the claimant to the commanding officer of the naval activity involved, if it is known. Otherwise, it shall be submitted to the commanding officer of any naval activity, preferably the one within which, or nearest to which, the incident occurred, or to the Office of the Judge Advocate General of the Navy, (Claims and Tort Litigation), 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard, DC 20375–5066.

* * * * *

■ 19. Section 750.46 is amended by redesignating paragraph (c) as paragraph (d), revising newly redesignated paragraph (d), and adding new paragraph (c) to read as follows:

§ 750.46 Applicable law.

* * * * *

(c) *Principles applicable to all MCA claims.* (1) ''Scope of employment'' is determined in accordance with Federal law. Reported FTCA cases provide guidance on this determination;

(2) Claims for emotional distress will be considered only from the injured person or members of the injured person's immediate family. Claims from the injured person's immediate ''zone of danger'' (i.e., immediate vicinity of the incident) and the claimant substantiates the claim with proof of the physical manifestation(s) of the emotional distress; and

(3) Claims under the MCA do not include the principles of absolute liability and punitive damages.

(d) *Clarification of terms.* Federal law determines the meaning and construction of the MCA.

■ 20. Section 750.49 is amended by revising the first sentence in paragraph (a)(1), revising paragraph (a)(3), removing paragraphs (a)(4), (a)(5), (a)(6), and (b), adding new paragraph (a)(4), redesignating paragraph (c) as paragraph (b) and revising newly designated paragraph (b) to read as follows:

§ 750.49 Delegation of adjudicating authority.

(a) * * *

(1) The Secretary of the Navy may settle or deny claims in any amount. * * *

* * * * *

(3) The Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), the Deputy Assistant Judge Advocate General (Claims and Tort Litigation), and Head, Tort Claims Branch (Claims and Tort Litigation), have delegated authority to settle claims for $25,000.00 or less, and have denial authority in any amount.

(4) Individuals with settlement authority under paragraph (a)(3) of this section may delegate all or part of their settlement authority. Such delegation must be in writing.

(b) *Appellate authority.* Adjudicating authorities have the same authority as delegated in paragraph (a) of this section to act upon appeals. No appellate authority below the Secretary of the Navy may deny an appeal of a claim it had previously denied.

■ 21. Section 750.50 is amended by revising paragraph (c)(3) to read as follows:

§ 750.50 Advance payments.

* * * * *

(c) * * *

(3) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation) and the Head, Tort Claims Branch (Claims and Tort Litigation) have delegated authority to make advance payments up to $25,000.00.

* * * * *

Subpart D—Claims Not Cognizable Under Any Other Provision of Law

■ 22. Section 750.66 is revised to read as follows:

§ 750.66 Officials with authority to settle.

Judge Advocate General; Deputy Judge Advocate General; Assistant Judge Advocate General (General Law); Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and Head, Tort Claims Branch (Claims and Tort Litigation) may settle a nonscope claim.

Dated: September 10, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–18198 Filed 9–18–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 751

[USN–2006–0039]

RIN 0703–AA79

Personnel Claims Regulations

AGENCY: Department of the Navy, DoD.

ACTION: Interim final rule.

SUMMARY: This rule reflects administrative changes to the regulations concerning the administrative processing and consideration of claims on behalf of and against the United States. The revisions will ensure the proper administrative processing and consideration of claims on behalf of and against the United States. This rule is being published by the Department of the Navy for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1).

DATES: This rule is effective September 19, 2007. Comments must be received by November 19, 2007.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) 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 or RIN number 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. Enrique Mendez, Head Affirmative and Personnel Claims Branch, Claims and Tort Litigation Division (Code 15), Office of the Judge Advocate General, 1322 Patterson Avenue, SE., Washington Navy Yard, DC 20374, telephone 202–685–4600.

SUPPLEMENTARY INFORMATION: Executive Order 12866, ''Regulatory Planning and Review.'' It has been determined that the changes to 32 CFR part 751 are not considered 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 sector in 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 the 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 32 CFR part 751 does not contain Federal Mandates that result in expenditures 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 determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule implements the processing of the proper administrative processing and consideration of claims on behalf of and against the United States, and does not economically impact the Federal government's relations with the private sector.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35). This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

Executive Order 13132, ''Federalism.'' It has been certified that 32 CFR part 751 does not have federalism implications as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 751

Claims; Government employees; Military personnel.

■ Accordingly, 32 CFR part 751 is amended to read as follows:

PART 751—PERSONNEL CLAIMS REGULATIONS

■ 1. The authority citation for part 751 is revised to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 5013 and 5148; E.O. 12473, 3 CFR, 1984 Comp., p. 201.

■ 2. Section 751.1 is revised to read as follows:

§ 751.1 Scope.

This part prescribes procedures and substantive bases for administrative settlement of claims against the United States submitted by Department of Navy (DoN) personnel and civilian employees of the naval establishment.

■ 3. Section 751.2 is amended by revising paragraph (a) to read as follows:

§ 751.2 Claims against the United States: In general.

(a) *Maximum amount payable.* The Military and Civilian Employees' Personnel Claims Act (Personnel Claims Act, 31 U.S.C. 3701, 3702, and 3721 (2004)), provides that the maximum amount payable for any loss or damage arising from a single incident is limited to $40,000.00. Where the loss of or damage to personal property arose from emergency evacuations or other extraordinary circumstances, the maximum is $100,000.00.

* * * * *

■ 4. Section 751.3 is revised to read as follows:

§ 751.3 Authority.

The Personnel Claims Act provides the authority for maximum payment up to $40,000, $100,000 in extraordinary circumstances for loss, damage, or destruction of personal property of military personnel or civilian employees incident to their service. No claim may be paid unless it is presented in writing within 2 years of the incident that gave rise to the claim.

■ 5. Section 751.5 is amended by revising paragraph (a)(3), removing the word ''officers'' and replacing it with the word ''personnel'' in paragraph (a)(4), adding paragraph (a)(5), revising the first sentence in paragraph (c), and revising paragraph (f) to read as follows:

§ 751.5 Definitions.

(a) * * *

(3) *Claims by non-appropriated fund employees.* Claims by employees of Navy and Marine Corps non-appropriated fund activities for loss, damage, or destruction of personal property incident to their employment will be processed and adjudicated in accordance with this part and forwarded to the appropriate local non-appropriated fund activity that employs the claimant for payment from non-appropriated funds.

* * * * *

(5) *Agent or legal representative.* The authorized agent or legal representative of a proper claimant may file on behalf of the claimant if the agent provides a power of attorney that complies with local law. Certain relatives of a deceased proper claimant may file any claim the claimant could have filed. The PCA identifies these relatives in order of priority. If multiple persons who the statute lists as equals in priority file separate claims, the first claim settled extinguishes the rights of the other claimants. The estate of a deceased proper party claimant is not a proper claimant, nor is an executor or personal representative who cannot file as a survivor. The PCA ranks surviving relatives in the following order of priority:

(i) Spouse;

(ii) Child or children;

(iii) Father, mother, or both;

(iv) Brother, sister, or both.

* * * * *

(c) *Unusual occurrence.* Serious events and natural disaster not expected to take place in the normal course of events and hazards outside the normal risks of day-to-day living and working. * * *

* * * * *

(f) *Vehicles.* Include automobiles, motorcycles, mopeds, jet skis, utility trailers, camping trailers, trucks, mounted camper bodies, motor homes, boats, boat trailers, bicycles, and aircraft. Mobile homes and other property used as dwelling places are not considered vehicles.

■ 6. Section 751.6 is amended by revising the introductory text and paragraph (a)(5), the first four sentences of paragraph (b), paragraph (c)(1), the first sentence of paragraph (c)(2), paragraph (c)(3), the first sentence of paragraph (c)(5), paragraph (d), and the first four sentences of paragraph (k)(2) to read as follows:

§ 751.6 Claims payable.

Claims for loss, damage, or destruction of property may be considered as set out below if possession of the property was reasonable and useful under the circumstances and the loss did not result from the negligence of the claimant. The following are examples of more common claims. Not all situations that may result in a claim are covered, but the processes described in the examples on how to approach, investigate, and adjudicate claims are applicable to all claims filed.

(a) * * *

(5) *Shipment or storage at the claimant's expense.* The Government will not compensate a claimant for loss or damage that occurs while property is being shipped or stored at the claimant's expense, even if the Government reimburses the claimant for the shipment or storage fees. The reason for this is that there is no contract, called a Government Bill of Lading, between the Government and the carrier. In such cases, the claimant must claim against the carrier.

(b) *Losses at assigned quarters or other authorized places.* Damage or loss caused by fire, explosion, theft, vandalism, lightning, flood, earthquake, and unusual occurrences is cognizable. Losses due to theft may only be paid if the claimant took reasonable measures to safeguard the property and theft occurred as a result of a forced entry. Claimants are expected to secure windows and doors of their barracks, quarters, wall lockers, and other storage areas so that the thief must force an entry. If a police report states that there were no signs of forced entry and the claimant asserts with absolute certainty that the area was in fact secure, the claims examiner must consider whether forced entry would have left visible signs. * * *

(c) *Vehicle losses.*

(1) Losses incurred while a vehicle is used in the performance of a military duty, if such use was authorized or directed for the convenience of the Government, provided the travel did not include commuting to or from a permanent place of duty, and did not arise from mechanical or structural defect of the vehicle. There is no requirement that the loss be due to fire, flood, hurricane, or other unusual occurrence, or to theft or vandalism. As a general rule, however, travel is not considered to be for the convenience of the Government unless it was pursuant to written orders authorizing use for which the claimant is entitled to reimbursement. The claimant must be free from negligence in order to be paid for a collision loss. Travel by the claimant to other buildings on the installation is not loss. Travel by the claimant to other buildings on the installation is not considered to be under orders for the convenience of the Government. Travel off the installation without written orders may only be deemed to be for the convenience of the Government if the claimant was authorized mileage reimbursement for the travel. The issuance of written orders after the fact raises the presumption that travel was not authorized for the convenience of the Government. The maximum payment authorized by the Allowance List-Depreciation Guide (ALDG) still applies

to loss of or damage to vehicles and contents. This maximum does not apply to DITY moves.

(2) Losses incurred while a vehicle is shipped at Government expense are compensable provided the loss or damage did not arise from mechanical or structural defect of the vehicle during such shipment. * * *

(3) Losses incurred while a vehicle is located at quarters or other authorized place of lodging, including garages, carports, driveways, assigned parking spaces, if the loss or damage is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. Vandalism is damage intentionally caused. Stray marks caused by children playing, falling branches, gravel thrown by other vehicles, or similar occurrences are not vandalism. The amount payable on vandalism claims is limited to the maximum payment authorized by the ALDG.

* * * * *

(5) *Theft of property stored inside a vehicle.* A loss resulting from theft of property stored inside a vehicle is compensable if it was reasonable for the claimant to have the property in the vehicle and neither the claimant nor the claimant's agents were negligent in protecting the property. * * *

* * * * *

(d) *Mobile homes and contents in shipment.* Claims for damage to mobile homes and contents in shipment are payable unless the damage was caused by structural or mechanical defects or by the claimant's negligence in securing the mobile home or packing its contents.

* * * * *

(k) * * *

(2) *Estimate fees.* An estimate fee is a fixed cost charged by a person in the business of repairing property to provide an estimate of what it would cost to repair property. An estimate fee in excess of $75.00 should be examined with great care to determine whether it is reasonable. A person becomes obligated to pay an estimated fee when the estimate is prepared. An estimate fee should not be confused with an appraisal fee, which is not compensable (see § 751.7(m)). * * *

■ 7. Section 751.7 is amended by revising paragraphs (b) and (e), and removing the parenthetical in the last sentence of paragraph (f) that states, ''(NAVSUP Publication 490, Transportation of Personal Property)'' to read as follows:

§ 751.7 Claims not payable.

* * * * *

(b) *Currency or jewelry shipped or stored in baggage.* Claims for lost currency, shipped or stored in baggage are not payable. Small, valuable, highly pilferable items should normally be hand-carried rather than shipped, however, if expensive or valuable jewelry or coin collections are shipped, a full description of each item of expensive jewelry and of any coin or money collection must be listed and described on the inventory for its loss to be payable. Each item must also be listed as missing at the time of delivery. If not noted at the time of delivery, the claimant must satisfactorily explain why.

* * * * *

(e) *Loss or Damage to Property to the Extent of any Available Insurance Coverage.* Except for claims for loss or damage to household goods or privately-owned vehicles (POVS) while shipped or stored at Government expense, when the property lost, damaged, or destroyed is insured, the claimant must make a demand for payment against the insurance company under the terms of the policy.

* * * * *

■ 8. Section 751.8 is revised to read as follows:

§ 751.8 Adjudicating authorities.

(a) *Claims by Navy personnel.* (l) The following officials are authorized to adjudicate and authorize payment of PCA claims up to $100,000:

(i) The Judge Advocate General;

(ii) The Deputy Judge Advocate General;

(iii) Any Assistant Judge Advocate General; and

(iv) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation).

(2) Any individual, when designated by the Deputy Assistant Judge Advocate General (Claims and Tort Litigation Division), may adjudicate and authorize payment of PCA claims up to any designated amount.

(b) *Claims by Marine Corps personnel.* (1) The following officials are authorized to adjudicate and authorize payment of PCA claims up to $40,000:

(i) Commandant of the Marine Corps;

(ii) Deputy Commandant, Manpower and Reserve Affairs Department;

(iii) Director, Personal and Family Readiness Division;

(iv) Head, Military Personnel Services Branch;

(v) Head, Personal Property Claims Section; and

(vi) Any individual personally designated by the Commandant of the Marine Corps may adjudicate and authorize payment of PCA claims up to any delegated amount not to exceed $40,000.

(2) The Assistant Head, Personal Property Claims Section is authorized to adjudicate and authorize payment of PCA claims up to $25,000.

(3) Any individual at Marine Corps Field Transportation Management Office/Claims Activities, when personally designated by the Director, Personal and Family Readiness Division, may be authorized to adjudicate and authorize payment of PCA claims up to any delegated amount not to exceed $40,000.

■ 9. Section 751.9 is amended by revising paragraph (a), (c)(3), (c)(4), and (c)(5) to read as follows:

§ 751.9 Presentment of claims.

(a) *General.* A claim shall be submitted in writing and, if practicable, be presented to the Personnel Claims Unit or Marine Corps claims office serving the area where the claim accrued, such as where the House Hold Goods were delivered. If submission in accordance with the foregoing is impractical under the circumstance, the claim may be submitted in writing to any installation or establishment of the Armed Forces which will forward the claim to the appropriate Navy or Marine Corps claims office for processing. To constitute a filing, a claim must be presented in writing to one of the military departments.

* * * * *

(c) * * *

(3) *Damage to POVs in shipment.* Persons shipping POVs are expected to list damage on DD Form 788 (Private Vehicle Shipping Document for Automobile) when they pick up the vehicle. Obvious external damage that is not listed is not payable. Damage the claimant could reasonably be expected not to notice at the pickup point should be considered if the claimant reports the damage to claims or transportation office personnel within a short time, normally a few days after arriving at the installation.

(4) *Credibility.* Factors that indicate a claimant's credibility is questionable include amounts claimed that are exaggerated in comparison with the cost of similar items, insignificant or almost undetectable damage, very recent purchase dates for most items claimed, and statements that appear incredible. Such claimants should be required to provide more evidence than is normally expected.

(5) *Inspections.* Whenever a question arises about damage to property, the best way to determine a proper award is to examine the items closely to determine the nature of the damage. For furniture, undersurfaces and the edges

of drawers and doors should be examined to determine whether the material is solid hardwood, fine quality veneer over hardwood, veneer over pressed wood, or other types of material. If the inspection is conducted at the claimant's quarters, the general quality of property should be determined. Observations by repairmen and transportation inspectors are very valuable, but on occasion, claims examiners may request an inspection. Such inspections are necessary to reduce the number of reconsiderations and fraudulent claims and are invaluable in enabling claims personnel to understand the facts in many situations.

■ 10. Section 751.10 is amended by revising footnote \1\ to read as follows:

§ 751.10 Form of claim.

* * * * *

[1] Copies of these forms may be obtained by contacting the legal office or personal property office serving the installation where the claimant is stationed, or nearest to the point where the loss or damage occurred or on the Internet at *http://www.jag.navy.mil.*

■ 11. Section 751.11 is revised to read as follows:

§ 751.11 Investigation of claim.

Upon receipt of a claim, the claim shall be stamped with the date and receiving office, forwarded to the cognizant PCU and be referred to a claims examiner. The examiner shall consider all information and evidence submitted with the claim and shall conduct such further investigation as may be necessary and appropriate.

§ 750.12 [Removed]

■ 12. Section 750.12 is removed.

■ 13. Redesignate 750.13 as § 750.12 and revise newly redesignated § 751.12 to read as follows:

§ 751.12 Payments.

Payment of approved personnel claims will be made by the Navy or Marine Corps disbursing officer serving the adjudicating authority. Payments will be charged to funds made available to the adjudicating authority for this purpose.

■ 14. Section 751.14 is redesignated as § 751.13, and newly redesignated § 751.13 is revised to read as follows:

§ 751.13 Partial payments.

(a) *Partial payments when hardship exists.* When claimants suffer a significant, compensable loss of items that are needed for daily living, and can demonstrate a need for immediate funds to replace some of those items (e.g., food, clothes, baby items, etc.) the adjudicating authority may authorize a partial payment of an appropriate amount, normally one-half of the estimated total payment. When a partial payment is made a copy of the payment voucher and all other information related to the partial payment shall be placed in the claim file. Action shall be taken to ensure the amount of the partial payment is deducted from the adjudicated value of the claim when final payment is made.

(b) *Marine hardship payments.* The Marine claimant's Transportation Management Office shall ensure compliance with all requirements of § 751.14(a), and may request authority for payment by message from the Commandant of the Marine Corps (MRP–2).

(c) *Effect of partial payment.* Partial payments are to be subtracted from the adjudicated value of the claim before payment of the balance due. Overpayments are to be properly recouped.

■ 15. Section 751.15 is redesignated as § 751.14 and newly redesignated § 751.14 is revised to read as follows:

§ 751.14 Reconsideration and appeal.

(a) *General.* When a claim is denied either in whole or in part, the claimant shall be given written notification of the initial adjudication and of the right to submit a written request for reconsideration to the original adjudicating authority within 6 months from the date the claimant receives notice of the initial adjudication of the claim. If a claimant requests reconsideration and if it is determined that the original action was erroneous or incorrect, it shall be modified and, when appropriate, a supplemental payment shall be approved. If full additional payment is not granted, the file shall be forwarded for reconsideration to the next higher adjudicating authority. For claims originally adjudicated by the Head, Personnel Claims Unit Norfolk, the files will be forwarded to the Judge Advocate General (Claims and Tort Litigation)(Code 15) for final action. The claimant shall be notified of this action either by letter or by copy of the letter forwarding the file to higher adjudicating authority. The forwarding letter shall include a synopsis of action taken on the file and reasons for the action or denial, as well as a recommendation of further action or denial.

(b) *Files forwarded to JAG.* For files forwarded to JAG in accordance with § 751.14(a), the forwarding endorsement shall include the specific reasons why the requested relief was not granted and shall address the specific points or complaints raised by the claimant's request for reconsideration.

(c) *Appeals procedure for claims submitted by Marine Corps personnel.* Where any of the Marine Corps adjudication authorities listed in § 751.8(b) fail to grant the relief requested, or otherwise resolve the claim to the satisfaction of the claimant, the request for reconsideration shall be forwarded together with the entire original file and the adjudicating authority's recommendation, to the Judge Advocate General.

Subpart B—Demand on Carrier, Contractor, or Insurer [Removed and Reserved]

■ 16. Remove and reserve subpart B consisting of §§ 751.21 through 751.35.

Dated: September 10, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–18204 Filed 9–18–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 756

[USN–2006–0040]

RIN 0703–AA80

Nonappropriated-Fund Claims Regulations

AGENCY: Department of the Navy, DoD.

ACTION: Interim final rule.

SUMMARY: This rule reflects administrative changes to the regulations concerning the administrative processing of non-appropriated funds. The revisions will ensure the proper administrative processing and consideration of claims on behalf of and against the United States. This rule is being published by the Department of the Navy (DoN) for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1).

DATES: This rule is effective September 19, 2007. Comments must be received by November 19, 2007.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) 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 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. Dan Fields, Head, Tort Claims Branch, Claims and Tort Litigation Division (Code 15), Office of the Judge Advocate General, 1322 Patterson Avenue, SE., Washington Navy Yard, DC 20374, telephone 202–685–4600.

SUPPLEMENTARY INFORMATION: Executive Order 12866, ''Regulatory Planning and Review.'' It has been determined that the changes to 32 CFR part 756 are not considered a ''significant regulatory action.'' The rule does not:

(1) Have an annual affect on the economy of $100 million or more or adversely affect in a material way the economy, a sector in 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 the 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 32 CFR part 756 does not contain Federal Mandates that result in expenditures 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 determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule implements the processing of the proper administrative processing and consideration of claims on behalf of and against the United States, and does not economically impact the Federal government's relations with the private sector.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35). This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

Executive Order 13132, ''Federalism''. It has been certified that 32 CFR part 756 does not have federalism implications as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 756

Claims.

■ Accordingly, 32 CFR part 756 is amended to read as follows:

PART 756—PROCEDURES FOR PROCESSING CLAIMS INVOLVING NON-APPROPRIATED FUND ACTIVITIES AND THEIR EMPLOYEES

■ 1. The authority citation for part 756 is revised to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 5013 and 5148.

■ 2. The heading for part 756 is revised to read as set forth above.

■ 3. Section 756.1 is revised to read as follows:

§ 756.1 Scope.

This part explains how to settle claims for and against the United States for property damage, personal injury, or death arising out of the operation of non-appropriated fund activities (NAFI).[1]

■ 4. Section 756.2 is amended by revising paragraph (c) to read as follows:

§ 756.2 Definitions.

* * * * *

(c) *Employees of NAFIs.* Personnel employed by NAFIs whose salaries are paid from non-appropriated funds.

■ 5. Revise § 756.4 to read as follows:

§ 756.4 Responsibility.

(a) All claims resulting from NAFIs should be submitted to the command having cognizance over the NAFI involved. The claim will then be forwarded to the Tort Claims Unit (TCU) Norfolk located at the following address: Department of the Navy, Office of the Judge Advocate General, Tort Claims Unit Norfolk, 9620 Maryland Avenue, Suite 100, Norfolk, VA 23511–2989.

(b) The TCU Norfolk has cognizance over all DoN claims. Normally, the TCU Norfolk has primary responsibility for the negotiation and settlement of NAFI claims. This is because NAFIs are Federal agencies within the meaning of the Federal Tort Claims Act (FTCA) if the NAFI is charged with an essential function of the DoN and if the degree of control and supervision by the Navy is more than casual or perfunctory. Compare *United States* v. *Holcombe,* 277 F.2d 143 (4th Cir. 1960) and *Scott* v. *United States,* 226 F. Supp. 846, (D. Ga. 1963). Consequently, to the extent sovereign immunity is waived by the FTCA, 28 U.S.C. 1346(b), 2671–2672, 2674–2680, the United States remains ultimately liable for payment of NAFI claims.

■ 6. Section 756.5 is revised to read as follows:

§ 756.5 Investigation.

Claims arising out of the operation of NAFIs, in and outside the United States, shall be investigated in accordance with the procedures for investigating similar claims against appropriated fund activities. The Manual of the Judge Advocate General (JAGMAN), Chapter II[2] provides guidance in conducting an investigation of an incident or event likely to result in claims or civil litigation against or for DoN or the United States.

■ 7. Section 756.6 is revised to read as follows:

§ 756.6 Negotiation.

(a) *General.* Claims from NAFIs should be processed primarily through procedures, regulations, and statutes applicable to similar appropriated fund activity claims.

(b) *When the NAFI is insured.* When a NAFI is insured, the insurer or the contracted third-party claims administrator (TPA) will normally conduct negotiations with claimants. The TCU Norfolk shall monitor the negotiations conducted by the insurer or TPA. Monitoring is normally limited to ascertaining that someone has been assigned to negotiate, to obtain periodic status reports, and to close files on settled claims. Any dissatisfaction with the insurer's or TPA's handling of the negotiations should be referred directly to the Judge Advocate General (Claims and Tort Litigation) for appropriate action. If requested by the insurer or

[1] DoD Directive 5515.6 establishes policy governing the administrative processing of claims arising out of the operation of non-appropriated fund activities.

[2] JAGMAN Chapter II (JAG Instruction 5800.7E) is available at the Web site of the Navy Judge Advocate General's Corps at *http://www.jag.navy.mil.*

TPA, the TCU Norfolk may conduct negotiations. If TCU Norfolk negotiates a final settlement, however, request for payment will be forwarded to the insurer or TPA for payment. Concurrence by the insurer or TPA in the amount of the settlement is not necessary.

(c) *When the NAFI is not insured.* When there is no private commercial insurer and the NAFI has made no independent arrangements for negotiations, the TCU Norfolk is responsible for conducting negotiations. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the NAFI for payment from non-appropriated funds.

■ 8. Section 756.7 is revised to read as follows:

§ 756.7 Payment.

(a) *Claims that can be settled for less than 1,500.00.* A claim not covered by insurance (or not paid by the insurer), that can be settled for $1,500.00 or less, may be adjudicated by the TCU Norfolk or single-service authority and forwarded to the commanding officer of the activity concerned or designee for payment out of funds available to the commanding officer. The TCU Norfolk or single-service authority will obtain the required release from the claimant.

(b) *Claims that cannot be settled for less than $1,500.00.* A claim negotiated by the Navy, not covered by insurance, that is for more than $1,500.00 will be forwarded to the appropriate non-appropriated fund headquarters command for payment from its non-appropriated funds.

(c) *When payment is possible under another statute.* In some cases, neither the NAFI nor its insurer may be legally responsible. In those instances when there is no negligence, and payment is authorized under some other statute, such as the Foreign Claims Act, 10 U.S.C. 2734–2736, the claim may be considered for payment from appropriated funds or may be referred to the TCU Norfolk for appropriate action.

(d) *Other claims.* A NAFI's private insurance policy is usually not available to cover losses that result from some act or omission of a mere participant in a non-appropriated fund activity. In the event the NAFI declines to pay the claim, the file shall be forwarded to the TCU Norfolk for determination.

■ 9. Section 756.8 is revised to read as follows:

§ 756.8 Denial.

Claims resulting from non-appropriated fund activities may be denied only by the TCU Norfolk. The denial will begin the six-month limitation on filing suit against the United States for claims filed under the FTCA. Denial of a claim shall be in writing and in accordance with subparts A and B of part 750 of this chapter, as appropriate. The TCU Norfolk should not deny claims that have initially been processed and negotiated by a non-appropriated fund activity, its insurer, or TPA, until the activity or its insurer has clearly stated in writing that it does not intend to pay the claim and has elected to defend the claim in court.

■ 10. Section 756.9 is revised to read as follows:

§ 756.9 Claims by employees.

(a) *Property.* Claims by employees of NAFIs for loss, damage, or destruction of personal property incident to their employment shall be processed and adjudicated in accordance with subparts A or B of part 751 of this chapter, as appropriate. The claims will then be forwarded to the appropriate NAFI for payment from non-appropriated funds.

(b) *Personal injury or death.* (1) Personal injury or death of citizens or permanent residents of the United States employed anywhere, or foreign nationals employed within the United States. Compensation is provided by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901–950) for employees of NAFIs who have suffered injury or death arising out of, and in the course of, their employment (5 U.S.C. 8171). That Act is the exclusive basis for Government liability for such injuries or deaths that are covered (5 U.S.C. 8173). A claim should first be made under that Act if there is a substantial possibility the injury or death is covered under the Act's provisions.

(2) Personal injury or death of foreign nationals employed outside of the continental United States. Employees who are not citizens or permanent residents, and who are employed outside the continental United States, may be protected by private insurance of the NAFI or by other arrangements. When a non-appropriated fund activity has elected not to obtain insurance coverage or to make other arrangements, compensation is separately provided by Federal statute, military regulations, and agreements with foreign countries. See 5 U.S.C. 8172, DoD 1401.1–M, Personnel Policy Manual for Non-appropriated Fund Instrumentalities and BUPERINST 5300.10A, NAF Personnel Manual.

Dated: September 10, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–18205 Filed 9–18–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 757

[USN–2006–0041]

RIN 0703–AA81

Affirmative Claims Regulations

AGENCY: Department of the Navy, DoD.

ACTION: Interim final rule.

SUMMARY: This rule reflects administrative changes to the regulations concerning the administrative processing and consideration of claims on behalf of and against the United States. The revisions will ensure the proper administrative processing and consideration of claims on behalf of and against the United States. This rule is being published by the Department of the Navy for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1).

DATES: This rule is effective September 19, 2007. Comments must be received by November 19, 2007.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) 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 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. Enrique Mendez, Head, Affirmative and Personnel Claims Branch, Claims and Tort Litigation Division (Code 15), Office of the Judge Advocate General, 1322 Patterson, Avenue SE., Washington Navy Yard, DC 20374, telephone 202–685–4621.

SUPPLEMENTARY INFORMATION: Executive Order 12866, ''Regulatory Planning and

Review.'' It has been determined that the changes to 32 CFR part 757 are not considered 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 sector in 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 the 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 32 CFR part 757 does not contain Federal Mandates that result in expenditures 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 determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule implements the processing of the proper administrative processing and consideration of claims on behalf of and against the United States, and does not economically impact the Federal government's relations with the private sector.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35). This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

Executive Order 13132, ''Federalism.'' It has been certified that 32 CFR part 757 does not have federalism implications as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 757

Claims; Health care.

■ Accordingly, 32 CFR part 757 is amended to read as follows:

PART 757—AFFIRMATIVE CLAIMS REGULATIONS

Subpart A—Property Damage Claims

■ 1. Section 757.2 is revised to read as follows:

§ 757.2 Statutory authority.

(a) *General.* All affirmative claims for damage to or loss of Government property in favor of the United States are processed in accordance with the Federal Collections Claims Act (31 U.S.C. 3711), as amended by the Debt Collection Act of 1982, PL 97–365, 96 Stat. 1749 (25 October 1982), PL 101–552, 104 Stat. 2736 (15 November 1990) and the Debt Collection Improvement Act of 1996, PL 104–134, 110 Stat. 1321, 1358 (26 April 1996). Department of Defense Directive designees, the authority granted to the Secretary of Defense under the Federal Claims Collection Act.

(b) *Statute of limitations.* Subject to specific provisions in other statutes, there is a general 3-year statute of limitations on affirmative Government tort claims pursuant to 28 U.S.C. 2415(b).

§ 757.3 [Amended]

■ 2. Section 757.3 is amended by removing the citation ''4 CFR chapter II'' wherever it appears and replacing it with ''31 CFR Chapter IX.''

■ 3. Section 757.4 is revised to read as follows:

§ 757.4 Claims that may be collected.

(a) *Against responsible third parties for damage to Government property, or the property of non-appropriated fund activities.* It should be noted, however, that as a general rule, the Government does not seek payment from service members and Government employees for damages caused by their simple negligence while acting within the scope of their employment. Exceptions to this general policy will be made when the incident involves aggravating circumstances.

(b) *For money paid or reimbursed by the government for damage to a rental car in accordance with the Joint Federal Travel regulations (volume 1, paragraph U 3415–C and volume 2, paragraph C 2101–2).* Collection action shall be taken against third parties liable in tort. Collection action shall not be taken against Government personnel who rented the vehicle.

(c) *Other claims.* Any other claim for money or property in favor of the United States cognizable under the Federal Claims Collections Act not specifically listed above.

■ 4. Section 757.5 is amended by revising paragraphs (a), (b), (c), (e)(1)(iii), (e)(1)(iv), (e)(2), (f), first sentence in paragraph (g), and paragraph (k), to read as follows:

§ 757.5 Assertion of claims and collection procedures.

(a) *General.* The controlling procedures for administrative collection of claims are established in 31 CFR part 901.

(b) *Officials authorized to pursue claims.* The Judge Advocate General; the Deputy Judge Advocate General; any Assistant Judge Advocate General; the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) are authorized to pursue and collect all affirmative claims in favor of the United States, except in countries where another service has single service responsibility in accordance with DoD Directive 5515.8.

(c) *Dollar limitations.* All of the officers listed in § 757.5(b) are authorized to compromise and terminate collection action on affirmative claims of $100,000.00 or less.

* * * * *

(e) * * *

(1) * * *

(iii) A description of damage and estimate of repair;

(iv) A description of the incident, including date and place; and

* * * * *

(2) See also 31 CFR part 901.

(f) *Full payment.* When a responsible party or insurer tenders full payment or a compromise settlement on a claim, the payment should be in the form of a check or money order made payable to ''United States Treasury.'' The check or money order shall then be forwarded to the disbursing officer serving the collecting activity for deposit in accordance with the provisions of the Navy Comptroller Manual. For collections for damages to real property, the collection is credited to the account available for the repair or replacement of the real property at the time of recovery. (10 U.S.C. 2782.) For damages to personal property, the money is returned to the general treasury.

(g) *Installment payments.* See 31 CFR 901.8 for specific procedures. * * *

* * * * *

(k) *Release.* The Supervisory Attorney, Tort Claims Unit, Norfolk is authorized to execute a release of the claim when all repairs have been completed to the Government's satisfaction, and when all repair bills have been paid. No prior approval from the Judge Advocate General is required

for this procedure. If repair or replacement is made, a notation shall be made in any investigation or claims file.

■ 5. Amend 757.6 by revising paragraph (d) to read as follows:

§ 757.6 Waiver, compromise, and referral of claims.

* * * * *

(d) *Litigation reports.* Litigation reports prepared in accordance with 31 CFR part 904 shall be forwarded through the Judge Advocate General (Claims and Tort Litigation) to the Department of Justice along with any case file for further collection action or litigation as required by the Federal Claims Collections Standards.

■ 6. The heading of subpart B is revised to read as follows:

Subpart B—Medical Care Recovery Act (MCRA) Claims and Claims Asserted Pursuant to 10 U.S.C. 1095

■ 7. Section 757.11 is revised to read as follows:

§ 757.11 Scope of Subpart B.

Subpart B describes the assertion and collection of claims for medical care under the MCRA and 10 U.S.C. 1095. The MCRA states that when the Federal government provides treatment or pays for treatment of an individual who is injured or suffers a disease, the Government is authorized to recover the reasonable value of that treatment from any third party who is legally liable for the injury or disease. Title 10 U.S.C. 1095 provides for the collection from third-party payers for the value of health care services incurred by the Government on behalf of covered beneficiaries.

■ 8. Section 757.12 is revised to read as follows:

§ 757.12 Statutory authorities.

(a) *Medical Care Recovery Act*, 42 U.S.C. 2651–2653 (2005).

(b) *Title 10 U.S.C. 1095* (Health Care Services Incurred on Behalf of Covered Beneficiaries: Collection from Third-Party Payers).

(c) *Title 10 U.S.C. 1079a* (CHAMPUS: Treatment of Refunds and Other Amounts Collected).

■ 9. Section 757.13 is revised to read as follows:

§ 757.13 Responsibility for MCRA actions.

(a) *JAG designees.* (1) Primary responsibility for investigating, asserting, and collecting Department of the Navy (DON) MCRA claims and properly forwarding MCRA claims to other Federal departments or agencies rests with the following personnel:

(i) Deputy Assistant Judge Advocate General (Claims and Tort Litigation Division) (Code 15); and the

(ii) Commanding Officer, Naval Legal Service Command Europe and Southwest Asia (NLSC EURSWA), Naples, Italy, in its area of geographic responsibility.

(2) JAG designee may assert and receive full payment on any MCRA claim. Code 15 may agree to compromise or waive claims for $100,000 or less. NLSC EURSWA may agree to compromise or waive claims for $40,000.00 or less. NLSC EURSWA claims in excess of $40,000.00 may be compromised or waived only with Code 15 approval. See Sec. 757.19 for further discussion of waiver and compromise.

(b) *Navy Medical Treatment Facility (MTF).* (1) Naval MTFs are responsible for ensuring potential MCRA/10 U.S.C. 1095 claims are brought to the attention of the appropriate JAG designee.

(2) The MTF reports all potential MCRA/10 U.S.C. 1095 cases by forwarding a copy of the daily injury log entries and admission records to the cognizant JAG designee within 7 days of treatment for which a third party may be liable. The JAG designee makes the determination of liability. Recovery for the costs of MTF care is based on Diagnostic Related Group rates or a Relative Value Unit. Rates are established by the Office of Management and Budget and/or the DoD, and published annually in the **Federal Register**.

(c) *TRICARE Fiscal Intermediary.* The TRICARE fiscal intermediary is required to identify and promptly mail claims involving certain diagnostic codes to the cognizant JAG designee. Claims are asserted for the actual amount that TRICARE paid.

(d) *Department of Justice (DoJ).* Only the DoJ may authorize compromise or waiver of an MCRA/10 U.S.C. 1095 claim in excess of $100,000.00 or settle an MCRA/10 U.S.C. 1095 claim in which the third party has filed a suit against the United States as a result of the incident which caused the injury and upon which the claim is based.

■ 10. Section 757.14 is amended by revising paragraphs (a), (c), (d)(1), (e) introductory text, and (e)(1), to read as follows:

§ 757.14 Claims asserted.

(a) *General.* The DoN asserts MCRA and 10 U.S.C. 1095 claims when medical care is furnished to Navy and Marine Corps active duty personnel, retirees, or their dependents, or any other person when appropriate, and third-party tort or contract liability exists for payment of medical expenses resulting from an injury or disease. Claims are asserted when the injured party is treated in a MTF or when the DoN is responsible for reimbursing a non-Federal care provider.

* * * * *

(c) *Liable parties.* MCRA and 10 U.S.C 1095 claims may be asserted against individuals, corporations, associations and non-Federal Government agencies subject to the limitation described in § 757.15.

(d) * * *

(1) By using the rate set as described in § 757.13 (b)(2) in bills issued by the MTF; or

(2) * * *

(e) *Alternate theories of recovery.* (1) Often, recovery under the MCRA is not possible because no third-party tort liability exists. For example, if a member, retiree, or dependent is driving a vehicle and is injured in single-car accident, there is no tortfeasor. Title 10 U.S.C. 1095 provides the Government alternate means for recovery as a third-party beneficiary of an insurance contract of the injured party.

* * * * *

■ 11. Section 757.15 is amended by revising the introductory text and revising paragraphs (b) and (d) to read as follows:

§ 757.15 Claims not asserted.

In some cases, public policy considerations limit the DoN's assertion of claims against apparent third-party tortfeasors or a contract where the Government would be a third party beneficiary. Claims are not asserted against:

* * * * *

(b) *Injured service members, dependents, and employees of the United States.* Claims are not asserted directly against a servicemember, the dependent of a servicemember, or an employee of the United States who is injured as a result of his own willful or negligent acts. The United States does assert, however, against policies that cover the injury.

* * * * *

(d) *Department of Veterans' Affairs care for service-connected disability.* Claims are not asserted for care provided to a veteran by the Department of Veterans' Affairs when the care is for a service-connected disability. The United States will, however, claim for the reasonable value of care provided an individual before he is transferred to a Department of Veterans' Affairs hospital. This policy does not apply in cases where the MTF referred the patient to the Veterans' Affairs hospital and then paid for the care.

■ 12. Section 757.16 is revised to read as follows:

§ 757.16 Claims asserted only with OJAG approval.

(a) *Certain Government contractors.* JAG approval is required before asserting a claim against a Federal government contractor when the contract provides that the contractor will be indemnified or held harmless by the Federal government for tort liability.

(b) *U.S. personnel.* JAG approval is required before asserting MCRA claims directly against servicemembers, their dependents and federal employees and their dependents for injury to another person. No approval is necessary to assert claims against their insurance policies, however, except for injuries caused by servicemembers and federal employees acting ''within the scope of their employment.'' Intra-familial tort immunity would not preclude the Government from asserting any claims for care furnished to a tortfeasor's family members.

■ 13. Section 757.17 is revised to read as follows:

§ 757.17 Statute of limitations.

(a) *Federal.* Claims asserted under the MCRA or against an automobile liability insurer through 10 U.S.C. 1095 are founded in tort and must be brought within 3 years after the action ''first accrues'' (28 U.S.C. 2415b). Normally, a medical care claim ''first accrues'' on the initial date of treatment.

(b) *Claims Asserted under 10 U.S.C. 1095.* Although legal arguments can be made that claims asserted under 10 U.S.C. 1095 against a no-fault or personal injury protection insurer are founded in contract and can be brought within 6 years (28 U.S.C. 2415a), all claims should be asserted within 3 years of the date when the claim accrued. However, some states require notice of such claims to be filed within a shorter period of time.

■ 14. Section 757.18 is revised to read as follows:

§ 757.18 Asserting the claim.

(a) *Initial action by the JAG designee.* When advised of a potential claim, the JAG designee will determine the Federal agency or department responsible for investigating and asserting the claim.

(1) When DoN has reimbursed a non-Federal provider for health care, or when TRICARE has made payment for a Navy health care beneficiary, the JAG designee will assert any resulting claim.

(2) When care is provided in a Federal treatment facility, the status of the injured person will determine the agency that will assert a resulting claim. Cost of treatment provided or paid for by an MTF is deposited in that MTF's account, regardless of which service is making the collection.

(i) Where DoN members, retirees, or their dependents receive medical treatment from another Federal agency or department, the DoN will assert any claim on behalf of the United States based on information provided by the treating agency or department.

(ii) Similarly, where a DoN MTF provides care to personnel of another Federal agency or department, that other agency or department will assert any claim on behalf of the United States.

(3) If the claim is one which the DoN should assert, the JAG designee will forward all available information to the appropriate department or agency.

(4) If the claim is one which the DoN should assert, the JAG designee will ensure an appropriate investigation into the circumstances underlying the claim is initiated and will provide notice to the injured party and all third parties who may be liable to the injured person and the United States under the MCRA or 10 U.S.C. 1095.

(b) *Investigating the claim.* While there is no prescribed form or content for investigating these claims, the claims file will contain sufficient information on which to base valuation, assertion, settlement, waiver, and/or compromise decisions.

(c) *Notice of claim.* (1) The JAG designee will assert claims by mailing a notice of claim to identified third-party tortfeasors and their insurers or insurers for third-party beneficiary coverage. Many insured tortfeasors fail to notify their insurance companies of incidents. This failure may be a breach of the cooperation clause in the policy and may be grounds for the insurer to refuse to defend the insured or be responsible for any liability. The United States, as a claimant, may preclude such an invocation by giving the requisite notification itself. The purpose of the insurance clause is satisfied if the insurer receives actual notice of the incident, regardless of the informant. This notice should be mailed as soon as it appears an identified third party may be liable for the injuries. The prompt assertion of the claim will ensure that the government is named on the settlement draft. If the United States is not so named, and the claim has been asserted, the insurer settles at its own risk.

(2) The JAG designee will also notify the injured person or his legal representative of the Government's interest in the value of the medical care provided by the United States. This notice will advise that:

(i) The United States may be entitled to recover the reasonable value of medical care furnished or paid by the Federal government;

(ii) The injured person is required to cooperate in the efforts of the United States to recover the reasonable value of medical care furnished or paid for by the Federal government;

(d) *Administering the claim.* (1) After investigating and asserting the claim, the JAG designee will maintain contact with all parties, their legal representatives, and insurers.

(2) An effort should be made to coordinate collection of the Federal government's interest with the injured person's action to collect on a claim for damages.

(i) Attorneys representing an injured person may be authorized to include the Federal government's claim as an item of special damages with the injured person's claim or suit.

(ii) An agreement that the Government's claim will be made a party of the injured person's action should be in writing and state the counsel fees will not be paid by the Government or computed on the basis of the Government's portion of recovery.

(3) If the injured person is not bringing an action for damages or is refusing to include the Federal Government's interest, the JAG designee will pursue independent collection. The United States is specifically allowed to intervene or join in any action at law brought by or through the injured person against the liable third person or brings an original suit in its own name or in the name of the injured person. The JAG designee will ensure all parties are aware that the United States must be a party to all subsequent collection negotiation.

(4) When the Government's interests are not being represented by the injured person or his/her attorney, and independent collection efforts have failed, the JAG designee will refer the claims to the DoJ for possible suit.

(e) *Access to DoN records and information.* (1) Copies of medical records in cases that have potential claims will be sent by the MTFs to the cognizant JAG designee. It is considered a routine use of the records for the JAG designee to release them to an insurance company, if requested, in order to substantiate the claim. However, only the MTF as ''keepers of the records'' has the authority to make official releases of medical records to anyone else. Records will be protected in accordance with the provisions of the Privacy Act, 5 U.S.C. 552a, and confidentiality of quality assurance medical records, 10 U.S.C. 1102. Non-routine release requires the

authorization from the injured individual or legal representative or an order from a court of competent jurisdiction. A clerk or attorney signed subpoena is not ''an order from a court of competent jurisdiction.'' Subpoenas are processed in accordance with 32 CFR part 725.

(2) Requests for testimony of any Navy employees will be processed in accordance with DoD Directive 5405.2, 32 CFR part 725, and SECNAVINST 5820.8A. If the injured person, or his or her attorney has signed an agreement to protect the Government's interest and is requesting the testimony of a locally available physician who treated the injured person, however, this request falls within an exception to the regulations. See 32 CFR 725.5(g)(3). In this situation, the injured person or the attorney need only ask the JAG designee for assistance in scheduling the testimony of the treating physician and the JAG designee will coordinate with the physician's command to determine availability. Such testimony is limited to factual issues. The definition of factual issues is slightly different under the regulations than it is in civil litigation. Opinions that are formed prior to, or contemporaneously with, the treatment at issue and are routinely required in the course of the proper performance of professional duties constitute essentially factual matters. For example, the physician will have opined at the time of treatment if further treatment will be necessary. The physician may testify to that as factual, not opinion, testimony. Opinions that are formed after treatment and are not required for continuing treatment, especially those that respond to hypothetical questions, are not factual and are considered to be expert testimony. This expert testimony, regardless of who requests it, will be processed in accordance with 32 CFR part 725, and must be forwarded to OJAG Code 14, General Litigation Division. Requests for expert testimony are rarely granted.

■ 15. Section 757.19 is amended by revising paragraphs (a), (b) introductory text, (b)(6), and removing paragraph (c) to read as follows:

§ 757.19 Waiver and compromise.

(a) *General.* OJAG Code 15 (Claims and Tort Litigation) may authorize waiver or compromise of any claim that does not exceed $100,000.00. NLSO EURSWA may agree to compromise or waive claims for $40,000.00 or less. NLSO EURSWA claims in excess of $40,000.00 may be compromised or waived only with Code 15 approval.

(b) *Waiver and compromise.* The JAG designee may waive the Federal government's MCRA interest when a responsible third-party tortfeasor cannot be located, is judgment proof, or has refused to pay and litigation is not feasible. Waiver or compromise is also appropriate when, upon written request by the injured person or legal representative, it is determined that collection of the full amount of the claim would result in undue hardship to the injured person. In assessing undue hardship, the following should be considered:

* * * * *

(6) Amount of settlement or award from third-party tortfeasor or contract insurer; and

* * * * *

■ 16. Section 757.20 is revised to read as follows:

§ 757.20 Receipt and release.

The JAG designee will execute and deliver appropriate releases to third parties who have made full or agreed upon compromised payments. A copy of the release will be kept in the claims file.

Dated: September 10, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–18199 Filed 9–18–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. CGD07–07–203]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Pinellas County, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Welch Causeway/Tom Stuart (SR 666) Bridge across the Gulf Intracoastal Waterway, mile 122.8, at Madeira Beach, Pinellas County, Florida. This deviation is necessary to expedite repairs to the Welch Causeway Bridge. This deviation allows the bridge to open a single-leaf only with double-leaf openings available upon three hours notice to the bridge tender.

DATES: This deviation is effective from 7 a.m. on September 19, 2007 through 5 p.m. on November 30, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 415–6744. The Seventh Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Bridge Branch, (305) 415–6744 or e-mail *Michael.b.lieberum@uscg.mil.*

SUPPLEMENTARY INFORMATION: Coastal Marine Construction has requested a deviation from the regulation published in 33 CFR 117.287(l) that states ''the draw of the Welch Causeway (SR 699) bridge, mile 122.8 at Madeira Beach shall open on signal * * *''

A deviation from the aforementioned schedule in 33 CFR 117.287(l) is necessary for worker safety and to expedite repairs to the Welch Causeway Bridge. This deviation will remain in effect from 7 a.m. on September 19, 2007 through 5 p.m. on November 30, 2007.

The Welch Causeway/Tom Stuart Bridge will open a single-leaf only on the hour and half-hour. A double-leaf opening will be available so long as a three hour notice to the bridge tender is provided. Vessels in any situation that endangers life or property will be allowed to pass through the bridge on signal.

In accordance with 33 CFR 117.35, the drawbridge must return to its regular operating schedule on November 30, 2007.

Dated: August 30, 2007.

Greg Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. E7–18403 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 38

RIN 2900–AM64

Government-Furnished Headstone and Marker Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Veterans Affairs (VA) regulations applicable to Government-furnished headstones or markers for placement in a national, State veterans, or private cemetery. The final rule specifies that a veteran's spouse or surviving spouse, whose remains are unavailable for burial, and who died after November 11, 1998, is eligible for a memorial headstone or marker for placement in a national or State veterans cemetery. This final rule also specifies that a veteran's dependent child, whose remains are unavailable for burial, and who died after December 22, 2006, is eligible for a memorial headstone or marker for placement in a national or State veterans cemetery. Lastly, this final rule extends for 1 year the authority to provide a Government-furnished headstone or marker for already marked graves of eligible veterans whose deaths occurred on or after September 11, 2001, for placement in private cemeteries. This final rule is necessary to incorporate statutory amendments into VA regulations.

DATES: *Effective Date:* September 19, 2007.

Applicability Dates: The amendments to 38 CFR 38.630 shall apply to requests for memorialization of a veteran's spouse or surviving spouse whose death occurred after November 11, 1998, and to requests for memorialization of a veteran's dependent child whose death occurred after December 22, 2006. The amendments to 38 CFR 38.631 apply to eligible veteran deaths occurring on or after September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Deanna Wilson, Chief, Legislative and Regulatory Division, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 273–5306 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The National Cemetery Administration administers VA's memorial benefit programs, which include providing interment or memorialization of eligible deceased veterans, their spouses, and eligible dependents in national or State veterans cemeteries. For eligible veterans, VA provides, upon request, to any cemetery in the world, a Government-furnished headstone or marker to mark the burial location of a deceased veteran's remains. Under Public Law 107–103, the Veterans Education and Benefits Expansion Act of 2001, VA had authority to furnish a Government marker to mark the grave of a veteran buried in a private cemetery, regardless of whether the grave was already marked with a privately purchased headstone or marker. This authority expired on December 31, 2006; however, Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006, extended this authority until December 31, 2007. The Act also amended the governing statute, 38 U.S.C. 2306(d), to clarify that VA could furnish either a headstone or a marker and to clarify the requirements for delivery and placement of Government-furnished headstones and markers. This final rule amends 38 CFR 38.631 to make it consistent with the amended statute.

VA also furnishes a memorial headstone or marker with the mandatory inscription ''In Memory Of'' to commemorate certain individuals whose remains are not available for interment, i.e., have not been recovered or identified, were buried at sea, were donated to science, or were cremated and the ashes scattered. Originally, VA was authorized to furnish a memorial headstone or marker only for an eligible veteran, and the headstone or marker had to be placed in a national cemetery. However, Public Law 105–368, the Veterans Programs Enhancement Act of 1998, permitted a veteran's memorial headstone or marker to be placed in a national, state or private cemetery. Public Law 105–368 also expanded eligibility to include a veteran's spouse or surviving spouse whose remains are unavailable and permitted a memorial headstone or marker to be placed in a national or State veterans cemetery for deaths occurring after November 11, 1998.

Public Law 109–461 recently expanded eligibility to an eligible dependent child of a veteran whose remains are unavailable and permits placement of a memorial headstone or marker in a national or State veterans cemetery. The expanded eligibility applies to individuals who die after December 22, 2006. This final rule amends 38 CFR 38.630 to make it consistent with the amended statute.

Administrative Procedure Act

Because these amendments merely reflect statutory changes, this rule-making is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). The Office of Management and Budget (OMB) previously approved all collections of information referenced in this final rule under control number 2900–0222. This rule does not change those collections.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by OMB unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or 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 the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under the Executive Order 12866.

Regulatory Flexibility Act

The initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule would not affect any small entities. Only individual VA beneficiaries would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is also exempt from the regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before

issuing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule would have no such effect on State, local, or tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this final rule are 64.201, National Cemeteries; and 64.202, Procurement of Headstones and Markers and/or Presidential Memorial Certificates.

List of Subjects in 38 CFR Part 38

Administrative practice and procedure, Cemeteries, Veterans.

Approved: August 27, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 38 as set forth below:

PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

■ 1. The authority citation for part 38 is revised to read as follows:

Authority: 38 U.S.C. 501(a), 2306, unless otherwise noted.

■ 2. Revise § 38.630(c) to read as follows:

§ 38.630 Headstones and markers.

* * * * *

(c) *Memorial headstones or markers.* VA will furnish, when requested, a *memorial* headstone or marker to commemorate an eligible individual whose remains are unavailable. A Government memorial headstone or marker for placement in a national cemetery will be of the standard design authorized for the cemetery in which it will be placed. In addition to the authorized inscription on a Government memorial headstone or marker, the phrase ''In Memory Of'' is mandatory.

(1) *Eligible individuals.* An eligible individual for purposes of paragraph (c) is:

(i) A veteran, which includes an individual who dies in the active military, naval, or air service;

(ii) The spouse or surviving spouse of a veteran, which includes an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce; or

(iii) An eligible dependent child of a veteran.

(A) A dependent child of a veteran is eligible if the child is under the age of 21 years, or under the age of 23 years if pursuing a course of instruction at an approved educational institution.

(B) A dependent child of a veteran is also eligible if the child is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching the age of 21 years, or before reaching the age of 23 years if pursuing a course of instruction at an approved educational institution.

(2) *Unavailable remains.* An individual's remains are considered unavailable if they:

(i) Have not been recovered or identified;

(ii) Were buried at sea, whether by the individual's own choice or otherwise;

(iii) Were donated to science; or

(iv) Were cremated and the ashes scattered without interment of any portion of the ashes.

(3) *Placement of memorial headstones or markers.* (i) *Veterans.* A Government memorial headstone or marker to commemorate a veteran may be placed in a national cemetery, in a State veterans cemetery, or in a private cemetery.

(ii) *Other eligible individuals.* A Government memorial headstone or marker to commemorate a veteran's spouse or surviving spouse, who died after November 11, 1998, may be placed in a national cemetery or in a State veterans cemetery. A Government memorial headstone or marker to commemorate a veteran's dependent child who died after December 22, 2006, may be placed in a national cemetery or in a State veterans cemetery.

(Authority: 38 U.S.C. 2306)

§ 38.631 [Amended]

■ 3. Amend § 38.631 as follows:

■ a. In paragraphs (a), (c), (d), and (e), remove ''marker'' each place it appears and add, in its place, ''headstone or marker''.

■ b. In paragraph (f) remove ''markers'' and add, in its place, ''headstones or markers''.

■ c. In paragraph (g) remove ''marker'' and add, in its place, ''headstone or marker'' and remove ''December 31, 2006'' and add, in its place, ''December 31, 2007''.

(Authority: 38 U.S.C. 2306)

[FR Doc. E7–18503 Filed 9–18–07; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2007–0548–200741; FRL–8466–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Georgia: Redesignation of Macon, Georgia 8-Hour Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a request submitted on June 15, 2007, from the State of Georgia, through the Georgia Environmental Protection Division (EPD), to redesignate the Macon 8-hour ozone nonattainment area to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Macon 8-hour ozone area is comprised of Bibb County, and a portion of Monroe County located in middle Georgia (hereafter referred to as the ''Macon Area''). EPA's approval of the redesignation request is based on the determination that Georgia has demonstrated that the Macon Area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA), including the determination that the Macon Area has attained the 8-hour ozone standard. Additionally, EPA is approving a revision to the Georgia State Implementation Plan (SIP) including the 8-hour ozone maintenance plan for the Macon Area that contains the new regional 2020 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOCs). Through this action, EPA is also finding the new regional 2020 MVEBs adequate for the purposes of transportation conformity.

DATES: *Effective Date:* This rule will be effective October 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2007–0548. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through

www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT:

Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. Harder can be reached via telephone number at (404) 562–9042 or electronic mail at *Harder.Stacy@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the Background for the Actions?

On June 15, 2007, Georgia, through EPD, submitted a request to redesignate the Macon Area to attainment for the 8-hour ozone standard, and for EPA approval of the Georgia SIP revision containing a maintenance plan for the Macon Area. In an action published on August 2, 2007 (72 FR 42354), EPA proposed to approve the redesignation of Macon Area to attainment. EPA also proposed approval of Georgia's plan for maintaining the 8-hour NAAQS as a SIP revision, and proposed to approve the new regional 2020 MVEBs for the Macon Area that were contained in the maintenance plan. In the August 2, 2007, proposed action, EPA also provided information on the status of its transportation conformity adequacy determination for the Macon Area MVEBs. EPA received no comments on the August 2, 2007, proposal. This rule is EPA's final action following the August 2, 2007, proposal.

In this action, EPA is also finalizing its determination that the new regional MVEBs for the Macon Area are adequate for transportation conformity purposes. The new regional MVEBs included in the maintenance plan area as follows:

MACON 2020 MVEBS

[Tons per day]

	2020
VOCs	7.8744
NO_X	14.7712

EPA's adequacy public comment period on these MVEBs began on June 21, 2007, and closed on July 23, 2007. No comments were received during EPA's adequacy public comment period. Through this **Federal Register** document, EPA is finding the new regional 2020 MVEBs, as contained in Georgia's submittal, adequate. These MVEBs meet the adequacy criteria contained in the Transportation Conformity Rule. The new regional MVEBs must be used for future transportation conformity determinations.

As was discussed in greater detail in the August 2, 2007, proposal, this redesignation is for the 8-hour ozone designations finalized in 2004 (69 FR 23857, April 30, 2007). Various aspects of EPA's Phase 1 8-hour ozone implementation rule were challenged in court and on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist. (SCAQMD)* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2006). On June 8, 2007, in response to several petitions for rehearing, the D.C. Circuit Court clarified that the Phase 1 Rule was vacated only with regard to those parts of the Rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of title I, part D of the CAA as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS, remain effective. The June 8th decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8th decision affirmed the December 22, 2006, decision that EPA had improperly failed to retain measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; and (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS. The June 8th decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of 1-hour MVEBs until 8-hour budgets were available for 8-hour conformity determinations, which is already required under EPA's conformity regulations. The Court thus clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

With respect to the requirement for transportation conformity under the 1-hour standard, the Court in its June 8th decision clarified that for those areas with 1-hour MVEBs in their 1-hour maintenance plans, anti-backsliding requires only that those 1-hour budgets must be used for 8-hour conformity determinations until replaced by 8-hour budgets. To meet this requirement, conformity determinations in such areas must continue to comply with the applicable requirements of EPA's conformity regulations at 40 CFR Part 93. The Macon Area was never designated nonattainment for the 1-hour ozone standard and thus does not have 1-hour MVEBs to consider.

For the above reasons, and those set forth in the August 2, 2007, proposal for the redesignation of the Macon Area, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of Macon to attainment. Even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

II. What Actions Is EPA Taking?

EPA is taking final action to approve Georgia's redesignation request and to change the legal designation of the Macon Area from nonattainment to attainment for the 8-hour ozone NAAQS. The Macon Area is composed of Bibb County, and a portion of Monroe County located in middle Georgia. EPA is also approving Georgia's 8-hour ozone

maintenance plan for the Macon Area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Macon Area in attainment for the 8-hour ozone NAAQS through 2020. These approval actions are based on EPA's determination that Georgia has demonstrated that the Macon Area has met the criteria for redesignation to attainment specified in the CAA, including a demonstration that the Macon Area has attained the 8-hour ozone standard. EPA's analyses of Georgia's 8-hour ozone redesignation request and maintenance plan are described in detail in the proposed rule published August 2, 2007 (72 FR 42354).

Consistent with the CAA, the maintenance plan that EPA is approving also includes new regional 2020 MVEBs for NO_X and VOCs for the Macon Area. In this action, EPA is approving these new regional 2020 MVEBs. For regional emission analysis years that involve years prior to 2020, there are no applicable budgets (for the purpose of conducting transportation conformity analyses), so the transportation conformity partners should consult with the area's interagency consultation group to determine the appropriate interim tests to use. For regional emission analysis years that involve the year 2020 and beyond, the applicable budgets, for the purpose of conducting transportation conformity analyses, are the new regional 2020 MVEBs. In this action, EPA is also finding adequate and approving the Macon Area's new regional MVEBs for NO_X and VOCs.

III. Why Is EPA Taking These Actions?

EPA has determined that the Macon Area has attained the 8-hour ozone standard and has also determined that Georgia has demonstrated that all other criteria for the redesignation of the Macon Area from nonattainment to attainment of the 8-hour ozone NAAQS have been met. See, section 107(d)(3)(E) of the CAA. EPA is also taking final action to approve the maintenance plan for the Macon Area as meeting the requirements of sections 175A and 107(d) of the CAA. Furthermore, EPA is finding adequate and approving the new regional 2020 MVEBs contained in Georgia's maintenance plan because these MVEBs are consistent with maintenance for the Macon Area. In the August 2, 2007, proposal to redesignate the Macon Area, EPA described the applicable criteria for redesignation to attainment and its analysis of how those criteria have been met. The rationale for EPA's findings and actions is set forth in the proposed rulemaking and summarized in this rulemaking.

IV. What Are the Effects of These Actions?

Approval of the redesignation request changes the legal designation of the Macon Area for the 8-hour ozone NAAQS, found at 40 CFR Part 81. The approval also incorporates into the Georgia SIP a plan for maintaining the 8-hour ozone NAAQS in the Macon Area through 2020. The maintenance plan includes contingency measures to remedy future violations of the 8-hour ozone NAAQS, and establishes new regional MVEBs for the year 2020 for the Macon Area.

V. Final Action

After evaluating Georgia's redesignation request, EPA is taking final action to approve the redesignation and change the legal designation of Macon, Georgia from nonattainment to attainment for the 8-hour ozone NAAQS. Through this action, EPA is also approving into the Georgia SIP the 8-hour ozone maintenance plan for the Macon Area, which includes the new regional 2020 MVEBs of 7.8744 tpd for VOCs, and 14.7712 tpd for NO_X. Within 24 months from the publication date for this final rule, the Georgia transportation partners will need to demonstrate conformity to these new regional MVEBs pursuant to 40 CFR 93.104(e) as effectively amended by section 172(c)(2)(E) of the CAA as added by the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), which was signed into law on August 10, 2005.

VI. 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). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely affects the status of a geographical area, does not impose any new requirements on sources or allow a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the 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 and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

In reviewing SIP submissions, EPA's 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), 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 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, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See, section 307(b)(2) of the CAA.)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: September 4, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

40 CFR part 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

■ 2. Section 52.570(e) is amended by adding a new entry ''25'' at the end of the table to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
*	*	*	*
25. Macon 8-hour Ozone Maintenance Plan.	Macon, GA encompassing a portion of Monroe County.	06/15/07	09/19/07 [Insert first page of publication]

PART 81—[AMENDED]

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

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

■ 4. In § 81.311, the table entitled ''Georgia-Ozone (8-Hour Standard)'' is amended by revising the entries for ''Bibb County'' and ''Monroe County (part),'' to read as follows:

§ 81.311 Georgia.

* * * * *

GEORGIA-OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date[1]	Type	Date[1]	Type
*	*	*	*	*
Macon, GA: [3]				
Bibb County	10/19/07	Attainment.		
Monroe County (part)	10/19/07	Attainment.		
From the point where Bibb and Monroe Counties meet at U.S. Hwy 23/Georgia Hwy 87 follow the Bibb/Monroe County line westward 150′ from the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed northward 150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to 33 degrees, 04 minutes, 30 seconds; proceed westward to 83 degrees, 49 minutes, 45 seconds; proceed due south to 150′ north of the Georgia Hwy 18 centerline, proceed eastward 150′ north of and parallel to the Georgia Hwy 18 centerline to 1150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed southward 1150′ west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to the Monroe/Bibb County line; then follow the Monroe/Bibb County line to 150′ west of the U.S. Hwy 23/Georgia Hwy 87 centerline.				
*	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.

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

* * * * * * *

[3] The boundary change is effective October 13, 2006.

* * * * * * *

[FR Doc. E7–17976 Filed 9–18–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0106; FRL–8147–8]

Pendimethalin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of pendimethalin in or on artichoke, globe; asparagus; brassica head and stem, subgroup 5-A; and grape. Interregional Research Project Number 4 requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 19, 2007. Objections and requests for hearings must be received on or before November 19, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0106. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5218; e-mail address: *stanton.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0106 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before November 19, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0106, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of April 4, 2007 (72 FR 16352–16356) (FRL–8119–2), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E7129) by Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.361 be amended by establishing tolerances for combined residues of the herbicide pendimethalin, *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine, and

its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on artichoke, globe at 0.05 parts per million (ppm); asparagus at 0.1 ppm; brassica head and stem, subgroup 5A at 0.05; and grape at 0.05 ppm. That notice referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the tolerances for artichoke, globe; asparagus; brassica, head and stem vegetables, subgroup 5-A; and grape. The reason for these changes is explained in Unit V.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance for combined residues of pendimethalin and its metabolite on artichoke, globe at 0.1 ppm; asparagus at 0.15 ppm; brassica head and stem, subgroup 5-A at 0.1; and grape at 0.1 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by pendimethalin, as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in Appendix A of the document *Pendimethalin. Human Health Risk Assessment for the Proposed Food Uses of the Herbicide on Artichoke, Globe; Asparagus; Brassica Head and Stem Vegetables, Subgroup 5A; and Grape (PP#6E7129)*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as EPA–HQ–OPP–2007–0106–0003 in that docket.

B. Toxicological Endpoints

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

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

A summary of the toxicological endpoints for pendimethalin used for human risk assessment can be found at *http://www.regulations.gov* in document *Pendimethalin. Human Health Risk Assessment for the Proposed Food Uses of the Herbicide on Artichoke, Globe; Asparagus; Brassica Head and Stem Vegetables, Subgroup 5A; and Grape (PP#6E7129)* at pages 11–12. The referenced document is identified as EPA–HQ–OPP–2007–0106–0003 in that docket.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to pendimethalin, EPA considered exposure under the petitioned-for tolerances as well as all existing pendimethalin tolerances in (40 CFR 180.361). EPA assessed dietary exposures from pendimethalin in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No such effects were identified in the toxicological studies for pendimethalin; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

iii. *Cancer*. EPA has classified pendimethalin as a ''Group C'' (possible human) carcinogen, based on thyroid follicular cell adenomas observed in rats. The chronic dietary risk assessment based on the cPAD, however, is considered to be protective of any potential cancer effects, because mode of action studies are available that demonstrate that the thyroid tumors are due to a thyroid-pituitary imbalance, and also since pendimethalin was shown to be nonmutagenic in

mammalian somatic cells and germ cells. Therefore, a separate cancer exposure assessment was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information*. EPA did not use anticipated residue or PCT information in the dietary assessment for pendimethalin. Tolerance level residues and 100 PCT were assumed for all food commodities.

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

Based on the Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated environmental concentrations (EECs) of pendimethalin for acute exposures are estimated to be 77.7 parts per billion (ppb) for surface water and 0.036 ppb for ground water. The EECs for chronic exposures are estimated to be 6.0 ppb for surface water and 0.036 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. As explained in Unit III.C.1., an acute dietary risk assessment was not conducted for pendimethalin. For the chronic dietary risk assessment, the water concentration of value 6.0 ppb was used to access the contribution to drinking water.

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

Pendimethalin is currently registered for the following residential non-dietary sites: Recreational and residential turf (including home lawns, golf courses, athletic fields, etc.) and ornamentals. EPA assessed residential exposure based on applications to residential turf (i.e., home lawns), since this use is expected to result in the greatest residential exposure.

There is a potential for short-term exposure of homeowners applying products containing pendimethalin on home lawns. There is also a potential for short-term post-application exposure of adults and children entering lawn and recreation areas previously treated with pendimethalin. Exposures from treated recreational sites are expected to be similar to, or lower than, those from treated residential turf sites; therefore, a separate exposure assessment for recreational turf sites was not conducted. EPA assessed exposures from the following residential turf post-application scenarios:

- Adult and toddler post-application dermal exposure from contact with treated lawns.
- Toddlers' incidental ingestion of pesticide residues on lawns from hand-to-mouth transfer.
- Toddlers' object-to-mouth transfer from mouthing of pesticide-treated turfgrass.
- Toddlers' incidental ingestion of soil from pesticide-treated residential areas.

The post-application risk assessment was conducted in accordance with the *Residential Standard Operating Procedures (SOPs)* and recommended approaches of the Health Effects Division's (HED's) Science Advisory Council for Exposure (ExpoSAC).

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. The pre- and postnatal toxicology database for pendimethalin includes rat and rabbit developmental toxicity studies and a 2–generation reproduction toxicity study in rats.

In the rat developmental study, there were no maternal or developmental effects noted at any dose level tested. However, the study is considered adequate and a new study is not required because in other rat studies, thyroid toxicity was seen at significantly lower doses than the highest dose tested (500 milligrams/kilograms/day (mg/kg/day)) in this study. If thyroid parameters had been measured, maternal toxicity would likely have been demonstrated.

The rabbit toxicity study with pendimethalin did not demonstrate maternal or developmental toxicity at doses up to 60 mg/kg/day (highest dose tested). Since neither maternal nor developmental toxicity was seen at the highest dose tested, potential for increased sensitivity of the offspring could not be determined.

In the 2–generation reproduction study in rats, there was no evidence of increased susceptibility of offspring. Effects in the pups (decreased pup body weight gain and possible decreased pups born alive and pup survival) were seen at doses that also resulted in parental toxicity (decreased body weight).

3. *Conclusion*. EPA has determined that the FQPA safety factor of 10X must be retained. This decision is based on the following findings:

i. The toxicity database for pendimethalin contains all of the standard toxicity studies. However, there is uncertainty regarding potential thyroid effects seen in some of these

studies. Based on the hormonal changes (alterations in thyroid weights and histopathological lesions) observed in several studies following oral administration of pendimethalin, it is likely that pendimethalin may cause disruption in the endocrine system. There is concern that perturbation of thyroid homeostasis may lead to hypothyroidism and possibly result in adverse effects on the developing nervous system. Consequently, EPA has recommended that a developmental thyroid assay be conducted to evaluate the impact of pendimethalin on thyroid hormones, structure, and/or thyroid hormone homeostasis during development. This study has not yet been submitted.

ii. There is no indication that pendimethalin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that pendimethalin results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study. However, the developmental studies were not adequate to fully assess the potential for susceptibility. Consequently, there is concern for potential increased sensitivity or susceptibility in offspring regarding thyroid effects.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. Conservative ground and surface water modeling estimates were used. Similarly, conservative Residential SOPs were used to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pendimethalin.

Although the exposure estimate is very conservative and there are no neurotoxic concerns for pendimethalin, there is sufficient uncertainty regarding thyroid effects, particularly thyroid effects in the young, that EPA is retaining the 10X FQPA safety factor. EPA has also determined that the traditional 10X uncertainty factor to account for interspecies variation may be reduced to 3X, since it has been established that rats are more susceptible to thyroid effects than humans. These factors, together with the traditional 10X uncertainty factor to account for intraspecies variation, result in a total uncertainty factor of 300X (10X, 3X, and 10X).

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk*. None of the toxicology studies available for pendimethalin has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure; therefore, a quantitative acute dietary exposure assessment is unnecessary.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pendimethalin from food and water will utilize 16% of the cPAD for children, 1 to 2 years old, the population group with the greatest estimated exposure. Based the use pattern, chronic residential exposure to residues of pendimethalin is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure from food and water (considered to be a background exposure level). Pendimethalin is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for pendimethalin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food, water and residential exposures aggregated result in aggregate MOEs of 650 for adult males, 580 for adult females, and 390 to 410 for children, 1 to 2 years old (depending on the application rate assessed). The aggregate MOEs for adults are based on the residential turf scenario and include combined food, drinking water and post-application dermal exposures. The aggregate MOEs for children include food, drinking water, post-application dermal and incidental oral exposures from entering turf areas previously treated with pendimethalin.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Pendimethalin is not registered for use on any sites that would result in intermediate-term residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Pendimethalin has been classified as a ''Group C'' (possible human) carcinogen, based on thyroid follicular cell adenomas observed in rats. As explained in Unit III.C.1., risk assessments based on the endpoint selected for the cPAD are considered to be protective of any potential carcinogenic risk from exposure to pendimethalin. Based on the results of the chronic risk assessment discussed above in Unit III.E.2., EPA concludes that pendimethalin is not expected to pose a cancer risk.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The PAM VII lists four gas chromatography, with electron capture detection (GC/ECD), methods for the determination of pendimethalin residues of concern in plant commodities. Methods I and III determine residues of the parent, whereas Methods II and IV determine residues of the regulated metabolite. An adequate confirmatory GC/MS method is also available and may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no Canadian, Mexican, or Codex maximum residue limits (MRLs) for pendimethalin on the commodities for which tolerances are being established.

V. Conclusion

Based upon review of the data supporting the petitions, EPA has modified the proposed tolerances as

follows: Artichoke, globe from 0.05 ppm to 0.1 ppm; asparagus from 0.1 ppm to 0.15 ppm; brassica head and stem, subgroup 5-A from 0.05 ppm to 0.1 ppm; and grape from 0.05 ppm to 0.1 ppm.

The tolerances for artichoke, globe; brassica head and stem, subgroup 5-A; and grape were determined based on the sum of the method Limits of Quantitation (LOQ) for parent pendimethalin (0.05 ppm) and its regulated metabolite (0.05 ppm), since no detectable residues were found in the submitted residue field trials.

The tolerance for asparagus was determined using the Agency's Tolerance Spreadsheet in accordance with the Agency's *Guidance for Setting Pesticide Tolerances Based on Field Trial Data*.

Therefore, tolerances are established for combined residues of pendimethalin, *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine, and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on artichoke, globe at 0.1 ppm; asparagus at 0.15 ppm; brassica head and stem, subgroup 5-A at 0.1 ppm; and grape at 0.1 ppm.

VI. Statutory and Executive Order Reviews

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

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 7, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.361 is amended by alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

180.361 Pendimethalin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * *	*
Artichoke, globe	0.1
Asparagus	0.15
* * * *	*
Brassica head and stem, subgroup 5-A	0.1
* * * *	*
Grape	0.1
* * * *	*

[FR Doc. E7–18259 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0539; FRL–8147–3]

Trifloxystrobin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of Trifloxystrobin and the acid metabolite CGA–321113 in or on grass, forage and grass, hay. Bayer CropScience requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 19, 2007. Objections and requests for hearings must be received on or before November 19, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0539. To access the electronic docket, go to *http://*

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

FOR FURTHER INFORMATION CONTACT:

Janet Whitehurst, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6129; e-mail address: *whitehurst.janet@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0539 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before November 19, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0539, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of August 1, 2007 (72 FR 42072) (FRL–8138–1), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F7024) by Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.555 be amended by establishing a tolerance for combined residues of the fungicide Trifloxystrobin, (benzeneacetic acid, (E,E)-α-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl) phenyl]ethylidene]amino]oxy] methyl]-methyl ester) and the free form of its acid metabolite CGA–321113 (E,E)-methoxyimino-[2-[1-(3-trifluoromethylphenyl)-ethylideneaminooxymethyl]-phenyl] acetic acid, in or on grass, forage at 10 parts per million (ppm) and grass, hay at 14 ppm. That notice referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C. below.

Based upon review of the data supporting the petition, EPA has modified the tolerances proposed for grass, forage and grass, hay. The appropriate tolerances for grass forage and hay were calculated to be 12 and 17 ppm, respectively. Although residue data were also provided for grass straw and seed screenings, tolerances are not required on these commodities as the Agency no longer considers them to be significant livestock feedstuffs. The recommended tolerance levels for grass forage and hay were determined considering recent Agency Guidance (Guidance for Setting Pesticide Tolerances Based on Field Trial Data).

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance for combined residues of Trifloxystrobin, (benzeneacetic acid, (E,E)-α-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl) phenyl]ethylidene]amino]oxy] methyl]-methyl ester) and the free form of its acid metabolite CGA–321113 (E,E)-methoxyimino-[2-[1-(3-trifluoromethylphenyl)-ethylideneaminooxymethyl]-phenyl] acetic acid (hereinafter referrred to as Trifloxsytrobin) on grass, forage at 12 ppm and grass, hay at 17 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by Trifloxystrobin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the *Trifloxystrobin: Human Health Risk Assessment for Section 3 Registration for the Proposed Uses on Grasses Grown for Seed.* at *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as EPA–HQ–OPP–2007–0539 in that docket.

B. Toxicological Endpoints

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

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/oppfead1/trac/science*; *http://www.epa.gov/pesticides/factsheets/riskassess.htm*; *http://www.epa.gov/pesticides/trac/science/aggregate.pdf*

A summary of the toxicological endpoints for Trifloxystrobin used for human risk assessment can be found at *http://www.regulations.gov* in document *Trifloxystrobin: Human Health Risk Assessment for Section 3 Registration for the Proposed Uses on Grasses Grown for Seed. Petition No: 6F7024* at page 16 in docket ID number EPA–HQ–OPP–2007–0539.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to Trifloxystrobin, EPA considered exposure under the petitioned-for tolerances as well as all existing Trifloxystrobin tolerances in (40 CFR 180.555). EPA assessed dietary exposures from Trifloxystrobin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed 100% crop treated (CT) and tolerance level residues for each commodity.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed 100% CT and tolerance level residues for each commodity.

iii. *Cancer.* The Agency classified trifloxystrobin as a ''not likely carcinogen;'' therefore, quantification of human cancer risk is not required and a cancer dietary assessment was not performed.

iv. *Anticipated residue and percent crop treated (PCT) information.* The Agency did not use anticipated residue estimates or PCT information in the trifloxystrobin dietary exposure assessment.

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

Based on the First Index Reservoir Screening Tool (FIRST), Screening Concentration in Ground Water (SCI-GROW) models, and rice paddies

method the estimated environmental concentrations (EECs) of Trifloxystrobin and the metabolite CGA–321113 for acute exposures are estimated to be 92 parts per billion (ppb) for surface water and 3.4 ppb for ground water. The EECs for chronic exposures are estimated to be 140 ppb for surface water and 3.4 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 92 ppb was used to access the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 140 ppb was used to access the contribution to drinking water.

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

Trifloxystrobin is currently registered for the following residential non-dietary sites: Turfgrass and ornamentals. EPA assessed residential exposure using the following assumption: Non-occupational postapplication contact with trifloxystrobin following Compass® use on turfgrass is the most common and worst case contributor to such exposures.

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. In the prenatal developmental study in rats there was no developmental toxicity at the Limit Dose. In the prenatal developmental study in rabbits, developmental toxicity was seen at a dose that was higher than the dose that caused maternal toxicity. In the 2–generation reproduction study, there was no offspring toxicity at the highest dose tested.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for Trifloxystrobin is complete except for an acute neurotoxicity study which is classified as unacceptable. The toxicity database contains developmental toxicity studies in two species (rats and rabbits) and a 2–generation reproduction study in rats which are adequate to assess pre and/or post natal susceptibility to infants and children. Although the available, submitted acute neurotoxicity study was found to be unacceptable, based on a weight-of-the evidence review of the available data, the lack of this study does not impact the Agency's ability to make an FQPA safety factor decision. Given that there was no evidence of neurotoxicity in this study at the Limit Dose nor in the other subchronic and chronic studies in the database there is not an uncertainty concerning neurotoxic effects and EPA has reliable data to show that removal of the FQPA safety factor is safe for children. Additionally, these data demonstrate that a developmental neurotoxicity study is not required for this pesticide.

ii. There is no residual concern for pre- or post-natal toxicity or increased sensitivity in infants and children. In both the rat developmental study and the 2–generation reproduction study there were no effects in fetal animals or offspring at the highest dose tested. Although developmental effects were seen in the rabbit developmental study, there was a clear NOAEL identified for these effects and that NOAEL was used in setting the aPAD. Moreover, adverse effects were seen in the adult animals in this study at a lower level.

iii. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues Conservative ground water and surface water modeling estimates were used. Similarly conservative Residential SOPs were used to assess post-application exposure to children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by Trifloxystrobin].

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to Trifloxystrobin will occupy <1% of the aPAD for the population group (females 13–49 years old) receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to Trifloxystrobin from food and water will utilize 81% of the cPAD for the population group (children 1–2 years old, the most highly exposed subgroup). Based on the use pattern, chronic residential exposure to residues of Trifloxystrobin is not expected.

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

Trifloxystrobin is currently registered for uses that could result in short-term

residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for Trifloxystrobin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food, water, and residential exposures aggregated result in aggregate MOEs greater than 100 for adults and children 1–2 years. Therefore, the Agency does not consider short term aggregate risk to be of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Though residential exposure could occur intermediate-term aggregate risk is not expected based on the short soil half-life (about 2 days). Therefore, an intermediate-term aggregate risk assessment was not performed.

5. *Aggregate cancer risk for U.S. population*. The Agency classified trifloxystrobin as a ''not likely'' human carcinogen. Therefore, trifloxystrobin is not expected to pose a cancer risk.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Gas Chromatography with a nitrogen phosphorus detector (GC/NPD method (Method AG–659A)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no Canadian Maximum Residue Levels (MRLs) for trifloxystrobin. Codex and Mexican MRLs have been established for trifloxystrobin in/on various commodities; however, there are no MRLs for the commodities associated with the proposed use of trifloxystrobin in/on grasses grown for seed. Also, the residue definition for both Codex and Mexican MRLs includes only parent compound in plant commodities, but the definition for Codex MRLs in livestock commodities includes parent and the acid metabolite, CGA321113. Therefore, harmonization in plant commodities is not possible at this time as the current U.S. tolerance definition includes the combined residues of trifloxystrobin and its free acid metabolite. Harmonization of the tolerance level in meat by-products of cattle, goats, and sheep is not possible at this time as the U.S. tolerance in meat by-products reflects higher potential exposures to various feedstuffs.

C. Response to Comments

One comment was received from B. Sachau. Ms. Sachau's comments regarding general exposure to pesticides contained no scientific data or evidence to rebut the Agency's conclusion that there is a reasonable certainty that no harm will result from aggregate exposure to trilfoxystrobin, including all anticipated dietary exposures and other exposures for which there is reliable information. This comment as well as her comments regarding animal testing have been responded to by the Agency on several occasions. For examples, see the **Federal Register** issues of January 7, 2005 (70 FR 1349) (FRL–7691–4) and October 29, 2004 (69 FR 63083) (FRL–7681–9).

V. Conclusion

Therefore, the tolerance is established for combined residues of Trifloxystrobin, (benzeneacetic acid, (E,E)-α-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl) phenyl]ethylidene]amino]oxy] methyl]-methyl ester) and the free form of its acid metabolite CGA–321113 (E,E)-methoxyimino-[2-[1-(3-trifluoromethylphenyl)-ethylideneaminooxymethyl]-phenyl] acetic acid in or on grass, forage at tolerance level 12 ppm and grass, hay at tolerance level 17 ppm.

VI. Statutory and Executive Order Reviews

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

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and

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

List of Subjects in 40 CFR Part 180

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

Dated: September 10, 2007.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.555 is amended by alphabetically adding the following commodities in the table in paragraph (a):

§ 180.555 Trifloxystrobin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* *
Grass, forage	12
Grass, hay	17
* * *	* *

* * * * *

[FR Doc. E7–18371 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

EPA–HQ–OPP–2006–0297; FRL–8146–8]

Desmedipham; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of desmedipham in or on beet, garden, roots; beet, garden, tops and spinach. The Interregional Research Project No. 4 (IR-4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 19, 2007. Objections and requests for hearings must be received on or before November 19, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION)**.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0297. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: jackson.sidney@*epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0297 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before November 19, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA

without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2006–0297, by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of April 21, 2006 (71 FR 20666) (FRL–8064–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E7027) by the Interregional Research Group (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.353 be amended by establishing a tolerance for residues of the herbicide, desmedipham, (ethyl-*m*-hydroxycarbanilate carbanilate) in or on the raw agricultural commodities: Beet, garden, roots at 0.05 parts per million (ppm), beet, garden, tops at 1.0 ppm, and spinach at 6.0 ppm. That notice referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance for residues of beet, garden, roots at 0.05 ppm, beet, garden, tops at 1.0 ppm, and spinach at 6.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by desmedipham as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the Reregistration Eligibility Decision (RED) for desmedipham and FQPA Tolerance Reassessment Progress Report (TRED) for desmedipham (http://www.epa.gov/pesticides/reregistration/desmedipham/) and at *www.regulations.gov* in document ''Desmedipham: Human Health Risk Assessment for Petition 6E7027 dated February 1, 2007'' in Docket ID EPA–HQ–OPP–2006–0297.

B. Toxicological Endpoints

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

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day–26/p30948.htm*.

A summary of the toxicological endpoints for desmedipham used for human risk assessment can be found at *http://www.regulations.gov* in document ''Desmedipham: Human Health Risk Assessment for Petition 6E7027 dated February 1, 2007'' at page number 6 in docket ID number EPA–HQ–OPP–2007–0297.

Subsequent to completion of the February 1, 2007 risk assessment, EPA reevaluated the cancer classification of desmedipham. Previously, desmedipham was ''tentatively'' classified as a Group E carcinogen (evidence of non-carcinogenicity for humans) under the classification scheme in effect at the time. The classification was ''tentative'' pending submission of historical control data on the incidence of mammary gland fibroadenomas and information to address the number of animals examined at the low and mid-doses for histopathology in the chronic/carcinogenicity study in Wistar rats. To date, historical control data for the Wistar rat cancer study have not been submitted to the Agency. However, the need for this historical control data is alleviated by the submission of a new chronic/carcinogenicity study in Sprague Dawley rats. The new Sprague

Dawley rat study examined doses comparable to those examined in the Wistar rat study. In this new cancer rat study, there was no treatment related increase in the incidence of mammary gland fibroadenomas and no increase in any other tumor type or in the total number of tumors. EPA has concluded that desmedipham should now be classified as ''Not likely to be Carcinogenic to Humans'' based on the lack of carcinogenic potential noted in the available studies. EPA's re-evaluation of the cancer classification can be found at *www.regulations.gov* in document ''Desmedipham: Re-evaluation of Cancer Classification'' in Docket ID EPA–HQ–OPP–2006–0297.

To assess acute dietary exposure, an endpoint and dose were selected from a developmental study in the rat. The maternal NOAEL was 10 milligrams/kilogram (mg/kg)/day based on increased methemoglobin at 100 mg/kg/day (LOAEL). An UF of 100 was applied to the acute toxicity endpoint resulting in an aPAD of 0.1 mg/kg bodyweight (bw)/day. The FQPA safety factor was reduced from 10x to 1x.

To assess chronic dietary exposure, an endpoint and dose were selected from a two-generation reproduction study in rats. The NOAEL from this study was 4 mg/kg bw/day and the LOAEL was 20 mg/kg/day based on parental systemic toxicity of hemolytic anemia accompanied by significant increases in splenic weights and compensatory functioning of the thyroid. An UF of 100 (10x for interspecies extrapolation and 10x for intraspecies variability) was applied to the chronic toxicity endpoint resulting in a cPAD of 0.04 mg/kg bw/day. The FQPA Safety Factor (SF) was reduced from 10x to 1x.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to desmedipham, EPA considered exposure under the petitioned-for tolerances as well as all existing desmedipham tolerances in (40 CFR 180.353). EPA assessed dietary exposures from desmedipham in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996, and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed all foods for which there are existing and proposed tolerances were treated and contain tolerance-level residues.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996, and 1998 Nationwide CSFII. As to residue levels in food, EPA assumed all foods for which there are tolerances existing and proposed were treated and contain tolerance-level residues.

iii. *Cancer*. Desmedipham has been classified as ''Not Likely to be Carcinogenic to Humans''. Therefore, the Agency concluded that desmedipham is not expected to pose a carcinogenic risk and quantification of exposure for the purpose of assessing cancer risk is not necessary.

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

In the environment, at neutral to alkaline pH, desmedipham is rapidly hydrolyzed to EHPC (ethyl-(3-hydroxyphenyl) carbamate). Given that EHPC has a sub-structure that has been associated with methemoglobin effects, the endpoint of concern for the parent desmedipham for acute and chronic exposures, EHPC has been included in the dietary risk assessment for drinking water.

The Agency calculated Tier 1 (upper-bound) Drinking Water Concentrations (EDWCs) for the combined residues of parent desmedipham plus EHPC. EDWCs for desmedipham plus EHPC were calculated using the FQPA Index Reservoir Screening Tool (FIRST) (surface water) and Screening Concentration In - Ground Water (SCI-GROW) (ground water) drinking water models. Both models provide estimates suitable for screening purposes. Modeled EDWCs for peak and average concentrations of desmedipham plus EHPC in surface water are 130 parts per billion (ppb) and 71 ppb, respectively. The modeled peak and average EDWCs for ground water are 0.04 ppb.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 130 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 71 ppb was used to assess the contribution to drinking water.

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

Desmedipham is not registered for use in or on any sites that would result in residential exposure.

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

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

D. Safety Factor for Infants and Children

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

support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. Desmedipham is not considered a developmental toxicant or a mutagen. Developmental toxicity studies show no increased sensitivity in fetuses as compared to maternal animals following in utero exposures in rats and rabbits. A two-generation reproduction toxicity study in rats showed no increased susceptibility in pups when compared to adults, There was no evidence of abnormalities in the development of the fetal nervous system in the pre/post natal studies. Neither brain weight nor histopathology of the nervous system was affected in the subchronic and chronic toxicity studies.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

The toxicology database is complete and there are no data gaps. There are no residual concerns regarding pre- or post-natal toxicity. There is no evidence requiring a developmental neurotoxicity study, and

i. The toxicology database is complete and there are no data gaps.

ii. There are no residual concerns regarding pre- or post-natal toxicity.

iii. There is no evidence requiring a developmental neurotoxicity study, and

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% crop treated (CT) and tolerance-level residues. Conservative ground and surfacewater modeling estimates were used. These assessments will not underestimate the exposure and risks posed by desmedipham.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to desmedipham will occupy 26% of the aPAD for the population group (all infants less than 1 yr old) receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to desmedipham from food and water will utilize 13% of the cPAD for the population group all infants less than 1 yr old.

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

Desmedipham is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Desmedipham is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Desmedipham is classified as ''Not Likely to be Carcinogenic to Humans'' and is not expected to pose a cancer risk.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Liquid Chromatography/Mass Spectrometry/Mass Spectrometry (LC/MS/MS) method AL/01/02) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no established or proposed Codex, Canadian or Mexican MRLs for desmedipham.

V. Conclusion

Therefore, the tolerance is established for residues of the herbicide, desmedipham (ethyl-*m*-hydroxycarbanilate carbanilate) in or on the raw agricultural commodities: Beet, garden, roots at 0.05 ppm, beets, garden, tops at 1.0 ppm, and spinach at 6.0 ppm.

VI. Statutory and Executive Order Reviews

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

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes.

Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 7, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In § 180.353, paragraph (a) is revised to read as follows:

§ 180.353 Desmedipham; tolerances for residues.

(a) *General*. Tolerances are established for residues of the herbicide desmedipham, (ethyl-*m*-hydroxycarbanilate carbanilate) in or on the following raw agricultural commodities in the table that follows:

Commodity	Parts per million
Beet, garden, roots	0.05
Beet, garden, tops	1.0
Beet, sugar, roots	0.2
Beet, sugar, tops	0.2
Spinach	6.0

* * * * *

[FR Doc. E7–18373 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0187; FRL–8147–5]

Amitraz, Atrazine, Ethephon, Ferbam, Lindane, Propachlor, and Simazine; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking certain tolerances for the insecticides amitraz and lindane; the herbicides atrazine, propachlor, and simazine; the plant growth regulator ethephon; and the fungicide ferbam. Also, EPA is modifying certain tolerances for the herbicide atrazine, propachlor, and simazine; the insecticide amitraz; the plant growth regulator ethephon; and the fungicide ferbam. In addition, EPA is establishing new tolerances for the herbicide atrazine and the plant growth regulator ethephon. The regulatory actions finalized in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q).

DATES: This regulation is effective September 19, 2007. Objections and requests for hearings must be received on or before November 19, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0187. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at*http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Monisha Dandridge, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0410; e-mail address: *Dandridge.monisha@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by the Food Quality Protection Act (FQPA), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0187 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 19, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007–0187, by one of the following methods.

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

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of June 13, 2007 (72 FR 32570) (FRL–8133–3), EPA issued a proposal to revoke, modify, and establish specific tolerances for residues of the fungicide ferbam; the herbicides atrazine, propachlor, and simazine; the insecticides amitraz and lindane, and the plant growth regulator ethephon. Also, the proposal of June 13, 2007, provided a 60–day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

In this final rule, EPA is revoking, modifying, and establishing specific tolerances for residues of the fungicide ferbam; the herbicides atrazine, propachlor, and simazine; the insecticides amitraz and lindane, and the plant growth regulator ethephon in or on commodities listed in the regulatory text of this document.

EPA is finalizing these tolerance actions in order to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each Reregistration Eligibility Decision (RED) and Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications, to reflect current use patterns, to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419, telephone number: 1–800–490–9198; fax number: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161, telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the Internet at *http://www.regulations.gov* and *http:// www.epa.gov/pesticides/reregistration/status.htm*.

In this final rule, EPA is revoking certain tolerances and/or tolerance exemptions because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA in the United States. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide active ingredient. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. It is EPA's general practice to issue a final rule revoking those tolerances and tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person who comments on the proposal indicates a need for the tolerance or tolerance exemption to cover residues in or on imported commodities or legally treated domestic commodities.

Historically, EPA has been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States.

Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed in Unit II.A. if one of the following conditions applies:

1. Prior to EPA's issuance of a FFDCA section 408(f) order requesting additional data or issuance of a FFDCA section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained.

2. EPA independently verifies that the tolerance is no longer needed.

3. The tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained. In response to the proposal published in the **Federal Register** of June 13, 2007 (72 FR 32570), EPA received comments during the 60–day public comment period, as follows:

i. *General—Comment by private citizen*. A private citizen stated that only zero tolerance levels should be

acceptable. In addition, the commenter expressed a concern for pesticide use in general and their possible toxic effects on wildlife and humans.

Agency response. The private citizen's comments did not take issue with any of the Agency's specific conclusions to modify, revoke, or establish certain tolerances. Also, the commenter did not refer to any specific studies which pertained to those conclusions. EPA believes that the tolerance actions finalized herein meet the safety standard of FFDCA section 408, 21 U.S.C. 346a. In developing REDs and TREDs, EPA worked with stakeholders, pesticide registrants, growers and other pesticide users, environmental and public health interests, the States, the U.S. Department of Agriculture (USDA), other Federal agencies, and others to develop voluntary measures or regulatory controls needed to effectively reduce risks of concern. Such options include voluntary cancellation of pesticide products or deletion of uses, declaring certain uses ineligible or not yet eligible, restricting use of products to certified applicators, limiting the amount or frequency of use, improving use directions and precautions, adding more protective clothing and equipment requirements, requiring special packaging or engineering controls, requiring no-treatment buffer zones, employing environmental and ecological safeguards, and other measures.

ii. *Comment by a member of the U.S. Geological Survey.* A comment was received by EPA from a member of the U.S. Geological Survey, U.S. Department of the Interior, who inquired whether the source of simazine, such as a contaminant of atrazine, could affect the Agency's proposed tolerance determinations for simazine.

Agency response. Combined simazine residues of concern (simazine and its two chlorinated degradates) detectable on food commodities are regulated by tolerances established in 40 CFR 180.213. These two chlorinated degradates of simazine are also regulated as combined atrazine residues of concern in 40 CFR 180.220. The selection of an individual tolerance level by EPA is based on available crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. In addition, for a food-use pesticide to be sold and distributed for domestic use in the United States, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Under FFDCA section 408(l)(5), residues on food shall not render the food adulterated so long as it is shown to the satisfaction of the U.S. Food and Drug Administration that the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and that the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. In establishing, modifying, leaving in effect, or revoking a tolerance or exemption for a pesticide chemical residue, the Agency considers, among other relevant factors, available information such as aggregate human exposure levels to the pesticide residue. The tolerance actions finalized herein for simazine are based on the available data which EPA has reviewed during the simazine RED process, and which the Agency has determined meet the FFDCA standard, are safe, and that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure. However, EPA may propose to revoke tolerances for residues of a pesticide under FFDCA section 408(e)(1) when the Agency has determined that the existing tolerances do not meet requirements of FFDCA section 408(b)(2). Any data on potential contamination of atrazine with detectable levels of simazine will be considered by the Agency and appropriate tolerance actions, if needed, will be proposed for public comment.

With the exception of the general comment on simazine, EPA did not receive any specific comments, during the 60–day comment period, on the following pesticide active ingredients: Amitraz, atrazine, ethephon, ferbam, lindane, propachlor, and simazine. Therefore, the Agency is finalizing the amendments proposed in the **Federal Register** of June 13, 2007 (72 FR 32570). For a detailed discussion of the Agency's rationale for the establishments, revocations, and modifications to the tolerances, and revisions to tolerance expressions and commodity terminologies, refer to the proposed rule of June 13, 2007.

In addition, the Agency is making the following revisions in this final rule.

1. *Amitraz.* Currently, direct animal treatments of amitraz are registered for use on cattle and hogs. In the proposal of June 13, 2007 (72 FR 32570), EPA inadvertently stated that there is a 3–day pre-slaughter interval for cattle when in fact there is a 7–day retreatment interval and no pre-slaughter interval.

2. *Ethephon.* EPA proposed to establish a tolerance for filbert at 0.80 ppm but did not propose in a notice for comment to revise the tolerance nomenclature for ethephon in 40 CFR 180.300(a) from filbert to hazelnut, as is current Agency practice. However, section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Consequently, for good cause, EPA is revising the terminology from filbert to hazelnut and therefore the Agency is establishing a tolerance for hazelnut in 40 CFR 180.300(a) at 0.80 ppm. The reason for taking this action is because such action has no practical impact on the use of or exposure to the pesticide active ingredient, ethephon, in or on that commodity and is made such that the tolerance terminology will conform to current Agency practice.

3. *Simazine.* EPA proposed to decrease the tolerance in 40 CFR 180.213 on filbert to 0.20 ppm but did not propose in a notice for comment to revise the tolerance nomenclature for simazine in 40 CFR 180.213 from filbert to hazelnut, as is current Agency practice. However, section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Consequently, for good cause, EPA is revising the tolerance terminology in 40 CFR 180.213 from filbert to hazelnut. The reason for taking this action is because such action has no practical impact on the use of or exposure to the pesticide active ingredient, simazine, in or on that commodity and is made such that the tolerance terminology will conform to current Agency practice.

B. What is the Agency's Authority for Taking this Action?

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the

reregistration and tolerance reassessment processes, and as follow-up on canceled uses of pesticides. As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standards under FFDCA. The safety finding determination is found in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued post-FQPA REDs for atrazine, ferbam, lindane, propachlor, and simazine, and TREDs for amitraz and ethephon, whose REDs were completed prior to FQPA. REDs and TREDs contain the Agency's evaluation of the database for these pesticides, including statements regarding additional data on the active ingredients that may be needed to confirm the potential human health and environmental risk assessments associated with current product uses, and REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are made final in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to revoke tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, the Agency gives consideration to possible pesticide residues in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, then tolerances do not need to be established for these commodities (40 CFR 180.6(b) and 180.6(c)).

C. When Do These Actions Become Effective?

With the exception of certain tolerances for ferbam and lindane, which EPA is revoking with specific expiration/revocation dates, the Agency is revoking, modifying, and establishing specific tolerances, and revising specific commodity terminologies effective on the date of publication of this final rule in the **Federal Register**. With the exception of the tolerances for ferbam and lindane, the Agency believes that existing stocks of pesticide products labeled for the uses associated with the revoked tolerances have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade. EPA is revoking certain ferbam and lindane tolerances with expiration/revocation dates of October 27, 2007, for the ferbam tolerances on bean, cabbage, lettuce, and raspberry and October 2, 2009 for the lindane tolerances on the fat of cattle, goats, hops, horses, and sheep. The Agency believes that these revocation dates allow users to exhaust stocks and allow sufficient time for passage of treated commodities through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

III. Are There Any International Trade Issues Raised by this Final Action?

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in the proposed rule cited in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A. of the proposal.

IV. Statutory and Executive Order Reviews

In this final rule, EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211,*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the

Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket as mentioned in Unit II.A.) Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled*Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 12, 2007.

Anne E. Lindsay,

Acting Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.114 is amended by revising paragraph (a) and adding text to paragraph (c) to read as follows:

§ 180.114 Ferbam; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide ferbam (ferric dimethyldithiocarbamate), calculated as carbon disulfide, in or on the following food commodities:

Commodity	Parts per million	Expiration/ Revocation Date
Apple	4.0[1]	None
Bean	7.0[1]	10/27/07
Cabbage	7.0[1]	10/27/07
Cherry	4.0[1]	None
Cranberry	4.0[1]	None
Fruit, citrus, group 10	4.0[1]	None
Grape	4.0[1]	None
Lettuce	7.0[1]	10/27/07
Nectarine	4.0[1]	None
Peach	4.0[1]	None
Pear	4.0[1]	None
Raspberry	7.0[1]	10/27/07

[1]Some of these tolerances were established on the basis of data acquired at the public hearings held in 1950 (formerly §180.101) and the remainder were established on the basis of pesticide petitions presented under the procedure specified in the amendment to the Federal Food, Drug, and Cosmetic Act by Pub. L. 518, 83d Congress (68 Stat. 511)

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registrations, as defined in § 180.1(m), are established for residues of the fungicide ferbam (ferric dimethyldithiocarbamate), calculated as carbon disulfide, in or on the following food commodities:

Commodity	Parts per million
Mango	4.0[1]

[1]This tolerance was established on the basis of data acquired at the public hearings held in 1950 (formerly §180.101) and the remainder was established on the basis of pesticide petitions presented under the procedure specified in the amendment to the Federal Food, Drug, and Cosmetic Act by Pub. L. 518, 83d Congress (68 Stat. 511)

* * * * *

■ 3. Section 180.133 is amended by revising the table in paragraph (a) to read as follows:

§180. 133 Lindane; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million	Expiration/ Revocation Date
Cattle, fat	7.0	10/2/09
Goat, fat	7.0	10/2/09
Hog, fat	4.0	10/2/09
Horse, fat	7.0	10/2/09
Sheep, fat	7.0	10/2/09

* * * * *

■ 4. Section 180.211 is amended by revising the section heading and paragraph (a) to read as follow:

§ 180.211 Propachlor; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide propachlor (2-chloro-N-isopropylacetanilide) and its metabolites containing the N-isopropylaniline moiety, calculated as 2-chloro-N-isopropylacetanilide, in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	0.05
Cattle, kidney	0.2
Cattle, meat	0.02
Cattle, meat byproducts, except kidney	0.05
Corn, field, forage	3.0
Corn, field, grain	0.2
Corn, field, stover	1.0
Corn, sweet, forage	3.0
Goat, fat	0.05
Goat, kidney	0.2
Goat, meat	0.02
Goat, meat byproducts, except kidney	0.05
Hog, fat	0.02
Hog, meat	0.02
Hog, meat byproducts	0.02
Horse, fat	0.05
Horse, kidney	0.2
Horse, meat	0.02
Horse, meat byproducts, except kidney	0.05
Milk	0.02
Sheep, fat	0.05
Sheep, kidney	0.2
Sheep, meat	0.02
Sheep, meat byproducts, except kidney	0.05
Sorghum, forage, forage	8.0
Sorghum, grain, forage	8.0
Sorghum, grain, grain	0.25
Sorghum, grain, stover	12.0

* * * * *

■ 5. Section 180.213 is amended by revising paragraph (a) to read as follows:

§ 180.213 Simazine; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide simazine (2-chloro-4,6-bis(ethylamino)-s-triazine) and its two chlorinated degradates (2-amino-4-chloro-6-ethylamino-s-triazine and 2,4-diamino-6-chloro-s-triazine), the total residue to be measured in or on the following food commodities:

Commodity	Parts per million
Almond	0.25
Almond, hulls	0.25
Apple	0.20
Avocado	0.20
Blackberry	0.20
Blueberry	0.20
Cattle, meat	0.03
Cattle, meat byproducts	0.03
Cherry	0.25
Corn, field, forage	0.20
Corn, field, grain	0.20
Corn, field, stover	0.25
Corn, pop, grain	0.20
Corn, pop, stover	0.25
Corn, sweet, forage	0.20
Corn, sweet, kernel plus cob with husks removed	0.25
Corn, sweet, stover	0.25
Cranberry	0.25
Currant	0.25
Egg	0.03
Goat, meat	0.03
Goat, meat byproducts	0.03
Grape	0.20
Grapefruit	0.25
Hazelnut	0.20
Horse, meat	0.03
Horse, meat byproducts	0.03
Lemon	0.25
Loganberry	0.20
Milk	0.03
Nut, macadamia	0.25
Olive	0.20
Orange	0.25
Peach	0.20
Pear	0.25
Pecan	0.20
Plum	0.20
Raspberry	0.20
Sheep, meat	0.03
Sheep, meat byproducts	0.03
Strawberry	0.25
Walnut	0.2

* * * * *

■ 6. Section 180.220 is amended by revising paragraph (a) to read as follows:

§ 180.220 Atrazine; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide atrazine (2-chloro-4-ethylamino-6-isopropylamino-s-triazine) and its chlorinated metabolites 2-amino-4-chloro-6-isopropylamino-s-triazine, 2-amino-4-chloro-6-ethylamino-s-triazine, and 2,4-diamino-6-chloro-s-triazine, in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.02
Cattle, meat	0.02
Cattle, meat byproducts	0.02
Corn, field, forage	15
Corn, field, grain	0.20
Corn, field, stover	0.5
Corn, pop, forage	1.5
Corn, pop, grain	0.20
Corn, pop, stover	0.5
Corn, sweet, forage	15
Corn, sweet, kernel plus cob with husks removed	0.20
Corn, sweet, stover	2.0
Goat, fat	0.02
Goat, meat	0.02
Goat, meat byproducts	0.02
Grass, forage	4.0
Grass, hay	4.0
Guava	0.05
Horse, fat	0.02
Horse, meat	0.02
Horse, meat byproducts	0.02
Milk	0.02
Nut, macadamia	0.20
Sheep, fat	0.02
Sheep, meat	0.02
Sheep, meat byproducts	0.02
Sorghum, forage, forage	15
Sorghum, grain forage	15
Sorghum, grain, grain	0.20
Sorghum, grain, stover	0.50
Sugarcane, cane	0.20
Wheat, forage	1.5
Wheat, grain	0.10
Wheat, hay	5.0
Wheat, straw	0.50

* * * * *

■ 7. Section 180.287 is amended by revising paragraph (a) to read as follows:

§ 180.287 Amitraz; tolerances for residues.

(a) *General*. Tolerances are established for residues of the insecticide amitraz (N′-[2,4-dimethylphenyl]-N- [[(2,4-dimethylphenyl)imino] methyl]]- N-methylmethanimidamide) and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent) in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.1
Cattle, meat	0.02
Cattle, meat byproducts	0.2
Cotton, undelinted seed[1]	1.0
Hog, fat	0.1
Hog, kidney	0.1
Hog, liver	0.1
Hog, meat	0.05
Hog, meat byproducts	0.3
Milk	0.03
Milk, fat	0.2
Pear	3.0

[1]There are no U.S. registrations on cottonseed as of May 3, 2006.

* * * * *

■ 8. Section 180.300 is amended by revising the table in paragraph (a) to read as follows:

§ 180.300 Ethephon; tolerances for residues.

(a) * * *

Commodity	Parts per million
Apple	5.0
Apple, juice	10.0
Barley, bran	5.0
Barley, grain	2.0
Barley, straw	10.0
Blackberry	30.0
Blueberry	20.0
Cantaloupe	2.0
Cattle, fat	0.02
Cattle, kidney	1.0
Cattle, meat	0.02
Cattle, meat byproducts, except kidney	0.2
Cherry	10.0
Coffee, bean, green	0.5
Cotton, gin byproducts	180.0
Cotton, undelinted seed	6.0
Cucumber	0.1
Egg	0.002
Goat, fat	0.02
Goat, kidney	1.0
Goat, meat	0.02
Goat, meat byproducts, except kidney	0.2
Grape	2.0
Grape, raisin	12.0
Hazelnut	0.80
Hog, fat	0.02
Hog, kidney	1.0
Hog, meat	0.02
Hog, meat byproducts, except kidney	0.2
Horse, fat	0.02
Horse, kidney	1.0
Horse, meat	0.02
Horse, meat byproducts, except kidney	0.2
Milk	0.01
Nut, macadamia	0.5
Pepper	30.0
Pineapple	2.0
Poultry, fat	0.02
Poultry, liver	0.05
Poultry, meat	0.01
Poultry, meat byproducts, except liver	0.01
Sheep, fat	0.02
Sheep, kidney	1.0
Sheep, meat	0.02
Sheep, meat byproducts, except kidney	0.2
Sugarcane, molasses	1.5
Tomato	2.0
Walnut	0.5
Wheat, bran	5.0
Wheat, germ	5.0
Wheat, grain	2.0
Wheat, middlings	5.0
Wheat, shorts	5.0
Wheat, straw	10.0

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[FR Doc. E7–18508 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0036; FRL–8143–2]

Chloroneb, Cypermethrin, Methidathion, Nitrapyrin, Oxyfluorfen, Pirimiphos-methyl, Sulfosate, Tebuthiuron, Thiabendazole, Thidiazuron, and Tribuphos; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking certain tolerances for the fungicides chloroneb and thiabendazole; the herbicide sulfosate; the defoliant thidiazuron; the insecticides cypermethrin, methidathion, and pirimiphos-methyl; and the soil microbiocide nitrapyrin. Also, EPA is modifying certain tolerances for the fungicides chloroneb and thiabendazole; the herbicides oxyfluorfen and tebuthiuron; the defoliants thidiazuron and tribuphos; the insecticides cypermethrin, methidathion, and pirimiphos-methyl; and the soil microbiocide nitrapyrin. In addition, EPA is establishing new tolerances for the fungicides chloroneb and thiabendazole; the herbicide oxyfluorfen; the defoliants thidiazuron and tribuphos; the insecticides cypermethrin, methidathion, and pirimiphos-methyl; and the soil microbiocide nitrapyrin. The regulatory actions finalized in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q).

DATES: This regulation is effective September 19, 2007. Objections and requests for hearings must be received on or before November 19, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0036. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the Food Quality Protection Act (FQPA), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0036 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 19, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007–0036, by one of the following methods.

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

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of May 2, 2007 (72 FR 24198) (FRL–8120–3), EPA issued a proposal to revoke, remove, modify, and establish certain specific tolerances for residues of the fungicides chloroneb and thiabendazole; the herbicides oxyfluorfen, sulfosate, and tebuthiuron; the defoliants thidiazuron and tribuphos; the insecticides cypermethrin, methidathion, and pirimiphos-methyl; and the soil microbiocide nitrapyrin. Also, the proposal of May 2, 2007 (72 FR 24198) provided a 60–day comment period which invited public comment for consideration and for support of tolerance retention under the Federal Food, Drug, and Cosmetic Act (FFDCA) standards.

In this final rule, EPA is revoking, removing, modifying, and establishing specific tolerances for residues of chloroneb, cypermethrin, methidathion, nitrapyrin, oxyfluorfen, pirimiphos-methyl, sulfosate, tebuthiuron, thiabendazole, thidiazuron, and tribuphos in or on commodities listed in the regulatory text of this document.

EPA is finalizing these tolerance actions in order to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of the FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications, to reflect current use patterns, to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419, telephone number: 1–800–490–9198; fax: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the Internet at *http://www.regulations.gov* and *http:// www.epa.gov/pesticides/reregistration/status.htm*.

In this final rule, EPA is revoking certain tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA in the United States. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide active ingredient. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but

imported into the United States. It is EPA's general practice to issue a final rule revoking those tolerances and tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance or tolerance exemption to cover residues in or on imported commodities or legally treated domestic commodities.

EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States.

Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed in Unit II.A. if one of the following conditions applies:

1. Prior to EPA's issuance of a FFDCA section 408(f) order requesting additional data or issuance of a FFDCA section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained.

2. EPA independently verifies that the tolerance is no longer needed.

3. The tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

This final rule does not revoke those tolerances for which EPA received comments stating a need for the tolerance to be retained.

In response to the proposal published in the **Federal Register** of May 2, 2007 (72 FR 24198), EPA received one comment during the 60–day public comment period, as follows:

Comment by a private citizen. A private citizen stated that only zero tolerance levels should be acceptable. In addition, the commenter expressed a concern for pesticide use in general and their possible toxic effects on wildlife and humans.

Agency response. The private citizen's comments did not take issue with any of the Agency's specific conclusions to modify, revoke, or establish certain tolerances. Also, the commenter did not refer to any specific studies which pertained to those conclusions. EPA believes that the tolerance actions finalized herein meet the safety standard of FFDCA section 408, 21 U.S.C. 346a. In developing REDs and TREDs, EPA worked with stakeholders, pesticide registrants, growers and other pesticide users, environmental and public health interests, the States, the U.S. Department of Agriculture (USDA), other Federal agencies, and others to develop voluntary measures or regulatory controls needed to effectively reduce risks of concern. Such options include voluntary cancellation of pesticide products or deletion of uses, declaring certain uses ineligible or not yet eligible, restricting use of products to certified applicators, limiting the amount or frequency of use, improving use directions and precautions, adding more protective clothing and equipment requirements, requiring special packaging or engineering controls, requiring no-treatment buffer zones, employing environmental and ecological safeguards, and other measures.

The Agency did not receive any specific comments, during the 60–day comment period, on the following chemicals: Chloroneb, cypermethrin, methidathion, nitrapyrin, oxyfluorfen, pirimiphos-methyl, sulfosate, tebuthiuron, thiabendazole, thidiazuron, and tribuphos. Therefore, the Agency is finalizing the amendments proposed in the **Federal Register** of May 2, 2007 (72 FR 24198). For a detailed discussion of the Agency's rationale for the establishments, revocations, and modifications to the tolerances, refer to the proposed rule of May 2, 2007.

In addition, the Agency is making the following revisions in this final rule.

- *Oxyfluorfen*. The Agency did not propose in a notice for comment to revise the tolerance nomenclature for oxyfluorfen in 40 CFR 180.381(a) from cocoa bean, dried bean to cacao bean, dried bean, as is current Agency practice. However, section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Consequently, for good cause, EPA is revising the commodity terminology in 40 CFR 180.381(a) from cocoa bean, dried bean to cacao bean, dried bean. The reason for taking this action is because such action has no practical impact on the use of or exposure to the pesticide active ingredient, oxyfluorfen, in or on that commodity and is made such that the tolerance terminology will conform to current Agency practice.
- *Thiabendazole*. The Agency did not propose in a notice for comment to revise the tolerance nomenclature for thiabendazole in 40 CFR 180.242(a)(1) from ''sweet potato (POST-H to sweet potato intended only for use as seed)'' to ''sweet potato (postharvest to sweet potato intended only for use as seed),'' as is current Agency practice. However, section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Consequently, for good cause, EPA is revising the commodity terminology in 40 CFR 180.242(a)(1) from ''sweet potato (POST-H to sweet potato intended only for use as seed)'' to ''sweet potato (postharvest to sweet potato intended only for use as seed).'' The reason for taking this action is because such action has no practical impact on the use of or exposure to the pesticide active ingredient, thiabendazole, in or on that commodity and is made such that the tolerance terminology will conform to current Agency practice.

Note: Sugar beet commodities were not included in the human dietary risk assessment for thiabendazole because the use was not supported by the technical registrant. (Metabolic fate data of thiabendazole in sugar beets had been submitted to EPA and reviewed by the Agency as acceptable. Efficacy, storage, foliar use and post-harvest use data had also been submitted some years ago, but some of that data was incomplete.) Therefore, the thiabendazole RED recommended revocation of the tolerances on sugar beet commodities. Currently, there is an active end use registration for thiabendazole use on sugar beets. Since the thiabendazole RED, based on the estimated acute and chronic dietary risks of thiabendazole, which are 77% of the acute population adjusted dose (aPAD) and 2% of the chronic population adjusted dose (cPAD), the Agency determined that the addition of sugar beet commodities to the dietary risk assessment for thiabendazole would not significantly contribute to dietary or drinking water risk estimates. Consequently, the Agency did not propose to take action on the sugar beet tolerances in 40 CFR 180.242(a) on May 2, 2007 (72 FR 24198), but is in the process of getting the sugar beet use removed from the one remaining active registration and does expect to address the sugar beet tolerances in a future publication in the **Federal Register**.

- *Zeta-cypermethrin*. The Agency also did not propose in a notice for comment to revise the tolerance nomenclature for zeta-cypermethrin in 40 CFR 180.418(a)(2) from ''food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling

establishments'' to ''food commodities/feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments'' and from ''sunflower'' to ''sunflower, seed,'' as is current Agencv practice. However, section 553(h)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable. unnecessary, or contrary to the public interest.'' Consequently, for good cause, EPA is revising the commodity terminolgy in 40 CER 180.418(a)(2) from ''food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments'' to ''food commodities/feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments'' and from ''sunflower'' to ''sunflower, seed.'' The reason for taking this action is because such action has no practical impact on the use of or exposure to the pesticide active ingredient, zeta-cypermethrin, in or on these commodities and is made such that the tolerance terminology will conform to current Agency practice.

B. What is the Agency's Authority for Taking this Action?

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes, and as follow-up on canceled uses of pesticides. As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standards under FFDCA. The safety finding determination is found in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued post-FQPA REDs for chloroneb, cypermethrin, methidathion, nitrapyrin, oxyfluorfen, pirimiphos-methyl, thiabendazole, thidiazuron, and tribuphos, and a TRED for tebuthiuron, whose RED was completed prior to FQPA. A RED for sulfosate was not needed because it was registered after November 1, 1984, and not subject to reregistration eligibility, and its tolerances were reassessed prior to completion of a TRED, such that a TRED for sulfosate was no longer needed because EPA made a safety finding which reassessed its tolerances according to the FFDCA standard, maintaining them when new tolerances were established as noted in Unit II.A.). REDs and TREDs contain the Agency's evaluation of the data base for these pesticides, including statements regarding additional data on the active ingredients that may be needed to confirm the potential human health and environmental risk assessments associated with current product uses, and REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are made final in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to revoke tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, the Agency gives consideration to possible pesticide residues in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, then tolerances do not need to be established for these commodities (40 CFR 180.6(b) and180.6(c)).

C. When Do These Actions Become Effective?

With the exception of regional tolerances for methidathion on alfalfa forage, alfalfa hay, timothy forage, and timothy hay, which EPA is revoking with specific expiration/revocation dates, the Agency is revoking, modifying, and establishing specific tolerances, and revising specific commodity terminologies effective September 19, 2007. With the exception of the revoked four regional tolerances for methidathion, the Agency believes that existing stocks of pesticide products labeled for the uses associated with the revoked tolerances have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade. EPA is revoking certain methidathion tolerances with an expiration/revocation date of March 31, 2008, for alfalfa forage, alfalfa hay, timothy forage, and timothy hay. The Agency believes that, because their regional registrations expire on December 31, 2007, the revocation date of March 31, 2008, allows sufficient time for passage of treated commodities through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

III. Are There Any International Trade Issues Raised by this Final Action?

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of the FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in the proposed rule cited in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A. of the proposal.

IV. Statutory and Executive Order Reviews

In this final rule EPA establishes tolerances under FFDCA section 408(e), and also modifies and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket, as mentioned in Unit II.A.) Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will

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

List of Subjects in 40 CFR Part 180

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

Dated: September 11, 2007.

Anne E. Lindsay,

Acting Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.242 is amended by revising paragraphs (a)(1) and (a)(2) and the introductory text to paragraph (b) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) *General.* (1) Tolerances are established for the combined residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) and its metabolite benzimidazole (free and conjugated) in or on the following food commodities:

Commodity	Parts per million
Apple, wet pomace	12.0
Avocado[1]	10.0
Banana, postharvest	3.0
Bean, dry, seed	0.1
Beet, sugar, dried pulp	3.5
Beet, sugar, roots	0.25
Beet, sugar, tops	10.0
Cantaloupe[1]	15.0
Carrot, roots, postharvest	10.0
Citrus, oil	15.0
Fruit, citrus, group 10, postharvest	10.0
Fruit, pome, group 11, postharvest	5.0
Mango	10.0
Mushroom	40.0
Papaya, postharvest	5.0
Potato, postharvest	10.0
Soybean	0.1
Strawberry[1]	5.0
Sweet potato (postharvest to sweet potato intended only for use as seed)	0.05
Wheat, grain	1.0
Wheat, straw	1.0

[1]There are no U.S. registrations on the indicated commodity.

(2) Tolerances are established for the combined residues of thiabendazole (2-(4-thiazolyl)benzimidazole) and its metabolites 5-hydroxythiabendazole (free and conjugated) and benzimidazole in or on the following food commodities:

Commodity	Parts per million
Cattle, meat	0.1
Cattle, meat byproducts	0.4
Goat, meat byproducts	0.4
Hog, meat byproducts	0.3
Horse, meat byproducts	0.4
Milk	0.1
Sheep, meat byproducts	0.4

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the combined residues of thiabendazole (2-(4-thiazolyl)benzimidazole) and its metabolite benzimidazole (free and conjugated), in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table. The tolerances will expire on the dates specified in the table.

* * * * *

■ 3. Section 180.257 is amended by revising paragraph (a) to read as follows:

§ 180.257 Chloroneb; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide chloroneb (1,4-dichloro-2,5-dimethoxybenzene) and its metabolite 2,5-dichloro-4-methoxyphenol (free and conjugated), calculated as chloroneb, in or on the following raw agricultural commodities:

Commodity	Parts per million
Bean, dry, seed	0.2
Bean, succulent	0.2
Beet, sugar, roots	0.2
Beet, sugar, tops	0.2
Cowpea, forage	2.0
Cowpea, hay	2.0
Cattle, fat	0.2
Cattle, meat	0.2
Cattle, meat byproducts	0.2
Cotton, gin byproducts	1.0
Cotton, undelinted seed	0.2
Goat, fat	0.2
Goat, meat	0.2
Goat, meat byproducts	0.2
Hog, fat	0.2
Hog, meat	0.2
Hog, meat byproducts	0.2
Horse, fat	0.2
Horse, meat	0.2
Horse, meat byproducts	0.2
Milk	0.05
Sheep, fat	0.2
Sheep, meat	0.2
Sheep, meat byproducts	0.2
Soybean, forage	2.0
Soybean, hay	2.0
Soybean, seed	0.2

* * * * *

■ 4. Section 180.272 is amended by revising the table in paragraph (a) to read as follows:

§ 180.272 Tribuphos; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Cattle, fat	0.15
Cattle, meat	0.02
Cattle, meat byproducts	0.02
Cotton, gin byproducts	40.0
Cotton, undelinted seed	4.0
Goat, fat	0.15
Goat, meat	0.02
Goat, meat byproducts	0.02
Hog, fat	0.15
Hog, meat	0.02
Hog, meat byproducts	0.02
Horse, fat	0.15
Horse, meat	0.02
Horse, meat byproducts	0.02
Milk	0.01
Sheep, fat	0.15
Sheep, meat	0.02
Sheep, meat byproducts	0.02

* * * * *

■ 5. Section 180.298 is amended by revising the tables in paragraphs (a) and (c) to read as follows:

§ 180.298 Methidathion; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Almond, hulls	6.0
Artichoke, globe	0.05
Citrus, oil	420.0
Cotton, undelinted seed	0.2
Fruit, citrus, group 10, except tangerine	4.0
Fruit, pome, group 11	0.05
Fruit, stone, group 12	0.05
Mango	0.05
Nut, tree, group 14	0.05
Olive	0.05
Safflower, seed	0.5
Sorghum, forage, forage	2.0
Sorghum, grain, forage	2.0
Sorghum, grain, grain	0.2
Sorghum, grain, stover	2.0

Commodity	Parts per million
Sunflower, seed	0.5
Tangerine	6.0

* * * * *

(c) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Alfalfa, forage	5.0	3/31/2008
Alfalfa, hay	5.0	3/31/2008
Kiwifruit	0.1	None
Longan	0.1	None
Starfruit	0.1	None
Sugar apple	0.2	None
Timothy, forage	5.0	3/31/2008
Timothy, hay	5.0	3/31/2008

* * * * *

■ 6. Section 180.350 is amended by revising the table in paragraph (a) to read as follows:

§ 180.350 Nitrapyrin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Corn, field, forage	1.0
Corn, field, grain	0.1
Corn, field, milled byproducts	0.2
Corn, field, stover	1.0
Corn, pop, grain	0.1
Corn, pop, stover	1.0
Corn, sweet, forage	1.0
Corn, sweet, kernel plus cob with husks removed	0.1
Corn, sweet, stover	1.0
Sorghum, forage, forage	0.5
Sorghum, grain, forage	0.5
Sorghum, grain, grain	0.1
Sorghum, grain, stover	0.5
Wheat, bran	3.0
Wheat, forage	2.0
Wheat, grain	0.5
Wheat, milled byproducts, except flour	2.0
Wheat, straw	6.0

* * * * *

■ 7. Section 180.381 is amended by revising the tables in paragraphs (a) and (c) to read as follows:

§ 180.381 Oxyfluorfen; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Almond, hulls	0.1
Artichoke, globe	0.05
Avocado	0.05
Banana	0.05
Broccoli	0.05
Cabbage	0.05
Cacao bean, dried bean	0.05
Cattle, fat	0.01
Cattle, meat	0.01
Cattle, meat byproducts	0.01
Cauliflower	0.05
Coffee, bean, green	0.05
Corn, field, grain	0.05
Corn, pop, grain	0.05
Cotton, undelinted seed	0.05
Date	0.05
Egg	0.03
Feijoa	0.05
Fig	0.05
Fruit, pome, group 11	0.05
Fruit, stone, group 12	0.05
Goat, fat	0.01
Goat, meat	0.01
Goat, meat byproducts	0.01
Grape	0.05
Hog, fat	0.01
Hog, meat	0.01
Hog, meat byproducts	0.01
Horse, fat	0.01
Horse, meat	0.01
Horse, meat byproducts	0.01
Horseradish	0.05
Kiwifruit	0.05
Milk	0.01
Nut, tree, group 14	0.05
Olive	0.05
Onion, bulb	0.05
Peppermint, tops	0.05
Persimmon	0.05
Pistachio	0.05
Pomegranate	0.05
Poultry, fat	0.2
Poultry, meat	0.01
Poultry, meat byproducts	0.01
Sheep, fat	0.01
Sheep, meat	0.01
Sheep, meat byproducts	0.01
Soybean	0.05
Spearmint, tops	0.05

* * * * *

(c) * * *

Commodity	Parts per million
Blackberry	0.05
Chickpea, seed	0.05
Grass, forage	0.05
Grass, hay	0.05
Grass, seed screenings	0.05
Guava	0.05
Papaya	0.05
Raspberry	0.05
Taro, corm	0.05
Taro, leaves	0.05

* * * * *

■ 8. Section 180.390 is revised to read as follows:

§ 180.390 Tebuthiuron; tolerances for residues.

(a) *General.* (1) Tolerances are established for the combined residues of the herbicide tebuthiuron (N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'-dimethylurea) and its metabolites N-(5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'-dimethylurea, N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N-methylurea, and N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N'-hydroxymethyl-N-methylurea in or on the following raw agricultural commodities:

Commodity	Parts per million
Grass, forage	10.0
Grass, hay	10.0

(2) Tolerances are established for the combined residues of the herbicide tebuthiuron (N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'-dimethylurea) and its metabolites N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N-methylurea, N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)urea, 2-dimethylethyl-5-amino-1,3,4-thiadiazole, and N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N'-hydroxymethyl-N-methylurea in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	1.0
Cattle, meat	1.0
Cattle, meat byproducts	5.0
Goat, fat	1.0
Goat, meat	1.0
Goat, meat byproducts	5.0
Horse, fat	1.0
Horse, meat	1.0
Horse, meat byproducts	5.0
Sheep, fat	1.0
Sheep, meat	1.0
Sheep, meat byproducts	5.0

(3) A tolerance is established for the combined residues of the herbicide tebuthiuron (N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'-dimethylurea) and its metabolites N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N-methylurea, N-(5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N-methylurea, N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)urea, N-(5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N'-hydroxymethyl-N-methylurea, and N-(5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl)-N'-hydroxymethyl-N-methylurea in or on the following raw agricultural commodities:

Commodity	Parts per million
Milk	0.8

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 9. Section 180.403 is amended by revising the table in paragraph (a) to read as follows:

§ 180.403 Thidiazuron; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Cattle, fat	0.4
Cattle, meat	0.4
Cattle, meat byproducts	0.4
Cotton, gin byproducts	24.0
Cotton, undelinted seed	0.3
Goat, fat	0.4
Goat, meat	0.4
Goat, meat byproducts	0.4
Hog, fat	0.4
Hog, meat	0.4
Hog, meat byproducts	0.4
Horse, fat	0.4
Horse, meat	0.4
Horse, meat byproducts	0.4
Milk	0.05
Sheep, fat	0.4
Sheep, meat	0.4
Sheep, meat byproducts	0.4

* * * * *

■ 10. Section 180.409 is amended by revising paragraph (a) to read as follows:

§ 180.409 Pirimiphos-methyl; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide pirimiphos-methyl (O-(2-diethylamino-6-methyl-4-pyrimidinyl) O,O-dimethyl phosphorothioate) in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	0.02
Cattle, meat byproducts	0.02
Corn, field, grain	8.0
Corn, pop, grain	8.0
Goat, fat	0.02
Goat, meat byproducts	0.02
Grain, aspirated fractions	20.0
Hog, fat	0.02
Hog, meat byproducts	0.02
Horse, fat	0.02
Horse, meat byproducts	0.02
Poultry, fat	0.02
Sheep, fat	0.02
Sheep, meat byproducts	0.02
Sorghum, grain, grain	8.0

* * * * *

■ 11. Section 180.418 is amended by revising the tables in paragraphs (a)(1), (a)(2), and (b) to read as follows:

§ 180.418 Cypermethrin and an isomer zeta-cypermethrin; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Brassica, head and stem, subgroup 5A	2.0
Brassica, leafy greens, subgroup 5B	14.0
Cattle, fat	1.0
Cattle, meat	0.2
Cattle, meat byproducts	0.05
Cotton, gin byproducts	11.0
Cotton, undelinted seed	0.5
Egg	0.05
Goat, fat	1.0
Goat, meat	0.2
Goat, meat byproducts	0.05
Hog, fat	0.1
Hog, meat	0.05
Horse, fat	1.0
Horse, meat	0.2
Horse, meat byproducts	0.05
Lettuce, head	4.0
Milk, fat (reflecting 0.10 in whole milk)	2.5
Onion, bulb	0.1
Onion, green	6.0
Pecan	0.05
Poultry, fat	0.05
Poultry, meat	0.05
Sheep, fat	1.0
Sheep, meat	0.2
Sheep, meat byproducts	0.05

(2) * * *

Commodity	Parts per million
Alfalfa, hay	15.00
Alfalfa, forage	5.00
Alfalfa, seed	0.50
Almond, hulls	6
Animal feed, nongrass, group 18, forage	8
Animal feed, nongrass, group 18, hay	40
Beet, sugar, roots	0.05
Beet, sugar, tops	0.20
Berry, group 13	0.8
Brassica, head and stem, subgroup 5A	2.00
Brassica, leafy greens, subgroup 5B	14.00
Cabbage	2.00
Cattle, fat	1.00
Cattle, meat	0.2
Cattle, meat byproducts	0.05
Cilantro, leaves	10
Corn, field, forage	0.20
Corn, field, grain	0.05
Corn, field, stover	3.00
Corn, pop, grain	0.05
Corn, pop, stover	3.00
Corn, sweet, forage	15.00
Corn, sweet, kernel plus cob with husks removed	0.05
Corn, sweet, stover	15.00
Cotton, undelinted seed	0.5
Egg	0.05
Food commodities/feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments	0.05
Fruit, pome, group 11	2
Fruit, stone, group 12	1
Goat, fat	1.00
Goat, meat	0.2
Goat, meat byproducts	0.05
Grain, aspirated fractions	10.0
Grape	2
Grass, forage, group 17	10
Grass, hay, group 17	35
Hog, fat	0.1
Hog, meat	0.05
Horse, fat	1.00
Horse, meat	0.2
Horse, meat byproducts	0.05
Milk, fat (reflecting 0.10 in whole milk)	2.50
Nut, tree, group 14	0.05
Onion, bulb	0.10
Onion, green	3.00
Pea and bean, dried shelled, except soybean, subgroup 6C	0.05
Pea and bean, succulent shelled, subgroup 6B	0.1
Peanut	0.05
Pecan	0.05
Poultry, fat	0.05
Poultry, meat	0.05
Rapeseed	0.2
Rice, grain	1.50
Rice, hulls	6.00
Rice, straw	2.00
Sheep, fat	1.00
Sheep, meat	0.2
Sheep, meat byproducts	0.05
Sorghum, grain, forage	0.1
Sorghum, grain, grain	0.5
Sorghum, grain, stover	5.0
Soybean, seed	0.05
Sugarcane, cane	0.60
Sunflower, refined oil	0.5
Sunflower, seed	0.2
Turnip, greens	14
Vegetable, cucurbit, group 9	0.2
Vegetable, fruiting, group 8	0.2
Vegetable, leafy, except brassica, group 4	10.00
Vegetable, legume, edible podded, subgroup 6A	0.5
Vegetable, root and tuber, group 1, except sugar beet	0.1
Wheat, forage	3.0
Wheat, grain	0.2
Wheat, hay	6.0
Wheat, straw	7.0

(b) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Flax, meal	0.2	6/30/2008
Flax, seed	0.2	6/30/2008

* * * * *

§ 180.489 [Removed]

■ 12. Section 180.489 is removed.

FR Doc. E7–18496 Filed 9–18–07; 8:45 am

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2007–0072, EPA–HQ–SFUND–2007–0074, EPA–HQ–SFUND–2007–0078, EPA–HQ–SFUND–2006–0759, EPA–HQ–SFUND–2003–0010, EPA–HQ–SFUND–2007–0079, EPA–HQ–SFUND–2007–0080; FRL–8468–4]

RIN 2050–AD75

National Priorities List, Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds seven sites to the General Superfund Section of the NPL.

EFFECTIVE DATE: The effective date for this amendment to the NCP is October 19, 2007.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see section II, ''Availability of Information to the Public'' in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone (703) 603–8852, State, Tribal and Site Identification Branch; Assessment and Remediation Division; Office of Superfund Remediation and Technology Innovation (mail code 5204P); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq*.

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases

of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites that are owned or operated by other Federal agencies (the ''Federal Facilities Section''). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing a Hazard Ranking System (HRS) score and determining whether the facility is placed on the NPL. EPA's role is less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Pursuant to 42 U.S.C 9605(a)(8)(B), each State may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each State as the greatest danger to public health, welfare, or the environment among known facilities in the State. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions * * *.'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL Define the Boundaries of Sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the problem presented by the release'' will be determined by a Remedial Investigation/Feasibility Study (RI/FS) as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the

boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the Agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May EPA Delete Portions of Sites From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, see EPA's Internet site at *http://www.epa.gov/superfund*.

J. What Is the Sitewide Ready for Anticipated Use Measure?

The Sitewide Ready for Anticipated Use measure (formerly called Sitewide Ready-for-Reuse) represents important Superfund accomplishments and the measure reflects the high priority EPA places on considering anticipated future land use as part of our remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment, including current and future land users, in a manner that allows contaminated properties to be restored to environmental and economic vitality while ensuring protectiveness for current and future land users. For further information, please go to *http://www.epa.gov/superfund/programs/recycle/tools/sitewide.htm.*

II. Availability of Information to the Public

A. May I Review the Documents Relevant to This Final Rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at EPA Headquarters and in the Regional offices.

An electronic version of the public docket is available through *www.regulations.gov* (see table below for Docket Identification numbers). Although not all Docket materials may be available electronically, you may still access any of the publicly available Docket materials through the Docket facilities identified below in section II D.

Site name	City/state	FDMS docket ID number
Halaco Engineering Company	Oxnard, CA	EPA–HQ–SFUND–2007–0072.
Eagle Zinc Co Div T L Diamond	Hillsboro, IL	EPA–HQ–SFUND–2007–0074.
South Minneapolis Residential Soil Contamination	Minneapolis, MN	EPA–HQ–SFUND–2006–0759.
Standard Chlorine	Kearny, NJ	EPA–HQ–SFUND–2003–0010.
Eagle Picher Carefree Battery	Socorro, NM	EPA–HQ–SFUND–2007–0078.
Formosa Mine	Douglas County, OR	EPA–HQ–SFUND–2007–0079.
Five Points PCE Plume	Woods Cross/Bountiful UT	EPA–HQ–SFUND–2007–0080.

B. What Documents Are Available for Review at the Headquarters Docket?

The Headquarters Docket for this rule contains, for each site, the HRS score sheets, the Documentation Record describing the information used to compute the score, pertinent information regarding statutory requirements or EPA listing policies that affect the site, and a list of documents referenced in the Documentation Record. For sites that received comments during the comment period, the Headquarters Docket also contains a

Support Document that includes EPA's responses to comments.

C. What Documents Are Available for Review at the Regional Dockets?

The Regional Dockets contain all the information in the Headquarters Docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score for the sites located in their Region. These reference documents are available only in the Regional Dockets. For sites that received comments during the comment period, the Regional Docket also contains a Support Document that includes EPA's responses to comments.

D. How Do I Access the Documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the Headquarters Docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional Dockets for hours.

Following is the contact information for the EPA Headquarters: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room 3340, Washington, DC 20004, 202/566–1744.

The contact information for the Regional Dockets is as follows:

Joan Berggren, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1417.

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

Debbie Jourdan, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, 9th floor, Atlanta, GA 30303; 404/562–8862.

Janet Pfundheller, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Superfund Division SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/353–5821.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335.

Gwen Christiansen, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6463.

Dawn Richmond, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/972–3097.

Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mail Stop ECL–115, Seattle, WA 98101; 206/553–2782.

E. How May I Obtain a Current List of NPL Sites?

You may obtain a current list of NPL sites via the Internet at *http://www.epa.gov/superfund/* (look under the Superfund sites category) or by contacting the Superfund Docket (see contact information above).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following seven sites to the NPL, all to the General Superfund Section:

State	Site name	City/county
CA	Halaco Engineering Company	Oxnard.
IL	Eagle Zinc Co Div T L Diamond	Hillsboro.
MN	South Minneapolis Residential Soil Contamination	Minneapolis.
NJ	Standard Chlorine	Kearny.
NM	Eagle Picher Carefree Battery	Socorro.
OR	Formosa Mine	Douglas County.
UT	Five Points PCE Plume	Woods Cross/Bountiful.

B. What Did EPA Do With the Public Comments It Received?

EPA reviewed all comments received on the sites in this rule and responded to all relevant comments.

For the Five Points PCE Plume site, EPA received only comments urging the site be listed on the NPL. For the Formosa Mine site, EPA received a number of comments urging the site be listed. EPA also received one comment saying ''don't worry about the Formosa Mine site'' and another saying there was no point in cleaning up a natural mine site unless EPA was going to remove the entire mountain and clean every adit. For these two sites, EPA did not receive any comments questioning the HRS documentation record or score. For the reasons set forth in the Administrative Record for these two sites, EPA is adding them to the NPL.

EPA also received comments on the following sites: Halaco Engineering Company, Eagle Zinc Co Div T L Diamond, South Minneapolis Residential Soil Contamination, Standard Chlorine and Eagle Picher Carefree Battery. EPA's responses to these comments are addressed in the ''Support Document for the Revised National Priorities List Final Rule—September 2007.''

All comments that were received by EPA are contained in the Headquarters Docket and are also listed in EPA's electronic public Docket and comment system at *www.regulations.gov.*

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

1. What Is Executive Order 12866?

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (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 the Executive Order.

2. Is This Final Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

1. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9.

2. Does the Paperwork Reduction Act Apply to This Final Rule?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

1. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

2. How Has EPA Complied With the Regulatory Flexibility Act?

This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this rule does not impose any requirements on any small entities. For the foregoing reasons, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

1. What Is the Unfunded Mandates Reform Act (UMRA)?

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

2. Does UMRA Apply to This Final Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million.

EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

E. Executive Order 13132: Federalism

What Is Executive Order 13132 and Is It Applicable to This Final Rule?

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

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation. This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

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

1. What is Executive Order 13175?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

2. Does Executive Order 13175 Apply to This Final Rule?

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

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

1. What Is Executive Order 13045?

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

2. Does Executive Order 13045 Apply to This Final Rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

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

Is This Rule Subject to Executive Order 13211?

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

1. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

2. Does the National Technology Transfer and Advancement Act Apply to This Final Rule?

No. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

1. Has EPA Submitted This Rule to Congress and the Government Accountability Office?

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

2. Could the Effective Date of This Final Rule Change?

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation.

Under the CRA, 5 U.S.C. 801(a), before a rule can take effect the federal

agency promulgating the rule must submit a report to each House of the Congress and to the Comptroller General. This report must contain a copy of the rule, a concise general statement relating to the rule (including whether it is a major rule), a copy of the cost-benefit analysis of the rule (if any), the agency's actions relevant to provisions of the Regulatory Flexibility Act (affecting small businesses) and the Unfunded Mandates Reform Act of 1995 (describing unfunded federal requirements imposed on state and local governments and the private sector), and any other relevant information or requirements and any relevant Executive Orders.

EPA has submitted a report under the CRA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. Section 804(2) defines a major rule as any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in: An annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. NPL listing is not a major rule because, as explained above, the listing, itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that EPA necessarily will undertake remedial action, nor does it require any action by any party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Section 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted.

3. What Could Cause a Change in the Effective Date of This Rule?

Under 5 U.S.C. 801(b)(1) a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983) and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, EPA will publish a document of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 4, 2007.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

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

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes [a]
*	*	*	*
CA	Halaco Engineering Company	Oxnard.	
*	*	*	*
IL	Eagle Zinc Co Div T L Diamond	Hillsboro.	
*	*	*	*
MN	South Minneapolis Residential Soil Contamination	Minneapolis.	
*	*	*	*
NJ	Standard Chlorine	Kearny.	
*	*	*	*
NM	Eagle Picher Carefree Battery	Socorro.	
*	*	*	*
OR	Formosa Mine	Douglas County.	
*	*	*	*
WA	Five Points PCE Plume	Woods Cross/ Bountiful.	
*	*	*	*

[a] A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (HRS score need not be ≥ 28.50).
C = Sites on Construction Completion list.
S = State top priority (HRS score need not be ≥ 28.50)
P = Sites with partial deletion(s).

* * * * *

[FR Doc. E7–18155 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2006–0898; FRL–8135–8]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 38 chemical substances which were the subject of premanufacture notices (PMNs). One of these chemical substances is also subject to a TSCA section 5(e) consent order issued by EPA. This action requires persons who intend to manufacture, import, or process any of these 38 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: The effective date of this rule is November 19, 2007 without further notice, unless EPA receives adverse or critical comments, or notice of intent to submit adverse or critical comments before October 19, 2007. This rule shall be promulgated for purposes of judicial review at 1 p.m. (e.s.t.) on October 3, 2007.

If EPA receives adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before October 19, 2007 EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30-day period for public comment.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2006–0898, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2006–0898. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2006–0898. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

For technical information contact: Karen Chu, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8773; e-mail address: *chu.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this rule. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., Chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Persons who import any chemical substance governed by a final SNUR are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements and the corresponding regulations at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after October 19, 2007 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Background

A. What Action is the Agency Taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Additional rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

B. What is the Agency's Authority for Taking this Action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear under 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret TSCA section 12(b) appear at 40 CFR part 707, subpart D. Persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, codified at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Such persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707, subpart B.

III. Substances Subject to this Rule

EPA is establishing significant new use and recordkeeping requirements for 38 chemical substances under 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name if the specific name is claimed as CBI).
- CAS number (if assigned for non-confidential chemical identities).

- Basis for the section 5(e) consent order, or, for non-5(e) SNURs, the basis for the SNUR.
- Toxicity concerns.
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VI. for more information).
- CFR citation assigned in the regulatory text section of this rule.

The specific activities designated as significant new uses are listed in the regulatory text section of 40 CFR part 721, subpart E. Certain new uses, including production limits and other uses designated in the rule are claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII.

This rule includes a SNUR on one PMN substance that is subject to a ''risk-based'' consent order under TSCA section 5(e)(1)(A)(ii)(I) wherein EPA determined that activities associated with the PMN substance may present unreasonable risk to health or the environment. The consent order requires protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called ''5(e) SNUR'' on this substance is promulgated pursuant to 40 CFR 721.160, and is based on and consistent with the provisions in the underlying consent order. The SNUR designates as a ''significant new use'' the absence of the protective measures required in the consent order.

This rule also includes SNURs on 37 PMN substances that are not subject to consent orders under TSCA section 5(e). In these cases, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under section 5(e) of TSCA. EPA, however, does believe that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a ''significant new use.'' These so-called ''non-5(e) SNURs'' are promulgated pursuant to 40 CFR 721.170. EPA has determined that every activity designated as a ''significant new use'' in all the non-5(e) SNURs issued under 40 CFR 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, ''(i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified'' for the PMN substance.

PMN Numbers P–01–759 and P–05–555

Chemical name: Dodecandioic acid, 1, 12-dihydrazide.
CAS number: 4080–98–2.
Basis for action: The PMNs state that the generic (non-confidential) uses of the substance will be as a raw material for coating and sealants and as a curing agent. Based on molecular structure and test data on analogous substances, EPA has identified health concerns for carcinogenicity, developmental toxicity, and irritation to mucous membranes. Also, based on test data on the PMN substance, EPA has identified concerns for dermal sensitization. As described in the PMNs and accompanying Material Safety Data Sheets, workers will be warned that the substance may cause dermal sensitization and will wear gloves and National Institute for Occupational Safety and Health (NIOSH) approved respirators with an assigned protection factor (APF) of 50 or greater. Based on adequate personal protective equipment and hazard communication, significant worker exposure is unlikely. Further, consumer use is not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without workers wearing gloves and a respirator, and without an appropriate hazard communication program, may cause serious human health effects. Respirators must provide a NIOSH APF of at least 50. The following NIOSH-approved respirators meet the minimum requirement for § 721.63(a)(4): Air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters; powered air-purifying respirator equipped with a tight-fitting full facepiece and High Efficiency Particulate Air (HEPA) filters; supplied air respirator operated in pressure demand or continuous flow mode and equipped with a tight-fitting full facepiece. Because the substance is a dermal sensitizer and irritates mucous membranes, half-face respirators do not provide adequate protection. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that the results of a 90-day oral toxicity test in rats (OPPTS 870.3100 test guideline) and a mammalian erythrocyte micronucleus test (OPPTS 870.5395 test guideline) would help characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.10057.

PMN Numbers P–03–546, P–03–550, and P–03–551

Chemical names: (P–03–546) Reaction product of alkylphenol, aromatic cyclicamine, alkyl diglycidyl dibenzene, and formaldehyde (generic); (P–03–550) Reaction product of alkylphenyl glycidyl ether, polyalkylenepolyamine, and alkyl diglycidyl dibenzene (generic); and (P–03–551) Reaction product of alkylphenyl glycidyl ether, polyalkylenepolyamine, alkyl diglycidyl dibenzene, and polyalkylcyclicdiamine (generic).
CAS numbers: Not available.
Basis for action: The PMNs state that the substances will be used as epoxy curing agents. Based on test data on structurally analogous polycationic polymers, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 20 parts per billion (ppb) of the PMN substances in surface waters. As described in the PMNs, the substances are not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that uses of the substances resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substances: A fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); a fish acute toxicity test mitigated by humic acid (OPPTS 850.1085 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)).
CFR citations: 40 CFR 721.10058 (P–03–546); 40 CFR 721.10059 (P–03–550); and 40 CFR 721.10060 (P–03–551).

PMN Number P–04–341

Chemical name: Pentane, 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-(trifluoromethyl)-.
CAS number: 132182–92–4.
Basis for action: The PMN states that the substance will be used as a solvent coating and heat transfer fluid. EPA has identified health and environmental concerns because the substance is potentially a persistent, bio-accumulative, and toxic (PBT) chemical, consistent with the New Chemical Program's PBT Category (64 FR 60194; November 4, 1999). EPA estimates that the PMN substance will persist in the environment more than six months and

estimates a bioaccumulation factor of greater than or equal to 1,000, based on test data indicating a fish bioaccumulation factor of 3.2 and a log K_{ow} of 4.70. As described in the PMN, the substance is not released to surface water. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any release of the PMN substance to surface waters may cause significant adverse environmental effects, since the PMN substance has been characterized by EPA as a PBT. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the tiered testing as described in the New Chemicals Program's PBT Category would help characterize the PBT attributes of the substance. EPA has determined that the results of an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)), a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)), and a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)) would further characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10061.

PMN Number P–04–627

Chemical name: 2,5-Furandione, polymer with oxybis[propanol], benzoate.

CAS number: 103458–14–6.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a spray-applied filled backing resin. Based on test data on structurally similar acrylates and esters, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 9 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that other uses of the substances resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)), an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)), and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10062.

PMN Number P–04–792

Chemical name: Halo substituted hydroxy nitrophenyl amide (generic).

CAS number: Not available.

Basis for action: The PMN states that generic (non-confidential) use of the substance will be as a chemical intermediate. Based on test data on structurally analogous phenols, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 2 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: An algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)); a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)); a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)); and either a porous pot test (OPPTS 835.3220 test guideline) or an aerobic sewage treatment test (Organization for Economic Cooperation and Development (OECD) 303A test guideline). The algal toxicity study should be performed using the static method with measured concentrations and the fish and daphnid tests should be performed using the flow-through method with measured concentrations.

CFR citation: 40 CFR 721.10063.

PMN Number P–04–909

Chemical name: 2-Propenoic acid, 2-[2-(ethenyloxy)ethoxy]ethyl ester.

CAS number: 86273–46–3.

Effective date of section 5(e) consent order: 6–26–2006.

Basis for section 5(e) consent order: The PMN states the substance will be used as an ultraviolet-curable monomer for polymerization. The order was issued under section 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA, based on a finding that this substance may present an unreasonable risk of injury to human health. To protect against this risk, the consent order requires use of gloves demonstrated by testing to be impervious (North Butyl Black gloves and T–1 Dailove Ethylene Vinylalcohol Copolymer Laminated Blue gloves have satisfied this requirement) and a hazard communication program. The SNUR designates as a 'significant new use' the absence of these protective measures.

Toxicity concern: Based on test data on chemicals analogous to the PMN substance, EPA has concerns that the PMN substance may cause developmental toxicity, mutagenicity, reproductive toxicity, and oncogenicity. Also, EPA has health concerns for sensitization based on submitted test data on the PMN substance and via analogy to TSCA section 8(e) submission number 8EHQ–1092–11387, skin irritation and kidney toxicity concerns based on data for a bismethacrylate analog TSCA section 8(e) submission number 8EHQ–0695–13474, and skin cancer concerns (if exposed individuals are not protected from skin damage from the irritant properties of the chemical) based on male mouse chronic dermal toxicity test data for an analog, For Your Information (FYI) submission number FYI–0691–01262.

Recommended testing: EPA has determined that the results of a combined repeated dose toxicity test with reproduction/developmental screening (OPPTS 870.3650 test guideline) would help characterize the human health effects of the PMN substance. The test should be done in rats, through the oral route of exposure, and be modified to dose for 70 days, an entire sperm cycle, before mating occurs. The PMN submitter has agreed not to exceed the production volume limit without performing this test.

CFR citation: 40 CFR 721.10064.

PMN Numbers P–04–961 and P–04–962

Chemical names: (P–04–961) 1-Tetradecanesulfonic acid, (dimethylphenyl)- and (P–04–962) 1-Hexanesulfonic acid, (dimethylphenyl)-.

CAS numbers: (P–04–961) 671756–61–9 and (P–04–962) 676143–36–5.

Basis for action: The PMNs state that the generic (non-confidential) use of the substances will be to help recover additional quantities of oil from subterranean reservoirs and also to impart improved properties to products derived from such recovered oil. Based on test data on chemicals with molecular structures similar to the PMN substances, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 20 ppb of

the PMN substances in surface waters. As described in the consolidated PMNs, the substances will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that other uses of the substances resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substances: A porous pot test (OPPTS 835.3220 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test freshwater in daphnids (OPPTS 850.1010 test guideline (public draft)); and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)).

CFR citations: 40 CFR 721.10065 (P–04–961) and 40 CFR 721.10066 (P–04–962).

PMN Numbers P–05–57, P–05–58, P–05–59, P–05–60, P–05–61, P–05–62, P–05–63, P–05–64, and P–05–65

Chemical names: (P–05–57, P–05–58, P–05–59, P–05–61, P–05–62, P–05–63, P–05–64, and P–05–65) Ether amine phosphonate salt (generic) and (P–05–60) Ether amine phosphonate (generic).

CAS numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of the substances will be as a contained use in energy production. Based on test data on chemicals with molecular structures similar to the PMN substances, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 30 ppb of the PMN substances in surface waters. As described in the consolidated PMNs, the substances will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that other uses of the substances resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)) on P–05–57, P–05–58, and P–05–64 and a ready biodegradation test (OPPTS 835.3110 test guideline) on P–05–57, P–05–59, and P–05–61 or P–05–64 would help characterize the environmental effects of the PMN substances.

CFR citations: 40 CFR 721.10067 (P–05–57, P–05–58, P–05–59, P–05–61, P–05–62, P–05–63, P–05–64, and P–05–65) and 40 CFR 721.10069 (P–05–60).

PMN Number P–05–309

Chemical name: 1,3-Butanediol, 3-methyl-.

CAS number: 2568–33–4.

Basis for action: The PMN states that the substance will be used as inkjet ink. Based on test data on the PMN substance and on analogous chemicals, the PMN substance may cause developmental toxicity, liver toxicity, blood/immune system effects and possibly digestive tract and kidney effects. As described in the PMN, the substance is imported in an inkjet cartridge so domestic worker exposure is not expected. Although there is potential for short-term, infrequent consumer dermal exposure, based on test data on the closest analog, the margin of exposure is greater than 1,000. Therefore, EPA has not determined that the proposed use of the substance may present an unreasonable risk. EPA has determined, however, that domestic manufacturing or use other than as described in the PMN could result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i) and (b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day oral toxicity test in rodents (OPPTS 870.3100 test guideline) and a prenatal developmental toxicity study (OPPTS 870.3700 test guideline) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10070.

PMN Number P–05–364

Chemical name: 9H-Thioxanthenium, 10-[1,1′-biphenyl]-4-yl-2-(1-methylethyl)-9-oxo-, hexafluorophosphate (1-) (1:1).

CAS number: 591773–92–1.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a benzene-free cationic photoinitiator. Based on submitted test data on the PMN substance, the substance may cause mutagenicity, lung toxicity, thyroid toxicity, irritation to eyes, mucous membranes and lung, dermal sensitization, and developmental toxicity resulting from thyroid effects. In addition, based on submitted test data on the PMN substance, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 6 ppb of the PMN substance in surface waters. As described in the PMN, significant inhalation exposure is unlikely, and the substance is not released to water. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that domestic manufacture or any import, processing, or use of the PMN substance in a solid form may cause serious health and environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i) and (b)(4)(i).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)), a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)), and a 90-day oral toxicity test in rodents (OPPTS 870.3100 test guideline) would help characterize the environmental and human health effects of the PMN substance. The fish and daphnid tests should be performed using the flow-through method with measured concentrations.

CFR citation: 40 CFR 721.10071.

PMN Number P–05–380

Chemical name: Benzene, 1,1′-methylenebis[4-isocyanato-, polymer with benzenedicarboxylic acid, butyl dialkyl ester, poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro-.omega.-hydroxy-, oxirane, alkyl-, polymer with oxirane, ether with propanepolyol and Sartomer's HLBH P-3000 and Lexorez 1180 (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a roofing adhesive for bonding roof membranes. Based on test data on analogous substances, the PMN substance may cause lung toxicity. As described in the PMN, significant worker inhalation exposure is unlikely. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance involving an application method that generates a vapor, mist, or aerosol may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test in rats (OPPTS 870.3465 test guideline) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10072.

PMN Number P–05–536

Chemical name: Modified alkyl acrylamide (generic).

CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a chemical intermediate. Based on analogy to acrylamide, the PMN substance may cause neurotoxicity, mutagenicity, carcinogenicity, reproductive toxicity, developmental toxicity, and immunotoxicity. As described in the PMN, worker dermal exposure is not expected and inhalation exposure is expected to be negligible. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the PMN substance may present an unreasonable risk. EPA has determined, however, that use of the PMN substance other than as described in the PMN may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that the results of a 90-day oral toxicity test with neuropathology in rodents (OPPTS 870.3100 test guideline) would help characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.10073.

PMN Number P–05–568
Chemical name: Acetic acid, 2-chloro-, 1-(3,3-dimethylcyclohexyl)ethyl ester.
CAS number: 477218–59–0.
Basis for action: The PMN states that the substance will be used as an isolated intermediate. Based on test data on analogous esters, the PMN substance may cause toxicity to aquatic organisms at concentrations at or above 6 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released in significant amounts to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the PMN substance other than as a site-limited intermediate may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)), an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)), and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10074.

PMN Number P–05–722
Chemical name: Carbon black, 4-[[2–(Sulfooxy)ethyl] substituted] phenyl-modified, sodium salts (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of this substance will be as a step 1 black pigment intermediate. Based on test data on analogous respirable, poorly soluble, particulates, the PMN substance may cause lung effects. Based on its physical properties, dermal exposure to the PMN substance may cause systemic effects. As described in the PMN, dermal and inhalation exposure are not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as described in the PMN, or any manufacturing, processing, or use of the substance as a powder may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS 870.3465 test guideline) would help characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.10075.

PMN Number P–05–792
Chemical name: Substituted benzenediamine (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a chemical intermediate that will be destroyed during use. Based on test data on analogous chemicals, EPA is concerned that toxicity to aquatic organisms may occur at concentrations above 2 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations above 2 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance resulting in surface water concentrations above 2 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A ready biodegradability test (OPPTS 835.3110 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)).
CFR citation: 40 CFR 721.10076.

PMN Numbers P–06–1 and P–06–166
Chemical name: 3H-1,2,4-Triazol-3-one, 1,2-dihydro-.
CAS number: 930–33–6.
Basis for action: The PMNs state that the substance will be used as a chemical intermediate. Based on test data on 1,2,4-Triazole, EPA has concern for developmental toxicity. Also, based on test data on structural analogues, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 20 ppb of the PMN substance in surface waters. As described in the PMNs, the substance will not be released to surface water and worker exposure will be minimal due to adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance resulting in release to surface waters or use of the substance without appropriate hazard communication and worker respiratory protection may cause significant adverse environmental and human health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental and health effects of the PMN substance: A ready biodegradability test using any of the six methods (OPPTS 835.3110 test guideline); a porous pot test (OPPTS 835.3220 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)); and a prenatal developmental toxicity study (OPPTS 870.3700 test guideline). The porous pot test is suggested only if the substance does not pass the ready biodegradation test.
CFR citation: 40 CFR 721.10077.

PMN Number P–06–4
Chemical name: Butanamide, 2-[(2-methoxy-4-nitrophenyl)azo]-*N*-(2-

methoxyphenyl)-3-oxo-, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl)substituted]phenyl derivs., hydrochlorides (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a step 2 yellow pigment intermediate. Based on test data on other aliphatic polyamines and cationic dyes, EPA is concerned that toxicity to aquatic organisms may occur at concentrations above 10 ppb of this substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations above 10 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that uses of the substance resulting in surface water concentrations above 10 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A Zahn-Wellens/EMPA test (OPPTS 835.3200 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)).
CFR citation: 40 CFR 721.10078.

PMN Number P–06–7

Chemical name: Quino[2,3-b]acridine-7, 14-dione, 5,12-dihydro-2,9-dimethyl-, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl)substituted]phenyl derivs., hydrochlorides (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a step 2 magenta pigment intermediate. Based on test data on analogous respirable, poorly soluble, particulates, the PMN substance may cause lung toxicity. Based on its physical properties, EPA has concerns for dermal exposure to the PMN substance. Based on test data on analogous aliphatic polyamines and cationic dyes, EPA is concerned that toxicity to aquatic organisms may occur at concentrations above 10 ppb of the PMN substance in surface waters. As described in the PMN, dermal and inhalation exposures to the PMN substance are not expected and environmental releases of the substance are not expected to result in surface water concentrations above 10 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without appropriate worker protection, use other than as described in the PMN, and manufacturing, processing, or use as a solid may cause serious health effects. Additionally, use of the substance resulting in surface water concentrations above 10 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental and health effects of the PMN substance: A Zahn-Wellens/EMPA test (OPPTS 835.3200 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)); and a 90-day inhalation toxicity test (OPPTS 870.3465 test guideline).
CFR citation: 40 CFR 721.10079.

PMN Number P–06–8

Chemical name: Carbon black, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl) substituted] phenyl-modified, hydrochlorides (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a step 2 black pigment intermediate. Based on test data on analogous respirable, poorly soluble, particulates, the PMN substance may cause lung toxicity. Based on its physical properties, EPA has concerns for dermal exposure to the PMN substance. Based on test data on analogous aliphatic polyamines and cationic dyes, EPA is concerned that toxicity to aquatic organisms may occur at concentrations above 10 ppb of the PMN substance in surface waters. As described in the PMN, dermal and inhalation exposures to the PMN substance are not expected and environmental releases of the substance are not expected to result in surface water concentrations above 10 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without appropriate worker protection, use other than as described in the PMN, and manufacturing, processing, or use as a solid may cause serious health effects. Additionally, use of the substance resulting in surface water concentrations above 10 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental and health effects of the PMN substance: A Zahn-Wellens/EMPA test (OPPTS 835.3200 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)); and a 90-day inhalation toxicity test (OPPTS 870.3465 test guideline).
CFR citation: 40 CFR 721.10080.

PMN Number P–06–26

Chemical name: Aromatic urethane acrylate oligomer (generic).
CAS number: Not available.
Basis for action: The PMN states that the substance will be used as an aromatic urethane acrylate oligomer in ultraviolet-curable inks and coatings. Based on test data on structurally analogous polyanionic polymers and monomers, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 90 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)), an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)), and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)) would help characterize

the environmental effects of the PMN substance. The fish and daphnid tests should use flow-through conditions and measured concentrations. The algal test should use the static method and measured concentrations.
CFR citation: 40 CFR 721.10081.

PMN Number P–06–29
Chemical name: Amine modified monomer acrylate (generic).
CAS number: Not available.
Basis for action: The PMN states that the substance will be used as an amine-modified monomer acrylate in ultraviolet-curable inks and coatings. Based on structural analogy to polyanionic polymers/monomers, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 10 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A ready biodegradability test (OPPTS 835.3110 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); and an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)). EPA recommends that the biodegradability testing be performed first. The fish and daphnid tests should use flow-through conditions and measured concentrations. The algal test should use the static method and measured concentrations.
CFR citation: 40 CFR 721.10082.

PMN Number P–06–70
Chemical name: Copper, [29H, 31H-phthalocyaninato (2-)-κ*N*29, κ*N*30, κ*N*31, κ*N*32]-, 4-[(17-substituted-3,6,9,12,15- pentaazaheptadec-1-yl) substituted] phenyl derivs., hydrochlorides (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a step 2 cyan pigment intermediate. Based on test data on analogous respirable, poorly soluble, particulates, the PMN substance may cause lung toxicity. Based on its physical properties, EPA has concerns for dermal exposure to the PMN substance. Based on test data on analogous aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at concentrations above 10 ppb of the PMN substance in surface waters. As described in the PMN, dermal and inhalation exposures to the PMN substance are not expected and environmental releases of the substance are not expected to result in surface water concentrations above 10 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without appropriate worker protection, use other than as described in the PMN, and manufacturing, processing, or use as a solid may cause serious health effects. Additionally, use of the substance resulting in surface water concentrations above 10 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental and health effects of the PMN substance: A Zahn-Wellens/EMPA test (OPPTS 835.3200 test guideline); a fish acute toxicity test, freshwater and marine (OPPTS 850.1075 test guideline (public draft)); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS 850.1010 test guideline (public draft)); an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)); and a 90-day inhalation toxicity test (OPPTS 870.3465 test guideline).
CFR citation: 40 CFR 721.10083.

PMN Number P–06–124
Chemical name: Modified thionocarbamate (generic).
CAS number: Not available.
Basis for action: The PMN states that generic (non-confidential) use of the substance will be as a sulfide mineral processing reagent. Based on test data on structurally similar analogs, EPA is concerned that toxicity to aquatic organisms may occur at concentrations at or above 2 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that other uses of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of an activated sludge sorption isotherm test (OPPTS 835.1100 test guideline), a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)), and a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.10084.

PMN Number P–06–232
Chemical name: Substituted polyaryl sulfonium polyhalide phosphate salt (generic).
CAS number: Not available.
Basis for action: The PMN states that the substance will be used as a photo initiator used in photo-curable compositions. Based on test data on the PMN substance, EPA has concerns for widespread systemic toxicity in most organ systems, persistent eye irritation, male reproductive toxicity, and developmental-neurotoxicity in off-spring (caused by maternal thyroid toxicity) for the PMN material. As described in the PMN, worker inhalation and eye exposure are not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that domestic manufacture or the use of the substance other than as described in the PMN may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(i).
Recommended testing: EPA has determined that the results of a combined repeated dose toxicity study with the reproduction/developmental screening test (OPPTS 870.3650 test guideline) would help characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.10085.

PMN Number P–06–295
Chemical name: Ethane, 2-(difluoromethoxy)-1,1,1-trifluoro-.
CAS number: 1885–48–9.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an intermediate. Based on test data on structural analogues, EPA has concerns for solvent neurotoxicity, solvent irritation, and developmental toxicity for the PMN substance. As described in the PMN, only limited worker dermal and

inhalation exposures are expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as an intermediate with workers wearing impervious gloves may cause serious human health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity study (OPPTS 870.3465 test guideline) with a neurotoxicity functional observational battery (National Technical Information Service (NTIS) PB 91–154617) and neuropathology would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10086.

PMN Number P–06–332

Chemical name: Substituted alkyl phosphine oxide (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a bonded flame retardant. Based on test data on analogous alkyl and aryl phosphates, EPA believes the PMN substance may cause delayed neurotoxicity in humans. At the production volume stated in the PMN, significant human exposure is unlikely. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that increased importation or production volumes may result in increased exposure to the PMN substance which may cause significant adverse human health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of an acute and 28-day delayed neurotoxicity of organophosphorus substances study (OPPTS 870.6100 test guideline) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10087.

PMN Number P–07–283

Chemical name: Thiophene, 2,5-dibromo-3-hexyl-.

CAS number: 116971–11–0.

Basis for action: The PMN states that the substance will be used as a reactive intermediate monomer for use in manufacturing a p-type organic semiconductor polymer. The polymer will be used in printed organic electronics applications. Based on structure activity relationship analyses for thiophenes, EPA is concerned that toxicity to aquatic organisms may occur at concentrations above 1 ppb of the PMN substance in surface waters. At the production volume stated in the PMN, releases of the PMN substance are not expected to result in surface water concentrations above 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that increased production or importation volumes or other uses of the substance resulting in surface water concentrations above 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of an algal toxicity test, tiers I and II (OPPTS 850.5400 test guideline (public draft)), a fish early-life stage toxicity test (OPPTS 850.1400 test guideline (public draft)), and a daphnid chronic toxicity test (OPPTS 850.1300 test guideline (public draft)) would help characterize the environmental effects of the PMN substance. The fish and daphnid tests should use flow-through conditions and measured concentrations.

CFR citation: 40 CFR 721.10088.

IV. Objectives and Rationale of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for one of the 38 chemical substances, regulation was warranted under section 5(e) of TSCA, pending the development of information sufficient to make a reasoned evaluation of the health effects of the chemical substance. The basis for such findings is outlined in Unit III. Based on these findings, a TSCA section 5(e) consent order requiring the use of appropriate exposure controls was negotiated with the PMN submitter; the SNUR provisions for this chemical substance listed in this document are consistent with the provisions of the TSCA section 5(e) consent order.

In the other 37 cases for which the proposed uses are not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met, as discussed in Unit III.

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

1. EPA will receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.

2. EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.

3. EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6 or 7.

4. EPA will ensure that all manufacturers, importers, and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Manufacturers, importers, and processors are responsible for ensuring that a new chemical substance subject to a final SNUR is listed on the TSCA Inventory.

V. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in 40 CFR 721.160(c)(3) and 721.170(d)(4). In accordance with 40 CFR 721.160(c)(3)(ii) and 721.170(d)(4)(i), this rule will be effective November 19, 2007, unless EPA receives a written notice by October 19, 2007 of adverse or critical comments, or notice of intent to submit adverse or critical comments, on EPA's action. If EPA receives such a notice, EPA will publish a document to withdraw the direct final SNUR for the specific chemical substance to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific chemical substance providing a 30-day comment period.

This action establishes SNURs for a number of chemical substances. Any person who submits adverse or critical comments or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in a notice.

VI. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit III. lists those tests. Unit III. also lists recommended testing for the chemical substances that would be covered by the non-5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Many test guidelines are now available on the Internet at *http://www.epa.gov/opptsfrs/home/guidelin/htm*. OECD test guidelines are available from the OECD Bookshop (*http://www.oecdbookshop.org*) or Source OECD (*http://www.sourceoecd.org*).

In the TSCA section 5(e) consent order for the chemical notified under P–04–909, EPA has established a production volume limit which cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by this chemical substance. Under recent consent orders, the PMN submitter is required to submit the results of the required studies at least 14 weeks (earlier consent orders required submissions at least 12 weeks) before reaching the specified production limit. The tests specified in the TSCA section 5(e) consent order are included in Unit III. The SNUR contains the same production volume limit as the consent order. Exceeding this production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance.

The recommended tests may not be the only means of addressing the potential risks of the chemical substances regulated under this rule. However, SNUNs submitted for significant new uses without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

1. Human exposure and environmental release that may result from the significant new use of the chemical substances.
2. Potential benefits of the chemical substances.
3. Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2. EPA is required to keep this information confidential to protect the CBI of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the chemical substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs that include specific significant new uses that are CBI.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure in § 721.1725(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the chemical substance and must identify the specific use for which it intends to manufacture or import the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e., it is below the level that would be a significant new use, that person can manufacture or import the chemical substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the chemical substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus, the person would not have to make multiple *bona fide* submissions to EPA for the same chemical substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.1725(b)(1).

VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have recently undergone premanufacture review. A TSCA section 5(e) consent order has been issued for one chemical substance and the notice submitter is prohibited by the TSCA section 5(e) consent order from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For chemical substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the TSCA Inventory prior to the effective date of the rule, the chemical substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, 26 of the 38 chemical substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions (per 40 CFR 720.25 and 721.11), the Agency believes that it is highly unlikely that any of the significant new uses described in the following regulatory text are ongoing. EPA solicits comments on whether any of the uses described as significant new uses are ongoing.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of section 5(a)(1)(B) of TSCA is best served by designating a use as a significant new

use as of the date of publication of this direct final rule rather than as of the effective date of the rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the rule became final, and then argue that the use was ongoing as of the effective date of the final rule. Thus, persons who begin commercial manufacture, import, or processing of the chemical substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities.

IX. SNUN Submissions

EPA recommends that submitters consult with the Agency prior to submitting a SNUN to discuss what data may be useful in evaluating a significant new use. Discussions with the Agency prior to submission can afford ample time to conduct any tests that might be helpful in evaluating risks posed by the substance. According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50.

SNUNs must be mailed to the Environmental Protection Agency, OPPT Document Control Office (7407M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Information must be submitted in the form and manner set forth in EPA Form No. 7710–25. This form is available from the Environmental Assistance Division (7408M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (see 40 CFR 721.25 and 720.40). Forms and information are also available electronically at *http://www.epa.gov/opptintr/newchems/pubs/pmnforms.htm*.

X. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the public docket.

XI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that proposed or final SNURs are not a ''significant regulatory action'' subject to review by OMB, because they do not meet the criteria in section 3(f) of the Executive order.

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR will not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a ''significant new use.'' By definition of the word ''new,'' and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activity. Since a SNUR only requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN, no economic impact will even occur until someone decides to engage in those activities. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 1,000 SNURs, the Agency receives on average only 10 notices per year. Of those SNUNs submitted, none appear to be from small entities in response to any SNUR. In addition, the estimated reporting cost for submission of a SNUN (see Unit IX.), are minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published on June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented it's general determination that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this rulemaking. As such, EPA has determined that this regulatory action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the

Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

E. Executive Order 13132: Federalism

This action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999).

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

This rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This does not significantly or uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), do not apply to this rule.

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

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

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

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

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

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

K. Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this 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.

L. Executive Order 12988: Civil Justice Reform

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

XII. Congressional Review Act

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 6, 2007.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

■ Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. By adding new § 721.10057 to subpart E to read as follows:

§ 721.10057 Dodecanedioic acid, 1, 12-dihydrazide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as dodecanedioic acid, 1, 12-dihydrazide (PMNs P–01–759 and P–05–555; CAS No. 4080–98–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(5), (a)(6), (b), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. The following NIOSH-approved respirators meet the minimum requirement for § 721.63(a)(4): Air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters; powered air-purifying respirator equipped with a tight-fitting full facepiece and High Efficiency Particulate Air (HEPA) filters; supplied air respirator operated in pressure demand or continuous flow mode and equipped with a tight-fitting full facepiece. Because the substance is a dermal sensitizer and irritates mucous membranes, half-face respirators do not provide adequate protection.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(vii), (g)(1)(ix), and (g)(2)(i).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), and (h) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

■ 3. By adding new § 721.10058 to subpart E to read as follows:

§ 721.10058 Reaction product of alkylphenol, aromatic cyclicamine, alkyl diglycidyl dibenzene, and formaldehyde (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as reaction product of alkylphenol, aromatic cyclicamine, alkyl diglycidyl dibenzene, and formaldehyde (PMN P–03–546) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 4. By adding new § 721.10059 to subpart E to read as follows:

§ 721.10059 Reaction product of alkylphenyl glycidyl ether, polyalkylenepolyamine, and alkyl diglycidyl dibenzene (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as reaction product of alkylphenyl glycidyl ether, polyalkylenepolyamine, and alkyl diglycidyl dibenzene (PMN P–03–550) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. By adding new § 721.10060 to subpart E to read as follows:

§ 721.10060 Reaction product of alkylphenyl glycidyl ether, polyalkylenepolyamine, alkyl diglycidyl dibenzene, and polyalkylcyclicdiamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as reaction product of alkylphenyl glycidyl ether, polyalkylenepolyamine, alkyl diglycidyl dibenzene, and polyalkylcyclicdiamine (PMN P–03–551) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. By adding new § 721.10061 to subpart E to read as follows:

§ 721.10061 Pentane, 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-(trifluoromethyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as pentane, 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-(trifluoromethyl)- (PMN P–04–341; CAS No. 132182–92–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. By adding new § 721.10062 to subpart E to read as follows:

§ 721.10062 2,5-Furandione, polymer with oxybis[propanol], benzoate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2,5-furandione, polymer with oxybis[propanol], benzoate (PMN P–04–627; CAS No. 103458–14–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 8. By adding new § 721.10063 to subpart E to read as follows:

§ 721.10063 Halo substituted hydroxy nitrophenyl amide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as halo substituted hydroxy nitrophenyl amide (PMN P–04–792) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. By adding new § 721.10064 to subpart E to read as follows:

§ 721.10064 2-Propenoic acid, 2-[2-(ethenyloxy)ethoxy]ethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 2-[2-(ethenyloxy)ethoxy]ethyl ester (PMN P–04–909; CAS No. 86273–46–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3)(i), (b), and (c). North Butyl Black gloves and T-1 Dailove Ethylene Vinylalcohol Copolymer Laminated Blue gloves have been demonstrated to satisfy (a)(3)(i). Other demonstrated impervious gloves that satisfy (a)(3)(i) are also permissible.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(1)(i), (g)(1)(iv), (g)(1)(vi), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

■ 10. By adding new § 721.10065 to subpart E to read as follows:

§ 721.10065 1-Tetradecanesulfonic acid, (dimethylphenyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-tetradecanesulfonic acid, (dimethylphenyl)- (PMN P–04–961; CAS No. 671756–61–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. By adding new § 721.10066 to subpart E to read as follows:

§ 721.10066 1-Hexanesulfonic acid, (dimethylphenyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-hexanesulfonic acid, (dimethylphenyl)- (PMN P–04–962; CAS No. 676143–36–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 12. By adding new § 721.10067 to subpart E to read as follows:

§ 721.10067 Ether amine phosphonate salt (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as ether amine phosphonate salt (PMNs P–05–57, P–05–58, P–05–59, P–05–61, P–05–62, P–05–63, P–05–64, and P–05–65) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 13. By adding new § 721.10069 to subpart E to read as follows:

§ 721.10069 Ether amine phosphonate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ether amine phosphonate (PMN P–05–60) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 14. By adding new § 721.10070 to subpart E to read as follows:

§ 721.10070 1,3-Butanediol, 3-methyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,3-butanediol, 3-methyl- (PMN P–05–309; CAS No. 2568–33–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f) and (j)(use as inkjet ink).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 15. By adding new § 721.10071 to subpart E to read as follows:

§ 721.10071 9H-Thioxanthenium, 10-[1,1′-biphenyl]-4-yl-2-(1-methylethyl)-9-oxo-, hexafluorophosphate (1-) (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 9H-thioxanthenium, 10-[1,1′-biphenyl]-4-yl-2-(1-methylethyl)-9-oxo-, hexafluorophosphate (1-) (1:1) (PMN P–05–364; CAS No. 591773–92–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (v)(2), (w)(2), and (x)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 16. By adding new § 721.10072 to subpart E to read as follows:

§ 721.10072 Benzene, 1,1′-methylenebis[4-isocyanato-, polymer with benzenedicarboxylic acid, butyl dialkyl ester, poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro-.omega.-hydroxy-, oxirane, alkyl-, polymer with oxirane, ether with propanepolyol and Sartomer's HLBH P-3000 and Lexorez 1180 (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as benzene, 1,1′-methylenebis[4-isocyanato-, polymer with benzenedicarboxylic acid, butyl dialkyl ester, poly[oxy(methyl-1,2-ethanediyl)], .alpha.-hydro-.omega.-hydroxy-, oxirane, alkyl-, polymer with oxirane, ether with propanepolyol and Sartomer's HLBH P-3000 and Lexorez 1180 (PMN P–05–380) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 17. By adding new § 721.10073 to subpart E to read as follows:

§ 721.10073 Modified alkyl acrylamide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as modified alkyl acrylamide (PMN P–05–536) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

■ 18. By adding new § 721.10074 to subpart E to read as follows:

§ 721.10074 Acetic acid, 2-chloro-, 1-(3,3-dimethylcyclohexyl)ethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as acetic acid, 2-chloro-, 1-(3,3-dimethylcyclohexyl)ethyl ester (PMN P–05–568; CAS No. 477218–59–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 19. By adding new § 721.10075 to subpart E to read as follows:

§ 721.10075 Carbon black, 4-[[2-(Sulfooxy) ethyl]substituted] phenyl- modified, sodium salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbon black, 4-[[2-(Sulfooxy) ethyl]substituted] phenyl-modified, sodium salts (PMN P–05–722) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

■ 20. By adding new § 721.10076 to subpart E to read as follows:

§ 721.10076 Substituted benzenediamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted benzenediamine (PMN P–05–792) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to

manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 21. By adding new § 721.10077 to subpart E to read as follows:

§ 721.10077 3H-1,2,4-Triazol-3-one, 1,2-dihydro-.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as 3H-1,2,4-triazol-3-one, 1,2-dihydro- (PMNs P–06–1 and P–06–166; CAS No. 930–33–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(4), (a)(5), (a)(6), (b), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor of at least 10. The following NIOSH-approved respirators with an assigned protection factor (APF) of 10–25 meet the minimum requirements for § 721.63(a)(4): Air-purifying, tight-fitting respirator equipped with N100 (if aerosols absent), R100, or P100 filters (either half- or full-face); powered air-purifying respirator equipped with a loose-fitting hood or helmet and High Efficiency Particulate Air (HEPA) filters; powered air-purifying respirator equipped with a tight-fitting facepiece (either half- or full-face) and HEPA filters; and supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet or tight-fitting facepiece (either half- or full-face).

(ii) *Hazard communication program*. Requirements as specified in § 721.72 (g)(1)(ix), (g)(2)(iv), (g)(3)(ii), and (g)(4)(iii).

(iii) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 22. By adding new § 721.10078 to subpart E to read as follows:

§ 721.10078 Butanamide, 2-[(2-methoxy-4-nitrophenyl)azo]-*N*-(2-methoxyphenyl)-3-oxo-, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl)substituted]phenyl derivs., hydrochlorides (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as butanamide, 2-[(2-methoxy-4-nitrophenyl)azo]-*N*-(2-methoxyphenyl)-3-oxo-, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl)substituted]phenyl derivs., hydrochlorides (PMN P–06–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=10).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 23. By adding new § 721.10079 to subpart E to read as follows:

§ 721.10079 Quino[2,3-b]acridine-7, 14-dione, 5,12-dihydro-2,9-dimethyl-, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl)substituted]phenyl derivs., hydrochlorides (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as quino[2,3-b]acridine-7, 14-dione, 5,12-dihydro-2,9-dimethyl-, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl)substituted]phenyl derivs., hydrochlorides (PMN P–06–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(iii) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=10).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 24. By adding new § 721.10080 to subpart E to read as follows:

§ 721.10080 Carbon black, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl) substituted] phenyl-modified, hydrochlorides (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as carbon black, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl) substituted] phenyl-modified, hydrochlorides (PMN P–06–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(iii) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=10).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 25. By adding new § 721.10081 to subpart E to read as follows:

§ 721.10081 Aromatic urethane acrylate oligomer (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as aromatic urethane

acrylate oligomer (PMN P–06–26) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 26. By adding new § 721.10082 to subpart E to read as follows:

§ 721.10082 Amine modified monomer acrylate (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as amine modified monomer acrylate (PMN P–06–29) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 27. By adding new § 721.10083 to subpart E to read as follows:

§ 721.10083 Copper, [29H, 31H-phthalocyaninato (2-)-κ*N*29, κ*N*30, κ*N*31, κ*N*32]-, 4-[(17-substituted-3,6,9,12,15-pentaazaheptadec-1-yl) substituted] phenyl derivs., hydrochlorides (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as copper, [29H, 31H-phthalocyaninato (2-)-κ*N*29, κ*N*30, κ*N*31, κ*N*32]-, 4-[(17-substituted-3,6,9,12,15- pentaazaheptadec-1-yl) substituted] phenyl derivs., hydrochlorides (PMN P–06–70) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

(iii) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=10).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

■ 28. By adding new § 721.10084 to subpart E to read as follows:

§ 721.10084 Modified thionocarbamate (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as modified thionocarbamate (PMN P–06–124 is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 29. By adding new § 721.10085 to subpart E to read as follows:

§ 721.10085 Substituted polyaryl sulfonium polyhalide phosphate salt (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as substituted polyaryl sulfonium polyhalide phosphate salt (PMN P–06–232) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (f) and (j) (photo initiator used in photo-curable compositions).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 30. By adding new § 721.10086 to subpart E to read as follows:

§ 721.10086 Ethane, 2-(difluoromethoxy)-1,1,1-trifluoro-.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as ethane, 2-(difluoromethoxy)-1,1,1-trifluoro- (PMN P–06–295; CAS No. 1885–48–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b), and (c).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(g).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

■ 31. By adding new § 721.10087 to subpart E to read as follows:

§ 721.10087 Substituted alkyl phosphine oxide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted alkyl phosphine oxide (PMN P–06–332) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s) (100,000 kilograms/year).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 32. By adding new § 721.10088 to subpart E to read as follows:

§ 721.10088 Thiophene, 2,5-dibromo-3-hexyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as thiophene, 2,5-dibromo-3-hexyl- (PMN P–07–283; CAS No. 116971–11–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s) (500 kilograms).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. E7–18502 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

Proposed Rules

Federal Register
Vol. 72, No. 181
Wednesday, September 19, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18583; Directorate Identifier 2002–NM–285–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –300, –400, and –400D Series Airplanes; and Model 747SR Series Airplanes

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –300, –400, and –400D series airplanes; and Model 747SR series airplanes. The proposed AD would have required repetitive inspections of the forward corner reveal of the number 3 main entry doors (MEDs) for cracking, and corrective actions if necessary. Since the proposed AD was issued, we have received comments for the NPRM and new data showing other issues related to the unsafe condition. The data include reports that additional airplanes are affected by the identified unsafe condition; and that a ''sharp edge'' detail may be present on certain one-piece machined 6061 aluminum reveals, which could lead to fatigue cracking. We have determined from these data that the corrective actions proposed by the NPRM are inadequate for addressing the identified unsafe condition. We are considering requiring other rulemaking, which provides corrective actions for the identified unsafe condition. Accordingly, the proposed AD is withdrawn.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located on the ground floor of the West Building, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC. This docket number is FAA–2004–18583; Directorate Identifier 2002–NM–285–AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –300, –400, and –400D series airplanes; and Model 747SR series airplanes. That NPRM was published in the **Federal Register** on July 13, 2004 (69 FR 41997). The NPRM would have required repetitive inspections of the lower forward corner reveal of the number 3 main entry doors (MEDs) for cracking, and corrective actions if necessary. The NPRM resulted from reports of cracking in the forward corner reveal of the number 3 MEDs. The proposed actions were intended to detect and correct misalignment of the girt bar fitting due to fatigue failure of the forward corner reveal of the number 3 MEDs, which could lead to the door escape slide departing from the airplane if the door is opened when the slide is deployed, and consequent injuries to passengers and crew using the door escape slide during an emergency evacuation.

Actions Since NPRM Was Issued

Since we issued the NPRM, we have received comments for the NPRM and new data showing other issues related to the unsafe condition. The data include reports that additional airplanes, on which a one-piece machined 6061 aluminum reveal is installed, are affected by the identified unsafe condition. In addition, a ''sharp edge'' detail may be present on certain one-piece machined 6061 aluminum reveals, which could lead to fatigue cracking. We have determined from these data that the corrective actions proposed by the NPRM are inadequate for addressing the identified unsafe condition. We are considering requiring other rulemaking, which provides corrective actions for the identified unsafe condition.

FAA's Conclusions

Upon further consideration, we have determined that the corrective actions proposed by the NPRM are inadequate for addressing the identified unsafe condition. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2004–18583; Directorate Identifier 2002–NM–285–AD, which was published in the **Federal Register** on July 13, 2004 (69 FR 41997).

Issued in Renton, Washington, on September 7, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–18449 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27257; Directorate Identifier 2006–NM–131–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes and Model A300–600 Series Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to all Airbus Model A300 airplanes; and all Airbus Model A300 B4–601, A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R, A300 F4–622R, and A300 C4–605R Variant F airplanes. The original NPRM would have required inspecting to determine the part number of the sliding rods of the main landing gear (MLG) retraction actuators. For MLG retraction actuators equipped with sliding rods having certain part numbers, the original NPRM would also have required inspecting for discrepancies, including but not limited to cracking, of the sliding rod; and performing corrective actions if necessary. The original NPRM resulted from a report of a failure of a sliding rod of the MLG retraction actuator before the actuator reached the life limit established by the manufacturer. This action revises the original NPRM by proposing to require the return of affected sliding rods to the manufacturer. We are proposing this supplemental NPRM to prevent failure of the sliding rod of the MLG retraction actuator, which could result in reduced structural integrity of the MLG.

DATES: We must receive comments on this supplemental NPRM by October 15, 2007.

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

- *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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Thomas Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–27257; Directorate Identifier 2006–NM–131–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

We will post all comments submitted, 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 supplemental NPRM. 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located on the ground floor of the West 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.

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the ''original NPRM''). The original NPRM applies to all Airbus Model A300 airplanes; and all Airbus Model A300 B4–601, A300 B4–603, A300 B4–620, A300 B4–622, A300 B4–605R, A300 B4–622R, A300 F4–605R, A300 F4–622R, and A300 C4–605R Variant F airplanes. The original NPRM was published in the **Federal Register** on February 14, 2007 (72 FR 6977). The original NPRM proposed to require inspecting to determine the part number of the sliding rods of the main landing gear (MLG) retraction actuators. For MLG retraction actuators equipped with sliding rods having certain part numbers, the original NPRM also proposed to require inspecting for discrepancies, including but not limited to cracking, of the sliding rod; and performing corrective actions if necessary.

Comments

We have considered the following comments on the original NPRM.

Request To Require That Retraction Actuator Sliding Rods Be Returned

Airbus, the airplane manufacturer, requests that we require that retraction actuator sliding rods be returned to the part manufacturer when the life limit threshold of 32,000 flight cycles is reached. Airbus states that because the reported failure of the sliding rod of the MLG retraction actuator was before the life limit of 32,000 flight cycles, the part manufacturer has been requested to identify the root cause. Airbus states that for this purpose, the part manufacturer must be provided with any removed retraction actuator sliding rod.

We agree with the commenter for the reasons stated by the commenter. We have added paragraph (i) to this supplemental NPRM to require returning the sliding rods to the part manufacturer when the life limit is reached for the first replacement cycle only. We have also reidentified subsequent paragraphs.

Request To Allow Records Review

UPS requests that we allow operators to do a records review instead of the inspection specified in paragraph (g) of the original NPRM. UPS states that if the

records review can conclusively determine whether or not the part is installed, it will be an equivalent level of safety to the proposed inspection.

We agree with the comment for the reasons stated by the commenter. We have revised paragraph (g) of this supplemental NPRM to allow operators to do a records review instead of the inspection.

Request To Revise Compliance Time

An anonymous commenter requests that we revise the compliance time specified in paragraph (g) of the original NPRM to match the compliance time specified in the corresponding European Aviation Safety Agency (EASA) airworthiness directive. The commenter states that the EASA airworthiness directive 2006–0075 R2, dated January 4, 2007, specifies doing the inspection at the accumulation of 27,000 flight cycles within 1,000 flight cycles or one year, whichever occurs first. The commenter points out that the original NPRM would require the inspection be done before the accumulation of 27,000 total flight cycles. The commenter notes that the original NPRM would result in a threshold of 26,999 flight cycles whereas the EASA airworthiness directive specifies that the inspection be done between 27,000 flight cycles and 28,000 flight cycles.

We agree with the commenter to revise the compliance time. We intended to match the compliance times specified in EASA airworthiness directive. We have revised paragraphs (g) and (h) of this supplemental NPRM to match the intent of the EASA airworthiness directive. We have also added new paragraph (k) to this supplemental NPRM to ensure that any replaced parts are inspected at the compliance time specified in paragraph (h) of this supplemental NPRM.

Explanation of Changes to NPRM

We have revised the applicability of this supplemental NPRM to identify model designations as published in the most recent type certificate data sheet for the affected models.

We have also revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

Certain changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this supplemental NPRM, at an average labor rate of $80 per work hour, per inspection cycle.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection to determine part number	1	None	$80	168	$13,440
Inspections for discrepancies	11	None	880	168	147,840

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this supplemental NPRM 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, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2007–27257; Directorate Identifier 2006–NM–131–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by October 15, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A300 series airplanes; and all Airbus Model A300–600 series airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report of a failure of a sliding rod of the main landing gear (MLG) retraction actuator before the actuator reached the life limit established by the manufacturer. We are issuing this AD to prevent failure of the sliding rod of the MLG

retraction actuator, which could result in reduced structural integrity of the MLG.

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 Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the service bulletins identified in paragraphs (f)(1) and (f)(2) of this AD, as applicable.

(1) For Model A300 series airplanes: Airbus Service Bulletin A300–32–0450, Revision 01, excluding Appendix 01, dated May 10, 2006.

(2) For Model A300–600 series airplanes: Airbus Service Bulletin A300–32–6097, Revision 01, excluding Appendix 01, dated May 10, 2006.

Note 1: The Airbus service bulletins refer to Messier-Dowty Special Inspection Service Bulletin 470–32–806, dated October 27, 2005, as an additional source of service information for performing detailed and high-frequency eddy current (HFEC) inspections to detect discrepancies of the sliding rod.

Inspection To Determine Part Number (P/N) of Sliding Rod

(g) At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, do a one-time inspection to determine the part number of the sliding rod of the MLG retraction actuator, in accordance with the applicable service bulletin. If no sliding rod having P/N C69029–2 or C69029–3 is installed, no further action is required by this paragraph. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the sliding rod of the MLG retraction actuator can be conclusively determined from that review.

(1) For airplanes that have accumulated less than 27,000 flight cycles on the MLG retraction actuator as of the effective date of this AD: After accumulating 27,000 flight cycles on the MLG retraction actuator, do the inspection within the next 1,000 flight cycles or 12 months, whichever occurs first.

(2) For airplanes that have accumulated 27,000 or more flight cycles on the MLG retraction actuator as of the effective date of this AD: Do the inspection within 1,000 flight cycles or 12 months, whichever occurs first, after the effective date of this AD.

Inspection for Discrepancies of Sliding Rod and Corrective Actions

(h) For MLG retraction actuators equipped with sliding rods having P/N C69029–2 or C69029–3: At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, perform detailed and HFEC inspections of the sliding rod of the MLG retraction actuators on the left-hand and right-hand MLGs, in accordance with the applicable service bulletin. Then, before further flight, perform all applicable corrective actions, in accordance with the applicable service bulletin.

(1) For airplanes that have accumulated less than 27,000 flight cycles on the MLG retraction actuator as of the effective date of this AD: After accumulating 27,000 flight cycles on the MLG retraction actuator, do the inspections within the next 1,000 flight cycles or 12 months, whichever occurs first.

(2) For airplanes that have accumulated 27,000 or more flight cycles on the MLG retraction actuator as of the effective date of this AD: Do the inspections within 1,000 flight cycles or 12 months, whichever occurs first, after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Note 3: Operators should note that the MLG retraction actuator rod must be replaced with a new or serviceable actuator rod before the 32,000-flight-cycle life limit specified in the applicable airworthiness limitations document, regardless of the inspection findings.

Return of MLG Retraction Actuator Sliding Rod

(i) For airplanes having any retraction actuator sliding rods specified in paragraphs (i)(1) and (i)(2) of this AD: After the effective date of this AD, for the first replacement of the retraction actuator sliding rod, return the retraction actuator sliding rod to Messier-Dowty, SA Product Support Engineering, BP10—78142 Velizy Cedex, France, within 30 days after the retraction actuator sliding rod is removed from the airplane.

(1) Any retraction actuator sliding rod that is found to have cracking during the actions specified in paragraph (h) of this AD.

(2) Any retraction actuator sliding rod, P/N C69029–2 or C69029–3, removed that has accumulated between 27,000 total flight cycles and 32,000 total flight cycles.

Parts Installation for MLG Retraction Actuator Rod

(j) As of the effective date of this AD, no person may install, on any airplane, an MLG retraction actuator that is equipped with a sliding rod having P/N C69029–2 or C69029–3, and on which the retraction actuator rod has accumulated 27,000 total flight cycles or more, unless paragraph (h) of this AD is accomplished.

(k) As of the effective date of this AD, any MLG retraction actuator that is equipped with a sliding rod having P/N C69029–2 or C69029–3, and on which the retraction actuator rod has accumulated less than 27,000 total flight cycles, may be installed, on any airplane, provided that the inspections specified in paragraph (h) of this AD are accomplished at the time specified in paragraph (h)(1) of this AD.

Actions Accomplished According to a Previous Issue of the Service Bulletins

(l) Inspections and corrective actions done before the effective date of this AD in accordance with the following service bulletins are acceptable for compliance with the corresponding requirements of this AD:

(1) For Model A300 series airplanes: Airbus Service Bulletin A300–32–0450, excluding Appendix 01, dated December 1, 2005.

(2) For Model A300–600 series airplanes: Airbus Service Bulletin A300–32–6097, excluding Appendix 01, dated December 1, 2005.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Related Information

(n) European Aviation Safety Agency airworthiness directive 2006–0075R2, dated January 4, 2007, also addresses the subject of this AD.

Issued in Renton, Washington, on September 10, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–18448 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28367; Directorate Identifier 2007–NE–19–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CF6–80C2 Series and CF6–80E1 Series Turbofan Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for GE CF6–80C2 series and CF6–80E1 series turbofan engines. This proposed AD would require installing doubler pads (deflectors) on stage 5 of certain LPT cases, or replacing those LPT cases with LPT cases that have the deflectors already installed. This proposed AD results from four events of hardware

fragments, which liberated into the flowpaths and wore through LPT cases on CF6–80C2 and –80E1 series engines. We are proposing this AD to prevent an uncontained release of engine debris and loss of the structural integrity of the mount system that supports the engine. Loss of the mount system structural integrity could result in the engine separating from the airplane.

DATES: We must receive any comments on this proposed AD by November 19, 2007.

ADDRESSES: Use one of the following addresses to comment on this proposed 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, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from Customer Support Center, GE Aircraft Engines, M/D Center Rm. 285, One Neumann Way, Cincinnati, OH 45216, U.S.A.; e-mail: *geae.csc@ae.ge.com*; International phone No.: (513) 552–3272; U.S.A. phone No.: 877–432–3272.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *robert.green@faa.gov*; telephone (781) 238–7754; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–28367; Directorate Identifier 2007–NE–19–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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 proposed AD. Using the search function of the DOT 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 AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5527) is located at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

Discussion

We have received reports of four events, three on CF6–80C2 engines, and one on a CF6–80E1 engine, where the LPT case experienced up to 360 degrees circumferentially of wear and breach of the casing from separate failures of the high pressure turbine (HPT) stage 2 nozzle and the fan mid shaft. Such internal engine failures can result in rotor blade and nozzle vane fragments entering the LPT.

The geometry of the blade plane of the stage 5 LPT rotor allows the liberated fragments to accumulate between the LPT blade tips and the LPT case. Engine operation, even at reduced power or windmilling, causes accumulated debris to wear through the LPT case wall. Such a breach from internal engine failure can result in an uncontained release of engine debris and loss of the structural integrity of the mount system that supports the engine. This condition, if not corrected, could result in the engine separating from the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of Service Bulletin (SB) CF6–80E1 S/B 72–0303, Revision 1, dated February 1, 2006; SB CF6–80C2 S/B 72–1171, Revision 1, dated February 1, 2006; and GE Repair Document RD 935–314–S3, dated August 10, 2006, that describes procedures for installing case skin doubler pads (deflectors) on stage 5 of the LPT case.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require installing case skin doubler pads (deflectors) on stage 5 of the affected LPT case or replacing the case with a case that has deflectors installed, at the next disassembly of the LPT module after the effective date of the proposed AD. The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 854 GE CF6 engines installed on airplanes of U.S. registry. We also estimate that it would take about 30 work-hours per engine to perform the proposed actions, and that the average labor rate is $80 per work-hour. Required parts would cost about $10,170 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $10,734,780.

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 proposed AD would not have federalism implications under Executive Order

13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

General Electric Company: Docket No. FAA–2007–28367; Directorate Identifier 2007–NE–19–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by November 19, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the CF6–80C2 and CF6–80E1 engines specified in the following Table 1 of this AD. These engines are installed on, but not limited to, Airbus A300, A310, and A330 series airplanes, Boeing 747 and 767 series airplanes, and McDonnell Douglas MD11 series airplanes.

TABLE 1.—APPLICABLE ENGINES BY ENGINE MODEL

Engine model	With low pressure turbine (LPT) case part No. (P/N) installed
CF6–80C2A1, –80C2A2, –80C2A3, –80C2A5, –80C2A5F, –80C2A8, –80C2B1, –80C2B1F, –80C2B1F1, –80C2B1F2, –80C2B2, –80C2B2F, –80C2B3F, –80C2B4, –80C2B4F, –80C2B5F, –80C2B6, –80C2B6F, –80C2B6FA, –80C2B7F, –80C2B8F, –80C2D1F, and –80C2L1F.	1336M99G01, 1336M99G02, 1336M99G03, 1336M99G04, 1336M99G06, 1336M99G07, 1336M99G08, 1336M99G09, 1336M99G10, 1336M99G12, 1336M99G13, or 1336M99G15. 1647M68G05, 1647M68G08, 1647M68G09, 1647M68G15. 1713M73G01, 1713M73G02, or 1713M73G05. 9367M99G11or 9367M99G17.
CF6–80E1A1, –80E1A2, –80E1A3, –80E1A4, –80E1A4/B	1647M68G02, 1647M68G04, 1647M68G07, 1647M68G12, or 1647M68G13.

Unsafe Condition

(d) This AD results from four events of hardware fragments, which liberated into the flowpaths and wore through LPT cases on CF6–80C2 and –80E1 series engines. We are issuing this AD to prevent an uncontained release of engine debris and loss of the structural integrity of the mount system that supports the engine. Loss of the mount system structural integrity could result in the engine separating from the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed the next time the LPT module is disassembled, but not to exceed 8 years after the effective date of this AD, unless the actions have already been done.

CF6–80C2 Engines

(f) For CF6–80C2 engines specified in Table 1 of this AD that have an LPT case with a P/N specified in Table 1 of this AD, do either of the following:

(1) Rework the LPT case to install deflectors. Use the Accomplishment Instructions of GE Service Bulletin (SB) CF6–80C2 S/B 72–1171, Revision 1, dated February 1, 2006, and Repair Document (RD) 935–314–S3, dated August 10, 2006, to rework the LPT case, or

(2) Install an LPT case that has case skin doubler pads.

CF6–80E1 Engines

(g) For CF6–80E1 engines specified in Table 1 of this AD, that have an LPT case with a P/N specified in Table 1 of this AD, do either of the following:

(1) Rework the LPT case to install deflectors. Use the Accomplishment Instructions of SB CF6–80E1 S/B 72–0303, Revision 1, dated February 1, 2006, and RD 935–314–S3, dated August 10, 2006, to rework the LPT case, or

(2) Install an LPT case that has case skin doubler pads.

Alternative Methods of Compliance

(h) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(i) None.

(j) Contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *robert.green@faa.gov;* telephone (781) 238–7754; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on September 11, 2007.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E7–18418 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28670; Directorate Identifier 2007–CE–060–AD]

RIN 2120–AA64

Airworthiness Directives; GROB–WERKE GMBH & CO KG Models G102 CLUB ASTIR III, G102 CLUB ASTIR IIIb, and G102 STANDARD ASTIR III Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed

AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

> GROB received isolated difficulty reports regarding cracks on welded parts of the flight control system of the type G102, model CLUB ASTIR III & IIIb, and STANDARD ASTIR III. The cracks progress slowly from the welding seams periphery, and may eventually result in rupture at a matured stage.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 19, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

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 this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–28670; Directorate Identifier 2007–CE–060–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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 we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency AD No.: 2007–0135–E, dated May 14, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> GROB received isolated difficulty reports regarding cracks on welded parts of the flight control system of the type G102, model CLUB ASTIR III & IIIb, and STANDARD ASTIR III. The cracks progress slowly from the welding seams periphery, and may eventually result in rupture at a matured stage.

The MCAI requires all welded parts to be inspected and replaced if any cracks are found.

You may obtain further information by examining the MCAI in the AD.

Relevant Service Information

Grob Aerospace has issued Service Bulletin No. MSB 306–35, dated April 27, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 35 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,800, or $80 per product.

In addition, we estimate that any necessary follow-on actions would take about 5 work-hours and require parts costing $5,058, for a cost of $5,458 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Grob-Werke Gmbh & Co Kg: Docket No. FAA–2007–28670; Directorate Identifier 2007–CE–060–AD.

Comments Due Date

(a) We must receive comments by October 19, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the gliders Model G102 CLUB ASTIR III, serial numbers (SNs) 5501 (suffix C) through 5652 (suffix C); Model G102 CLUB ASTIR IIIb, SNs 5501 (suffix Cb) through 5652 (suffix Cb); and Model G102 STANDARD ASTIR III, SNs 5501 (suffix S) through 5652 (suffix S), that are certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

GROB received isolated difficulty reports regarding cracks on welded parts of the flight control system of the type G102, model CLUB ASTIR III & IIIb, and STANDARD ASTIR III. The cracks progress slowly from the welding seams periphery, and may eventually result in rupture at a matured stage.

The MCAI requires all welded parts to be inspected and replaced if any cracks are found.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within the next 25 hours time-in-service (TIS) after the effective date of this AD or within the next 6 calendar months after the effective date of this AD, whichever occurs first, inspect the welded parts of the flight control system for any cracks, deformations, or distortions following Grob Aerospace Service Bulletin No. MSB 306–35, dated April 27, 2007. Thereafter, repetitively inspect at intervals not to exceed 12 calendar months.

(2) If you find any cracks, deformations, or distortions as a result of any inspection required by paragraph (e)(1) of this AD, before further flight, replace the affected part following Grob Aerospace Service Bulletin No. MSB 306–35, dated April 27, 2007.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency AD No.: 2007–0135–E, dated May 14, 2007, and Grob Aerospace Service Bulletin No. MSB 306–35, dated April 27, 2007, for related information.

Issued in Kansas City, Missouri, on September 13, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–18443 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29226; Directorate Identifier 2006–NM–256–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81) and DC–9–82 (MD–82) Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model DC–9–81 (MD–81) and DC–9–82 (MD–82) airplanes. This proposed AD would require, for certain airplanes, inspecting for cracking of the fuselage skin at the upper corners of the forward passenger doorjamb, installing or replacing doublers as applicable, and doing applicable repairs. This proposed AD results from reports of fatigue cracking in the fuselage skin at the upper corners of the forward passenger doorjamb. We are proposing this AD to prevent cracking of the fuselage skin at the upper corners of the forward passenger doorjamb, which could lead to loss of overall structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by November 5, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5233; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–29226; Directorate Identifier 2006–NM–256–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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 proposed 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 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located on the ground level of the West 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.

Discussion

We have received a report that fatigue cracking has been discovered in the fuselage skin at the upper corners of the forward passenger doorjamb on certain Model DC–9/MD–80 airplanes. This condition, if not corrected, could lead to loss of overall structural integrity of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin MD80–53A298, dated August 1, 2006. The alert service bulletin describes procedures for a low-frequency eddy current (LFEC) or a high-frequency eddy current (HFEC) inspection, depending on airplane configuration, for cracking of the fuselage skin at the upper corners of the forward passenger doorjamb; and applicable corrective actions. The compliance time for the initial inspection is before accumulating 37,500 total flight cycles, or within 3,575 flight cycles (whichever is later).

The corrective actions include:

- For Group 1, Configuration 1, airplanes on which no cracking is found: Either repeating the LFEC inspection at intervals of 3,575 flight cycles; or installing external aluminum doublers within 3,575 flight cycles after the last inspection, and doing an HFEC inspection within 28,000 flight cycles after doing the installation, and repetitively at 20,000-flight-cycle intervals.
- For Group 1, Configuration 1, airplanes on which any crack is found that is 2.0 inches or shorter in length: Repair before further flight, and do an HFEC inspection within 28,000 flight cycles after the repair, and repetitively at 20,000-flight-cycle intervals.
- For Group 1, Configuration 1, airplanes on which any crack is found that is longer than 2.0 inches; for Group 1, Configurations 2 and 3, airplanes on which any crack is found beyond the edge of the doublers; and for Group 1, Configuration 4, airplanes: Contact Boeing for repair instructions before further flight.
- For Group 1, Configuration 2, airplanes on which no crack is found beyond the edge of the steel doublers: Replace existing steel doublers with aluminum doublers, and repair upper corners within 6,000 flight cycles after the initial inspection; and do an HFEC inspection within 28,000 flight cycles after the repair, and repetitively at 20,000-flight-cycle intervals.
- For Group 1, Configuration 3, airplanes on which no cracks are found beyond the edge of the aluminum doublers: Repeat the HFEC inspection at 20,000-flight-cycle intervals.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between Proposed AD and Alert Service Bulletin.''

Differences Between Proposed AD and Alert Service Bulletin

For all airplanes, the alert service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

For airplane configuration 4: Where the alert service bulletin specifies to contact the manufacturer for repair instructions before further flight, to avoid unnecessarily grounding airplanes, this proposed AD would require performing repairs within 90 days after the effective date of this proposed AD.

Costs of Compliance

There are about 76 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 46 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD, at an average labor rate of $80 per work hour. The proposed actions vary depending upon the airplane configuration.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Fleet cost
LFEC inspection	1	None needed	$80, per inspection cycle	Up to $3,680, per inspection cycle.
HFEC inspection	1	None needed	$80, per inspection cycle	Up to $3,680, per inspection 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. 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, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket No. FAA–2007–29226; Directorate Identifier 2006–NM–256–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 5, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–9–81 (MD–81) and DC–9–82 (MD–82) airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin MD80–53A298, dated August 1, 2006.

Unsafe Condition

(d) This AD results from a report of fatigue cracking in the fuselage skin at the upper corners of the forward passenger doorjamb. We are issuing this AD to prevent cracking of the fuselage skin at the upper corners of the forward passenger doorjamb, which could lead to loss of overall structural integrity 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.

Repetitive Inspections and Corrective Actions for Configuration 1, 2, and 3 Airplanes

(f) For airplanes identified as Configuration 1, 2, or 3 in Boeing Alert Service Bulletin MD80–53A298, dated August 1, 2006: At the applicable times specified in paragraph 1.E., ''Compliance,'' of the alert service bulletin, do a low-frequency eddy current (LFEC) or high-frequency eddy current (HFEC) inspection, as applicable, for cracking of the fuselage skin at the upper corners of the forward passenger doorjamb; and do all applicable corrective actions (repetitive inspections, installation of doublers, replacements, and repairs), except as provided by paragraph (g) of this AD. Do the actions in accordance with the Accomplishment Instructions of the alert service bulletin. Where the alert service bulletin specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

Repair of Certain Conditions

(g) If any crack is found during any inspection required by paragraph (f) of this AD and Boeing Alert Service Bulletin MD80–53A298, dated August 1, 2006, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Corrective Action for Configuration 4 Airplanes

(h) For airplanes identified as Configuration 4 in Boeing Alert Service Bulletin MD80–53A298, dated August 1, 2006: Within 90 days after the effective date of this AD, repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Los Angeles 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) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and 14 CFR 25.571, Amendment 45, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on September 10, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–18447 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29227; Directorate Identifier 2007–NM–100–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR series airplanes. For certain airplanes, this proposed AD would require a material type inspection to determine if the lower forward corner reveal of the number 3 main entry doors (MEDs) is a casting. If the reveals are castings, this proposed AD would require repetitive inspection of the reveals for cracking, and corrective action if necessary. If the reveals are not castings, this proposed AD would require a detailed inspection of the reveals for a sharp edge and repetitive inspection of the reveals for cracking, and corrective action if necessary. For certain other airplanes, this AD would require only a detailed inspection of the reveals for a sharp edge and repetitive inspection of the reveals for cracking, and corrective action if necessary. For certain other airplanes, this AD would require repetitive inspection of the reveals for cracking only, and corrective action if necessary. This proposed AD results from reports of cracking and/or a sharp edge in the lower forward corner reveal of the number 3 MEDs. We are proposing this AD to detect and correct fatigue cracking of the lower forward corner reveal of the number 3 MEDs, which could lead to the door escape slide departing from the airplane when the door is opened and the slide is deployed, and consequent injuries to passengers and crew using the door escape slide during an emergency evacuation.

DATES: We must receive comments on this proposed AD by November 5, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–29227; Directorate Identifier 2007–NM–100–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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 proposed 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 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located on the ground floor of the West 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.

Discussion

On June 30, 2004, we issued an NPRM, Docket No. FAA–2004–18583, to address the identified unsafe condition. That NPRM was prompted by reports from eight operators indicating that cracking of the lower forward corner reveal of the number 3 main entry doors (MEDs) was found on several Model 747 airplanes. Of the twelve reveals that were cracked, eleven were made of cast 356 aluminum and one was made of machined 6061 aluminum. The cause of the cracking of the reveals made of cast 356 aluminum is fatigue. The cause of the cracking of the reveal made of machined 6061 aluminum was a manufacturing defect, which led to fatigue cracking.

Subsequent to issuing the NPRM, we have been working with the manufacturer to ensure that the unsafe condition is adequately addressed and appropriate service instructions are available. We have also received new data showing other issues related to the unsafe condition. In addition to the comments received for that NPRM, the data include reports that forward corner reveals installed on certain airplanes have a ''sharp edge'' detail at the forward edge, which could lead to fatigue cracking, and that additional airplanes are affected by the identified unsafe condition. We have determined from these data that the corrective actions proposed by that NPRM are inadequate for addressing the identified unsafe condition; therefore, we have withdrawn that NPRM and are issuing this new proposed AD.

Explanation of Related AD

We have previously issued AD 2007–12–11, amendment 39–15089 (72 FR 31984, June 11, 2007), which applies to certain Boeing Model 747 series airplanes. That AD requires repetitive inspections to detect cracks and/or corrosion of the girt bar support fitting at certain main entry doors (MED), and repair or replacement of the support fitting. That AD also provides for various terminating actions for the repetitive inspections. That AD also requires an inspection, for certain airplanes, for correct installation of square and conical washers in the girt bar support fitting; an inspection, for certain other airplanes, to determine if the washers are installed; and related investigative and corrective action if necessary.

Actions required by that AD are done in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. Accomplishment of the applicable repair in this proposed AD would constitute compliance with the requirements of paragraph (q)(2)(ii) of AD 2007–12–11 for the repair of the lower forward corner casting (reveal) of the number 3 MEDs only.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 747–53–2460, Revision 1, dated February 13, 2007. The service bulletin describes procedures for inspections of the lower forward corner reveal of the number 3 MEDs, depending on the configuration of the airplane.

For airplanes identified as Group 3 airplanes: The service bulletin describes procedures for a repetitive detailed inspection for cracking of the lower forward corner reveals for cracking, and corrective action if necessary. Corrective action includes replacing the reveal with a new or reworked two-piece reveal, which would end the repetitive inspections; or replacing the reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge, doing repetitive inspections at a new compliance time after the replacement, and doing corrective action if necessary.

For airplanes identified as Group 2 airplanes and Group 1, Configuration 2 airplanes: The service bulletin describes procedures for a repetitive detailed inspection of the lower forward corner reveals for cracking, a one-time detailed inspection of the lower forward corner reveals for a sharp edge, and corrective action if necessary. The corrective actions include the following:

- If no cracking and no sharp edge are found: Replace the reveal with a new or reworked two-piece reveal, which would end the repetitive inspections; or do repetitive detailed inspections at a new compliance time, and corrective action if necessary (as specified above in procedures for Group 3 airplanes).
- If no cracking is found but a sharp edge is found: Replace the reveal with a new or reworked two-piece reveal, which would end the repetitive inspections; or replace the reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge, do the repetitive detailed inspections at a new compliance time after doing the replacement, and do corrective action if necessary (as specified above in procedures for Group 3 airplanes).
- If cracking is found: Replace the reveal with a new or reworked two-piece reveal, which would end the repetitive inspection; or replace the reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge, do the repetitive detailed inspections at a new compliance time after doing the replacement, and do corrective action if necessary (as specified above in procedures for Group 3 airplanes).

For airplanes identified as Group 1, Configuration 1 airplanes: The service bulletin describes procedures for a one-time material type inspection to determine if the lower forward corner reveals are castings. If the forward corner reveal is not a casting: Do a one-time detailed inspection of the reveal for a sharp edge, repetitive inspection of the reveal for cracking, and corrective action if necessary (as specified above in procedures for Group 2 and Group 1, Configuration 2 airplanes). If the reveal is a casting: Do repetitive detailed inspections of the reveal for cracking, and corrective action if necessary. Corrective actions include the following: Weld repair the reveal and repeat the detailed inspection; replace the reveal with a new or reworked two-piece reveal, which ends the repetitive inspections; or replace the reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge, do the repetitive inspections again at a new compliance time after the replacement, and do corrective action if necessary (as specified above in procedures for Group 2 and Group 1, Configuration 2 airplanes).

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and the Service Bulletin.''

Difference Between the Proposed AD and the Service Bulletin

Although Step 5 of Figure 8 of the service bulletin specifies that operators may accomplish the actions on forward corner reveals made of cast 356 aluminum in accordance with ''an operator's equivalent procedure,'' this proposed AD would require operators to accomplish Step 5 of Figure 8 only in accordance with the procedures specified in Boeing Standard Overhaul Practices Manual (SOPM) 20–20–02. An ''operator's equivalent procedure'' may be used only if approved as an alternative method of compliance in accordance with paragraph (p) of this AD.

The difference described above has been coordinated with the manufacturer.

Costs of Compliance

There are about 715 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspections	4	$80	$320, per inspection cycle	119	$38,080, per inspection 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. 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, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2007–29227; Directorate Identifier 2007–NM–100–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 5, 2007.

Affected ADs

(b) Certain requirements of this AD terminate certain requirements of AD 96–23–05, amendment 39–9810.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 747–53–2460, Revision 1, dated February 13, 2007, except airplanes that have been converted to an all-cargo configuration. The requirements of this AD also become applicable at the time when a converted airplane operating in an all-cargo configuration is converted back to a passenger or passenger/cargo configuration.

Unsafe Condition

(d) This AD results from reports of cracking and/or a sharp edge in the lower forward corner reveal of the number 3 main entry doors (MEDs). We are issuing this AD to detect and correct fatigue cracking of the lower forward corner reveal of the number 3 MEDs, which could lead to the door escape slide departing from the airplane when the door is opened and the slide is deployed, and consequent injuries to passengers and crew using the door escape slide during an emergency evacuation.

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 Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–53–2460, Revision 1, dated February 13, 2007.

Actions for Group 3 Airplanes

(g) For airplanes identified as Group 3 airplanes in the service bulletin: Before the accumulation of 10,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do a detailed inspection for cracking of the lower forward corner reveals in accordance with Part 8 of the service bulletin.

(1) If no cracking is found, repeat the inspection thereafter at intervals not to exceed 6,000 flight cycles until a new or reworked two-piece reveal is installed in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement.

Note 1: For the purpose of this AD, a one-piece machined aluminum reveal may be reworked into a two-piece reveal in accordance with Part 7 of the service bulletin after it was verified to be crack free and without a sharp edge in accordance with Part 5 of the service bulletin, or after it was confirmed to be crack free in accordance with Part 5 of the service bulletin and reworked to remove a sharp edge in accordance with Part 6 of the service bulletin.

(2) If cracking is found, do the replacement specified in paragraph (g)(2)(i) or (g)(2)(ii) of this AD.

(i) Before further flight, replace the reveal with a new or reworked two-piece reveal in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement.

(ii) Before further flight, replace the reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge in accordance with Part 3 of the service bulletin. Within 10,000 flight cycles after doing the replacement, do the inspection specified in paragraph (g) of this AD and repeat the inspection thereafter at intervals not to exceed 6,000 flight cycles until a new or reworked two-piece reveal is installed in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement with a two-piece reveal.

Note 2: For the purpose of this AD, a one-piece machined aluminum reveal with a sharp edge may be reworked into a one-piece machined aluminum reveal without a sharp edge in accordance with Part 6 of the service bulletin after it was confirmed to be crack free in accordance with Part 5 of the service bulletin. After the sharp edge was removed, the one-piece machined aluminum reveal without a sharp edge may be further reworked into a two-piece reveal in accordance with Part 7 of the service bulletin.

Actions for Group 2 Airplanes and Group 1, Configuration 2 Airplanes

(h) For airplanes identified as Group 2 airplanes in the service bulletin: Before the accumulation of 1,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do the inspection specified in paragraph (j) of this AD.

(i) For airplanes identified as Group 1, Configuration 2 airplanes in the service bulletin: Within 1,500 flight cycles after the lower forward corner reveal was last replaced or 1,000 flight cycles after the effective date of this AD, whichever occurs later, do the inspection specified in paragraph (j) of this AD.

(j) At the applicable times specified in paragraphs (h) and (i) of this AD: Do a detailed inspection of the lower forward corner reveals for cracking and a sharp edge in accordance with Part 5 of the service bulletin.

(1) If no cracking and no sharp edge is found, before the accumulation of another

10,000 flight cycles on the lower forward corner reveal, do the detailed inspection for cracking specified in paragraph (j) of this AD and inspect thereafter at intervals not to exceed 6,000 flight cycles, until a new or reworked two-piece reveal is installed in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement.

(2) If no cracking is found but a sharp edge is found, do the action specified in paragraph (j)(2)(i) or (j)(2)(ii) of this AD.

(i) Before further flight, replace the lower forward corner reveal with a new or reworked two-piece reveal, in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement.

(ii) Before further flight, replace the reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge, in accordance with Part 3 of the service bulletin. Within 10,000 flight cycles after doing the replacement, do the actions specified in paragraph (j) of this AD, except for the inspection for a sharp edge.

(3) If cracking is found, do the action specified in paragraph (j)(3)(i) or (j)(3)(ii) of this AD.

(i) Before further flight, replace the reveal with a new or reworked two-piece reveal, in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement.

(ii) Before further flight, replace the lower forward corner reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge, in accordance with Part 3 of the service bulletin. Within 10,000 flight cycles after doing the replacement, do the actions specified in paragraph (j) of this AD, except for the inspection for a sharp edge.

Actions for Group 1, Configuration 1 Airplanes

(k) For airplanes identified as Group 1, Configuration 1 airplanes in the service bulletin: Before the accumulation of 1,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do a material type inspection to determine if the lower forward corner reveals are castings, in accordance with the service bulletin.

(1) If the forward corner reveal is not a casting: Before further flight, do the actions specified in paragraph (j) of this AD, except for the inspection for a sharp edge.

(2) If the forward corner reveal is a casting: Before the accumulation of 7,000 total flight cycles, within 2,000 flight cycles after the effective date of this AD, or within 3,000 flight cycles since the forward corner reveal was inspected in accordance with Boeing Service Bulletin 747–53A2378, whichever is later, do a detailed inspection for cracking of the lower forward corner reveal, in accordance with Part 1 of Boeing Special Attention Service Bulletin 747–53–2460, Revision 1, dated February 13, 2007.

(i) If no cracking is found: Repeat the inspection specified in paragraph (k)(2) of this AD thereafter at intervals not to exceed 3,000 flight cycles until a new or reworked two-piece lower forward corner reveal is installed in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement.

(ii) If cracking is found: Do the actions specified in paragraph (k)(2)(ii)(A), (k)(2)(ii)(B), or (k)(2)(ii)(C) of this AD.

(A) Before further flight, weld repair the reveal in accordance with Part 4 of the service bulletin. Repeat the inspection specified in paragraph (k)(2) of this AD thereafter at intervals not to exceed 3,000 flight cycles until a new or reworked two-piece reveal is installed in accordance with Part 2 of the service bulletin.

(B) Before further flight, replace the reveal with a new or reworked two-piece reveal, in accordance with Part 2 of the service bulletin. No further action is required by this paragraph for that location only after the replacement.

(C) Before further flight, replace the reveal with a new or reworked one-piece machined aluminum reveal without a sharp edge, in accordance with Part 3 of the service bulletin. Within 10,000 flight cycles after doing the replacement, do the actions specified in paragraph (j) of this AD, except for the inspection for a sharp edge.

Operator's Equivalent Procedure

(l) Although Step 5 of Figure 8 of the service bulletin specifies that operators may accomplish the actions in accordance with ''an operator's equivalent procedure,'' this AD requires operators to accomplish Step 5 of Figure 8 in accordance with only the procedures specified in Boeing Standard Overhaul Practices Manual (SOPM) 20–20–02 as given in the service bulletin. An ''operator's equivalent procedure'' may be used only if approved as an alternative method of compliance in accordance with paragraph (p) of this AD.

Compliance With AD 2007–12–11 for MED 3 Only

(m) Accomplishment of the applicable repair required by this AD constitutes compliance with the repair of the lower forward corner casting (reveal) of the number 3 MEDs only, as required by paragraph (q)(2)(ii) of AD 2007–12–11 (which specifies the actions be done in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005). Accomplishment of the actions of this AD does not terminate the remaining requirements of AD 2007–12–11.

Parts Installation

(n) As of the effective date of this AD, no person may install a door lower forward corner reveal made of cast 356 aluminum on any airplane at a location specified by this AD.

(o) As of the effective date of this AD, no person may install a door lower forward corner reveal made of machined 6061 aluminum on any airplane at a location specified by this AD, unless it has been confirmed/reworked to be without a sharp edge in accordance with the service bulletin.

Alternative Methods of Compliance (AMOCs)

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

(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.

Issued in Renton, Washington, on September 10, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–18420 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29248; Directorate Identifier 2007–NM–155–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB-Fairchild SF340A (SAAB/SF340A) and SAAB 340B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, * * * Special Federal Aviation Regulation 88 (SFAR88) * * * required a safety review of the aircraft Fuel Tank System * * *.

* * * * *

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' * * *. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 19, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax*: (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, WA 98057–3356; telephone (425) 227–2677; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2007–29248; Directorate Identifier 2007–NM–155–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2006–0221, dated July 20, 2006 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *http://www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: The date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken

that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Saab has issued Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

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

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 144 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $11,520, or $80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB Aircraft AB: Docket No. FAA–2007–29248; Directorate Identifier 2007–NM–155–AD.

Comments Due Date

(a) We must receive comments by October 19, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Saab Model SAAB-Fairchild SF340A (SAAB/SF340A) and SAAB 340B airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review

was requested to be mandated by NAA's (National Aviation Authorities) using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *http://www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: The date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an ''unsafe condition'' as defined in FAA's memo 2003–112–15 ''SFAR 88—Mandatory Action Decision Criteria''. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 3 months after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the maintenance and inspection instructions in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006. For all tasks identified in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, the initial compliance times start from the effective date of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006.

(2) Within 12 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs as defined in Part 2 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006.

(3) Except as provided by paragraph (g) of this AD: After accomplishing the actions specified in paragraphs (f)(1) and (f)(2) of this AD, no alternative inspection, inspection intervals, or CDCCLs may be used.

(4) Where Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, allows for exceptional short-term extensions, an exception is acceptable to the FAA if it is approved by the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2006–0221, dated July 20, 2006, and Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, for related information.

Issued in Renton, Washington, on September 10, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–18478 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 153

[Docket No. FAA–2007–29237]

RIN 2120—AJ07

Aviation Safety Inspector Airport Access

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Two rulemakings finalized several years ago removed regulatory language that implemented FAA Aviation Safety Inspector (ASI) statutory authority to access air operations areas, secured areas, and security identification display areas. This proposal reiterates and clarifies the authority of an ASI with the proper credentials to access air operations areas, secured areas, and security identification areas of an airport. The proposal would make sure ASIs have access to these areas of an airport so they can perform official duties in support of the FAA's safety mission.

DATES: Send your comments on or before October 19, 2007.

ADDRESSES: You may send comments identified by Docket Number FAA–2007–29237 by any of the following methods:

- *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 20590–001.
- *Fax:* 1–202–493–2251.
- *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.

You may also read background documents or comments received at the addresses above.

FOR FURTHER INFORMATION CONTACT: Pat Hempen, Federal Aviation Administration, Flight Standards Service, Air Transportation Division (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591; Telephone 202–267–8166, E-mail *patrick.hempen@faa.gov.*

SUPPLEMENTARY INFORMATION: Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this proposal and related rulemaking documents.

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. 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.

The FAA is issuing this rulemaking under the authority set forth in 49 U.S.C. section 44701(a)(5), section 40113, and section 44713. Under section 44701(a)(5), the Administrator is charged with promoting safe flight of civil aircraft by, among other things, prescribing regulations the Administrator finds necessary for safety in air commerce. Sections 40113 and 44713 relate to the Administrator's authority to conduct safety inspections.

Purpose of This Rule

The FAA proposes to re-codify in Title 14 of the Code of Federal Regulations existing statutory authority concerning Federal Aviation Administration (FAA) safety inspections. In order to execute such authority, FAA aviation safety inspectors (ASIs) must have access to air operations areas (AOA), secured areas, and security identification display areas (SIDAs) in airports. Airport operators grant authority to access these areas in airports in accordance with an Airport Security Program (ASP). An airport operator develops and submits an ASP to the Transportation Security Administration (TSA) for approval. It is the airport operator that implements the ASP and grants access to AOAs, secured areas, and SIDAs, to individuals such as ASIs, Customs Inspectors, Postal Inspectors, and other Federal Inspectors.

This rulemaking will not require changes in TSA documents for airport operators, such as the ASP, or for part 119 certificate holders, such as the Aircraft Operator's Standard Security Program (AOSSP). However, an airport operator or aircraft operator may decide to submit to TSA proposed changes to its security program, or TSA may decide to require changes to the program. The FAA has coordinated this rulemaking with TSA.

Background

ASI Authority

Congress has granted the FAA and its inspectors broad authority to carry out the Agency's mission by performing any necessary tests, inspections, surveillance, and investigations without limitations as to when and where those activities may be carried out to preserve the safety and integrity of the national airspace system.

Under Title 49 U.S.C. Section 40113, the FAA Administrator is empowered to conduct such investigations and inspections as necessary to ensure the safety of civil aviation (*http://uscode.house.gov/search/criteria.shtml*). The statute does not restrict such activities by time and place. Section 40113 states, in part, that the Administrator may take action that the Administrator ''considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.''

Title 49 U.S.C. 44713 also clearly outlines the inspection duties and inspection authority of ASIs and does not restrict such activities by time and place (*http://uscode.house.gov/search/criteria.shtml*). This section states, in part, that the Administrator employs ASIs to ''inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft, aircraft engines, propellers, or appliances are in safe condition and maintained properly.''

Statement of the Problem

Recently, two rulemaking events have occurred that have unintentionally removed some rule language in Title 14 of the Code of Federal Regulations (14 CFR) that gave ASIs specific regulatory authority to access sterile areas, AOAs, secured areas, and SIDAs of an airport to conduct official duties.

Removal of 14 CFR parts 107 and 108

The Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71, 115 Stat. 597, November 19, 2001) vested TSA with broad authorities and responsibilities over the security of all modes of transportation. These include authorities relating specifically to aviation security that were formerly vested in the FAA as well as general inter-modal authorities.[1] FAA security rules, which clearly addressed FAA's authority to access airports to perform official security duties, were contained in 14 CFR parts 107 and 108. When responsibility for aviation security was transferred to TSA, the rules contained in parts 107 and 108 were removed from 14 CFR (67 FR 8339; February 22, 2002) and placed in TSA's regulations at 49 CFR parts 1542 and 1544.

A few months before the enactment of the Aviation and Transportation Security Act, the FAA issued the Airport Security Final Rule (66 FR 37274; July 17, 2001), which included extensive revisions to parts 107 and 108. When parts 107 and 108 were revised the FAA had a continuum of inspection authority sections showing its authority to inspect for compliance with aircraft operator safety rules (see 14 CFR 119.59), airport safety rules (see 14 CFR 139.105), and aircraft operator and airport operator security rules (see 14 CFR 107.7 and 108.5). Reading all these FAA rules together, it was evident that FAA inspectors, both security and safety, had the necessary authority to conduct inspections at any place on airports necessary to perform their official duties, including those areas that otherwise are controlled for security purposes. However, since parts 107 and 108 were removed and these authorities transferred to TSA, there has been some misunderstanding about the continuing authority of FAA safety inspectors to access various areas of the airport that are controlled for security purposes. This proposed rule makes clear that FAA aviation safety inspectors continue to have authority to access such areas as needed to perform their duties.

14 CFR Part 139 Certification of Airports, Final Rule (69 FR 6380) (http://dmses.dot.gov/docimages/pdf89/268866_web.pdf)

On February 10, 2004, the FAA revised the airport certification regulations and established certification requirements for airports serving scheduled air carrier operations in aircraft designed for more than 9 passenger seats. One change to § 139.105, Inspection Authority, updated language referencing statutory authority and deleted terms that were no longer applicable. The revised language in new § 139.105 was not as clear regarding ASI airport access.

[1] Generally, the Assistant Secretary for Homeland Security (Transportation Security Administrator) (hereinafter ''Administrator''), ''shall be responsible for security in all modes of transportation, including—(1) Carrying out chapter 449, relating to civil aviation security, and related research and development activities; and (2) security responsibilities over other modes of transportation that are exercised by the Department of Transportation.'' 49 U.S.C. 114(d).

The original § 139.105 required airport operators to allow ASIs to make any inspection to determine compliance with the broad safety provisions contained in the Federal Aviation Act of 1958. This included inspections of airports, aircraft, aircraft operators, and operations personnel. Revised § 139.105 deleted the reference to the Federal Aviation Act of 1958 and instead referenced the authority for ASIs to make inspections to determine compliance with the more current 49 U.S.C. 44706 and part 139, Certification of Airports. This revision to the regulatory language unintentionally made the operational implementation of FAA's statutory authority to conduct inspections more challenging.

ASI access to AOAs, secured areas, and SIDAs of airports extends beyond part 139 airports. Part 139 airports, which serve scheduled air carrier operations in aircraft designed for more than 9 passenger seats, represent only a portion of the airports in the United States. The intent of this proposed rule is to re-codify FAA statutory authority for ASI access to perform any necessary tests, inspections, surveillance, and investigations without limitations as to when and where those activities may be carried out, not just at part 139 airports. Therefore, we are not proposing to change part 139, but instead we propose adding a new part 153, with a subpart A devoted to ASI access.

New Part 153

This proposal would require airport operators to grant ASIs with proper credentials free and uninterrupted access to airports and facilities to conduct safety inspections. The FAA issues ASIs credentials (FAA Form 110A) for identification during the performance of official safety inspection duties. The FAA will continue the policy that its local inspectors should display access or identification media (such as the SIDA identification badge) issued or approved by the airport operator. However due to the transient nature of an FAA inspector, the 110A credential will continue as a stand-alone identification media. For example, during unannounced inspections, FAA personnel display their FAA credentials in the same manner they would display access or identification media issued by the airport to establish their authority to conduct such inspections. In addition, when entering the sterile area through the TSA screening checkpoint, FAA personnel will continue to comply with TSA's screening procedures.

This proposal would also define several terms previously contained in part 107 and currently used by TSA.

Conclusion

This proposal clearly defines FAA's statutory authority to access secure areas by ASIs with proper credentials. Such access is necessary so ASIs can perform official duties in support of the FAA's safety mission. This proposal does not substantively change any requirements in 14 CFR. Also, reestablishing these requirements in new part 153 would not impose any additional requirements on operators affected by these rules.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that this rulemaking would impose no new information collection requirements.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review,'' dated September 30, 1993 (58 FR 51736) directs the FAA to assess both the costs and the benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Our assessment of this rulemaking indicates that its economic impact is minimal because it does not impose any costs on airport operators. Because the costs and benefits of this action do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory Policies and Procedures. We do not need to do a full evaluation where the economic impact of a rule is minimal.

Economic Evaluation, Regulatory Flexibility Act, Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only after a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–04) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected cost impact is so minimal that a rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble; a full regulatory evaluation need not, then, be prepared. Such a determination has been made for this rule. The reasoning for that determination follows.

When parts 107 and 108 were revised the FAA had a continuum of inspection authority sections showing its authority to inspect for compliance with aircraft operator safety rules (see 14 CFR 119.59), airport safety rules (see 14 CFR 139.105), and aircraft operator and airport operator security rules (see 14 CFR 107.7 and 108.5). Reading all these FAA rules together, it was evident that FAA inspectors, both security and safety, had the authority to conduct inspections at any place on airports necessary to perform their official duties, including those areas that otherwise are controlled for security purposes. However, since parts 107 and 108 were removed and these authorities transferred to TSA, there has been some misunderstanding about the continuing authority of FAA safety inspectors to access various areas of the airport that are controlled for security purposes. This proposed rule makes clear that FAA aviation safety inspectors continue

to have authority to access such areas as needed to perform their duties.

This proposed rule would put the specific regulatory authority into a new part 153 and clearly defines the authority of properly credentialed ASIs to access AOAs, secured areas, and SIDAs of an airport so they can perform official duties in support of the FAA's safety mission. Adding this language has a positive safety impact, because properly credentialed ASIs will be able to perform necessary inspections that support the FAA's safety mission. The intended effect of this proposed rule is to make sure ASIs have access to AOAs, secured areas, and SIDAs of an airport so they can perform official duties in support of the FAA's safety mission. Its economic impact on airport operators is minimal.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as they are defined in the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.'' However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The proposed rule clearly defines the authority of properly credentialed ASIs to access AOAs, secured areas, and SIDAs of an airport so they can perform official duties in support of the FAA's safety mission. Its economic impact for airport operators is minimal. Therefore, the FAA certifies that this action would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments about this determination.

Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact, and, therefore, no effect on international trade.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–04) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation). The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This NPRM does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this regulation.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this proposed rule would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rule qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBRFA on the Internet at our site, *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

Additional Information

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public viewing before and after the comment closing date, by any of the means discussed in the **ADDRESSES** section below.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

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

Privacy Act Statement

You should be aware that anyone can find and read the comments received into any of our dockets, including the

name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.) via the Internet using the Docket Number. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Sensitive Security Information

Do not submit comments that include sensitive security information (SSI) to the public regulatory docket. Please submit such comments separately from other comments on the rulemaking. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the address listed in **FOR FURTHER INFORMATION CONTACT** section.

Upon receipt of such comments, we will not place the comments in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. FAA will hold them in a separate file to which the public does not have access and place a note in the public docket that FAA has received such materials from the commenter. If we receive a request to examine or copy this information, we will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552).

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policy Web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

List of Subjects in 14 CFR Part 153

Airports, Aviation safety.

The Proposed Rule

In consideration of the foregoing the Federal Aviation Administration proposes to amend Chapter I of Title 14 Code of Federal Regulations by adding part 153 to read as follows:

PART 153—AIRPORT OPERATIONS

Subpart A—Aviation Safety Inspector Access

Sec.
153.1 Applicability.
153.3 Definitions.
153.5 Aviation safety inspector airport access.

Subpart B—[Reserved]

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

Subpart A—Aviation Safety Inspector Access

§ 153.1 Applicability.

This subpart prescribes requirements governing Aviation Safety Inspector access to airports to perform official duties.

§ 153.3 Definitions.

The following definitions apply in this subpart:

Air Operations Area (AOA) means a portion of an airport, specified in the airport security program, in which security measures specified in Title 49 of the Code of Federal Regulations are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas, for use by aircraft regulated under 49 CFR parts 1542, 1544, and 1546, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures. This area does not include the secured area.

Airport means any public use airport, including heliports, as defined in 49 U.S.C. 47501, including:

(1) Any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned;

(2) Any privately owned reliever airport; and

(3) Any privately owned airport which is determined by the Secretary of Transportation to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, which is used or to be used for public purposes.

Airport Operator means the operator of an airport as defined in 49 U.S.C. 47501.

Aviation Safety Inspector means a properly credentialed individual who bears FAA Form 110A and is authorized under the provisions of 49 U.S.C. 40113 to perform inspections and investigations.

FAA Form 110A means the credentials issued to qualified Aviation Safety Inspectors by the FAA for use in the performance of official duties.

Secured area means a portion of an airport, specified in the airport security program, in which certain security measures specified in Chapter 1 of Title 49 of the Code of Federal Regulations are carried out. This area is where aircraft operators and foreign air carriers that have a security program under 49 CFR part 1544 or part 1546 enplane and deplane passengers and sort and load baggage and any adjacent areas that are not separated by adequate security systems, measures, or procedures.

Security Identification Display Area (SIDA) means a portion of an airport, specified in the airport security program, in which security measures specified in Chapter 1 of Title 49 of the Code of Federal Regulations are carried out. This area includes the secured area and may include other areas of the airport.

§ 153.5 Aviation safety inspector airport access.

Airport operators, aircraft operators, aircraft owners, airport tenants, and air agencies must grant Aviation Safety Inspectors bearing FAA Form 110A free and uninterrupted access to airports and facilities, including AOAs, secured areas, SIDAs, and other restricted areas. Aviation Safety Inspectors displaying FAA Form 110A do not require access media or identification media issued or

approved by an airport operator or aircraft operator in order to inspect or test compliance, or perform other such duties as the FAA may direct.

Subpart B—[Reserved]

Issued in Washington, DC, on September 12, 2007.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. E7–18349 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 228, 229, 230, 239, 240 and 249

[Release Nos. 33–8831A; 34–56217A; IC–27924A; File No. S7–20–07]

RIN 3235–AJ93

Concept Release on Allowing U.S. Issuers to Prepare Financial Statements in Accordance With International Financial Reporting Standards

AGENCY: Securities and Exchange Commission.

ACTION: Correcting amendment.

SUMMARY: In Release No. 33–8831, the Securities and Exchange Commission issued a concept release on allowing U.S. issuers to prepare financial statements in accordance with international financial reporting standards which appeared in the **Federal Register** of August 14, 2007 (72 FR 45599). The Commission is issuing this correction to change the incorrect web addresses listed in the concept release.

FOR FURTHER INFORMATION CONTACT: Katrina A. Kimpel, Professional Accounting Fellow, Office of the Chief Accountant at (202) 551–5300.

SUPPLEMENTARY INFORMATION: In FR Doc. E7–15865 appearing on page 45600 in the **Federal Register** of Tuesday, August 14, 2007, the following corrections are made:

1. In the first column, revise the first bulleted point under the section titled *Electronic Comments* to read, ''Use the *Commission's Internet comment form* (*http://www.sec.gov/rules/concept.shtml*); or''.

2. Revise the Web site address found in the parenthetical beginning on line three of the second column to read, ''*http://www.sec.gov/rules/concept.shtml*''.

Dated: September 13, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18405 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1193 and 1194

RIN 3014–AA22

Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a Telecommunications and Electronic and Information Technology Advisory Committee (Committee) to assist it in revising and updating accessibility guidelines for telecommunications products and accessibility standards for electronic and information technology. This notice announces the dates and times of four upcoming conference calls.

DATES: The conference calls are scheduled for October 9, October 16, October 23 and October 30, 2007 (beginning at 1 p.m. and ending at 3 p.m. Eastern time each day).

ADDRESSES: Individuals can participate in the conference calls by dialing into the teleconference numbers which will be posted on the Access Board's Web site at: *http://www.access-board.gov/sec508/update-index.htm.*

FOR FURTHER INFORMATION CONTACT: Timothy Creagan, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number: 202–272–0016 (Voice); 202–272–0082 (TTY). Electronic mail address: *creagan@access-board.gov.*

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) established the Telecommunications and Electronic and Information Technology Advisory Committee (Committee) to assist it in revising and updating accessibility guidelines for telecommunications products and accessibility standards for electronic and information technology. The next committee meetings will take place on October 9, 16, 23 and 30, 2007 (all four meetings will be from 1 p.m. to 3 p.m. Eastern time) by teleconference. The meetings will focus on issues yet to be resolved by the Committee. The agendas, instructions (including information on captioning), and dial-in telephone numbers for the teleconferences are available at: *http://www.access-board.gov/sec508/update-index.htm.* Notices of future meetings will be published in the **Federal Register**.

The Committee may cancel any one of these four teleconferences before they are scheduled to take place depending on the needs of the committee and its progress in discussing and resolving outstanding issues. Notices of cancellation of any of these teleconferences will be posted at: *http://www.access-board.gov/sec508/update-index.htm.*

The conference calls are open to the public and interested persons can dial into the teleconferences and communicate their views. Members of the public will have opportunities to address the committee on issues of interest to them and the committee during public comment periods scheduled during each conference call. Participants may call into the teleconferences from any location of their choosing.

Lawrence W. Roffee,

Executive Director.

[FR Doc. E7–18492 Filed 9–18–07; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2007–0685, EPA–HQ–SFUND–2007–0686, EPA–HQ–SFUND–2007–0687, EPA–HQ–SFUND–2007–0688, EPA–HQ–SFUND–2007–0689, EPA–HQ–SFUND–2007–0690, EPA–HQ–SFUND–2007–0691, EPA–HQ–SFUND–2007–0692, EPA–HQ–SFUND–2007–0693, EPA–HQ–SFUND–2007–0694, EPA–HQ–SFUND–2007–0695, EPA–HQ–SFUND–2007–0696; FRL–8468–5]

RIN 2050–AD75

National Priorities List, Proposed Rule No. 47

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and

Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add twelve new sites to the NPL, all to the General Superfund Section.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before November 19, 2007.

ADDRESSES: Identify the appropriate FDMS Docket Number from the table below.

FDMS DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/State	FDMS Docket ID No.
Lusher Street Ground Water Contamination	Elkhart, IN	EPA–HQ–SFUND–2007–0685
Plating, Inc.	Great Bend, KS	EPA–HQ–SFUND–2007–0686
Washington County Lead District—Old Mines	Old Mines, MO	EPA–HQ–SFUND–2007–0687
Washington County Lead District—Potosi	Potosi, MO	EPA–HQ–SFUND–2007–0688
Washington County Lead District—Richwoods	Richwoods, MO	EPA–HQ–SFUND–2007–0689
East Troy Contaminated Aquifer	Troy, OH	EPA–HQ–SFUND–2007–0690
Chem-Fab	Doylestown, PA	EPA–HQ–SFUND–2007–0691
San German Ground Water Contamination	San German, PR	EPA–HQ–SFUND–2007–0692
Donna Reservoir and Canal System	Donna, TX	EPA–HQ–SFUND–2007–0693
Midessa Ground Water Plume	Odessa, TX	EPA–HQ–SFUND–2007–0694
San Jacinto River Waste Pits	Houston, TX	EPA–HQ–SFUND–2007–0695
Hidden Lane Landfill	Sterling, VA	EPA–HQ–SFUND–2007–0696

Submit your comments, identified by the appropriate FDMS Docket number, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: superfund.Docket@epa.gov.*
- *Mail:* Mail comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; (Mail Code 5305T); 1200 Pennsylvania Avenue, NW.; Washington, DC 20460.
- *Hand Delivery or Express Mail:* Send comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room 3340, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday excluding Federal holidays). Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to the appropriate FDMS Docket number (see table above). 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; that means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public Docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional Docket addresses and further details on their contents, see section II, ''Public Review/Public Comment,'' of the Supplementary Information portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone (703) 603–8852; State, Tribal and Site Identification Branch; Assessment and Remediation Division; Office of Superfund Remediation and Technology Innovation (Mail Code 5204P); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460; or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites that are owned or operated by other Federal agencies (the ''Federal Facilities Section''). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing a Hazard Ranking System (HRS) score and determining whether the facility is placed on the NPL. At Federal Facilities Section sites, EPA's role is less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), that EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Pursuant to 42 U.S.C 9605(a)(8)(B), each State may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA

requires that, to the extent practicable, the NPL include one facility designated by each State as the greatest danger to public health, welfare, or the environment among known facilities in the State. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions. * * *'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL Define the Boundaries of Sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination and is not meant to constitute any determination of liability at a site. For example, the name ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the problem presented by the release'' will be determined by a Remedial Investigation/Feasibility Study (''RI/FS'') as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the Agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met: (i) Responsible parties or other persons have implemented all appropriate response actions required; (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May EPA Delete Portions of Sites From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that

the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) The site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, see EPA's Internet site at *http://www.epa.gov/superfund.*

J. What Is the Sitewide Ready for Anticipated Use Measure?

The Sitewide Ready for Anticipated Use measure (formerly called Sitewide Ready-for-Reuse) represents important Superfund accomplishments and the measure reflects the high priority EPA places on considering anticipated future land use as part of our remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment, including current and future land users, in a manner that allows contaminated properties to be restored to environmental and economic vitality while ensuring protectiveness for current and future land users. For further information, please go to *http://www.epa.gov/superfund/programs/recycle/tools/sitewide.htm.*

II. Public Review/Public Comment

A. May I Review the Documents Relevant to This Proposed Rule?

Yes, documents that form the basis for EPA's evaluation and scoring of the sites in this rule are contained in public Dockets located both at EPA Headquarters in Washington, DC, in the Regional offices and by electronic access at *www.regulations.gov* (see instructions in the **ADDRESSES** section above).

B. How Do I Access the Documents?

You may view the documents, by appointment only, in the Headquarters or the Regional Dockets after the publication of this proposed rule. The hours of operation for the Headquarters Docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding Federal holidays. Please contact the Regional Dockets for hours.

The following is the contact information for the EPA Headquarters Docket: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room 3340, Washington, DC 20004; 202/566–1744. (Please note this is a visiting address only. Mail comments to EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the Regional Dockets is as follows:

Joan Berggren, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1417

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364

Debbie Jourdan, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW., 9th floor, Atlanta, GA 30303; 404/562–8862

Janet Pfundheller, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Superfund Division SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/353–5821

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335

Gwen Christiansen, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6463

Dawn Richmond, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/972–3097

Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mail Stop ECL–115, Seattle, WA 98101; 206/553–2782

You may also request copies from EPA Headquarters or the Regional Dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

You may use the Docket at *www.regulations.gov* to access documents in the Headquarters Docket (see instructions included in the ''Addresses'' section above). Please note that there are differences between the Headquarters Docket and the Regional Dockets and those differences are outlined below.

C. What Documents Are Available for Public Review at the Headquarters Docket?

The Headquarters Docket for this rule contains the following for the sites proposed in this rule: HRS score sheets; Documentation Records describing the information used to compute the score; information for any sites affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record.

D. What Documents Are Available for Public Review at the Regional Dockets?

The Regional Dockets for this rule contain all of the information in the Headquarters Docket, plus, the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the Regional Dockets.

E. How Do I Submit My Comments?

Comments must be submitted to EPA Headquarters as detailed at the beginning of this preamble in the ''Addresses'' section. Please note that the mailing addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

F. What Happens to My Comments?

EPA considers all comments received during the comment period. Significant comments are typically addressed in a support document that EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What Should I Consider When Preparing My Comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas,* 849 F.2d 1516 (D.C. Cir. 1988)). EPA will not address voluminous comments that are not specifically cited by page number and referenced to the HRS or other listing criteria. EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in EPA's stated eligibility criteria is at issue.

H. May I Submit Comments After the Public Comment Period Is Over?

Generally, EPA will not respond to late comments. EPA can only guarantee that it will consider those comments postmarked by the close of the formal comment period. EPA has a policy of generally not delaying a final listing decision solely to accommodate consideration of late comments.

I. May I View Public Comments Submitted by Others?

During the comment period, comments are placed in the Headquarters Docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the Regional Dockets approximately one week after the formal comment period closes.

All public comments, whether submitted electronically or in paper, will be made available for public viewing in the electronic public Docket at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Once in the public Dockets system, select ''search,'' then key in the appropriate Docket ID number.

J. May I Submit Comments Regarding Sites Not Currently Proposed to the NPL?

In certain instances, interested parties have written to EPA concerning sites that were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the Docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

In today's proposed rule, EPA is proposing to add twelve new sites to the NPL; all to the General Superfund Section of the NPL. All of the sites in this proposed rulemaking are being proposed based on HRS scores of 28.50 or above. The sites are presented in the table below.

State	Site name	City/county
IN	Lusher Street Ground Water Contamination	Elkhart.
KS	Plating, Inc.	Great Bend.
MO	Washington County Lead District—Old Mines	Old Mines.
MO	Washington County Lead District—Potosi	Potosi.
MO	Washington County Lead District—Richwoods	Richwoods.
OH	East Troy Contaminated Aquifer	Troy.
PA	Chem-Fab	Doylestown.
PR	San German Ground Water Contamination	San German.
TX	Donna Reservoir and Canal System	Donna.
TX	Midessa Ground Water Plume	Odessa.
TX	San Jacinto River Waste Pits	Houston.
VA	Hidden Lane Landfill	Sterling.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

1. What Is Executive Order 12866?

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (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 the Executive Order.

2. Is This Proposed Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

1. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9.

2. Does the Paperwork Reduction Act Apply to This Proposed Rule?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources;

complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

1. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

2. How Has EPA Complied With the Regulatory Flexibility Act?

This proposed rule listing sites on the NPL, if promulgated, would not impose any obligations on any group, including small entities. This proposed rule, if promulgated, also would establish no standards or requirements that any small entity must meet, and would impose no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this proposed rule, if promulgated, would not impose any requirements on any small entities. For the foregoing reasons, I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

1. What Is the Unfunded Mandates Reform Act (UMRA)?

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

2. Does UMRA Apply to This Proposed Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any Federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

E. Executive Order 13132: Federalism

What Is Executive Order 13132 and Is It Applicable to This Proposed Rule?

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

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

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

1. What Is Executive Order 13175?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

2. Does Executive Order 13175 Apply to This Proposed Rule?

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

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

1. What Is Executive Order 13045?

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

2. Does Executive Order 13045 Apply to This Proposed Rule?

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

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

3. Is This Rule Subject to Executive Order 13211?

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

1. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

2. Does the National Technology Transfer and Advancement Act Apply to This Proposed Rule?

No. This proposed rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: September 4, 2007.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. E7–18154 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070705262–7266–01]

RIN 0648–AV38

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries of the Bering Sea and Aleutian Islands Management Area and Gulf of Alaska, Seabird Avoidance Measures Revisions

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would revise the seabird avoidance measures for the Alaska hook-and-line groundfish and halibut fisheries. The proposed rule would strengthen gear standards for small vessels and eliminate certain seabird avoidance requirements that are not needed or not effective. This action is necessary to revise seabird avoidance measures based on the latest scientific information and to reduce unnecessary regulatory burdens and associated costs.

DATES: Written comments must be received by October 19, 2007.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK.
- Fax: 907–586–7557.
- E-mail: *0648–AV38–SeabirdPR@noaa.gov*. Include in the subject line the following document identifier: ''Seabird Avoidance PR.'' E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the addresses stated above or from the Alaska Region NMFS website at *http://www.fakr.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Alaska Region NMFS and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, 907–586–7228 or email at *melanie.brown@noaa.gov*.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone (EEZ) off Alaska are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement between Canada and the United States. This agreement, entitled the ''Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea Convention,'' was signed at Ottawa, Canada, on March 2, 1953, and was amended by the ''Protocol Amending the Convention,'' signed at Washington, D.C., March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act). The directed commercial Pacific halibut fishery in Alaska is managed under an individual fishing quota (IFQ) program, as is the fixed gear sablefish fishery. The IFQ Program is a limited access management system. This program is codified at 50 CFR part 679.

Background

The purpose of the proposed action is to revise the seabird avoidance measures based on the best available information regarding seabird occurrence and efficient application of the avoidance measures. Seabird avoidance measures reduce the incidental mortality of seabirds in the hook-and-line fisheries off Alaska. Since 1997, NMFS has implemented and revised seabird avoidance measures to mitigate interactions between the Federal hook-and-line fisheries and seabirds (62 FR 23176, April 29, 1997; 63 FR 11161, March 6, 1998; and 69 FR 1930, January 13, 2004).

Based largely on Washington Sea Grant (WSG) research on seabird avoidance by larger vessels, the seabird avoidance measures include requiring streamer lines on hook-and-line vessels greater than 55 ft (16.8 m) in length overall (LOA)(§ 679.24(e)(4)). These measures mitigate potential adverse effects of hook-and-line fisheries on Endangered Species Act (ESA)-listed seabirds and other seabird species. However, the Council's Scientific and Statistical Committee identified the need for additional study of methods for reducing incidental take of seabirds on small vessels (greater than 26 ft (7.9 m) to less than or equal to 55 ft (16.8 m) LOA), especially those fishing the inside waters of the Gulf of Alaska (GOA). The Council and NMFS have promoted research to improve the efficiency and success of the seabird avoidance measures and to ensure that no unnecessary burdens on fishermen are imposed.

Recent research by the WSG and the Alaska Sea Grant Marine Advisory Program (ASGMAP) has indicated ways of further refining seabird avoidance measures to improve the efficacy of seabird avoidance gear. The WSG and ASGMAP recently completed several research projects including (1) the performance of seabird avoidance gear on small vessels using hook-and-line gear (greater than 26 ft (7.9 m) to less than or equal to 55 ft (16.8 m) LOA); (2) the frequency of observations of seabirds in inside waters of Southeast Alaska, Prince William Sound, and Cook Inlet; and 3) the efficacy of various types of seabird avoidance gear on small vessels. These research projects indicate that seabird avoidance measures may not be needed in Prince William Sound (NMFS Area 649), State of Alaska (State) waters of Cook Inlet, and Eastern GOA Regulatory Area Southeast Inside District (NMFS Area 659) because of the scarcity of seabirds of concern in these areas, particularly albatross and other Procellariiform seabirds. These studies further indicate that smaller vessels fishing in the EEZ should comply with specified standards for seabird avoidance, given both the improved efficacy of measures employing certain standards and the potential overlap of fishing locations with foraging seabirds.

Based on the latest WSG and ASGMAP research, the Council recommended revisions to the seabird avoidance measures. These revisions would eliminate seabird avoidance measures in areas where most seabird species are not likely to occur; and therefore, are not likely to result in reduced seabird mortality. In addition, the revisions would increase seabird avoidance measures for vessels greater than 26 ft (7.9 m) to less than or equal to 55 ft (16.8 m) LOA fishing in the EEZ. Seabird avoidance measures would be increased for these vessels by requiring gear standards. These vessels may encounter seabirds in the EEZ, and the standards are necessary to reduce potential seabird mortality.

Seabird avoidance measures would be eliminated in all of Prince William Sound (NMFS Area 649), all State waters of Cook Inlet, and in most waters of the Eastern GOA Regulatory Area Southeast Inside District (NMFS Area 659). Pelagic seabirds (particularly the ESA-listed short-tailed albatross and other seabird species of concern) are rarely observed in these waters; and therefore, are not likely to interact with hook-and-line fisheries. Three areas adjacent to the EEZ in NMFS Area 659 have had observations of pelagic seabird species and would continue to have seabird avoidance requirements. These areas are further described below.

Eliminating certain unnecessary seabird avoidance measures is intended to remove associated economic burdens on affected vessels. Increased measures for certain small vessels in the EEZ would require specific deployment procedures intended to improve the effectiveness of avoidance devices in reducing seabird bycatch. These revisions are an example of adaptive management using the best available information to focus regulatory requirements where they are needed and to ensure requirements are effective and efficient. Research results and the environmental and economic considerations of the proposed action are in the EA/RIR/IRFA for this action (see **ADDRESSES**).

Regulatory Amendments

In February 2007, the Council unanimously recommended revisions to the seabird avoidance measures. These measures would continue to apply to operators of vessels fishing for (1) Pacific halibut in the IFQ and Community Development Quota (CDQ) management programs in waters from 0 to 200 nm; (2) IFQ sablefish in waters from 0 nm to 200 nm, except waters of Prince William Sound and areas in which sablefish fishing is managed

under a State limited entry program (Clarence Strait, Chatham Strait); and (3) groundfish with hook-and-line gear in the EEZ.

The Council recommended that NMFS request that the State of Alaska Board of Fisheries consider modifying the current State regulations on seabird avoidance for groundfish vessels operating in State waters to match the Federal requirements. This would ensure consistent requirements to avoid seabirds for groundfish vessels operating in State and Federal waters of Alaska.

The proposed rule would revise § 679.24(e) to eliminate redundant paragraphs, match subparagraph citations to the new section structure, and make the text more concise.

Gear Requirements

The proposed rule would revise § 679.24(e)(4)(i) and Table 20 to 50 CFR part 679 to require seabird avoidance gear standards for hook-and-line vessels greater than 26 ft (7.9 m) and less than or equal to 55 ft (16.8 m) LOA fishing in the EEZ as follows:

1. Vessels with masts, poles, or rigging using snap-on hook-and-line gear are required to use standards when deploying one streamer line. The streamer line must be at least 147.6 ft (45 m) in length and must be deployed before the first hook is set in such a way that streamers are in the air for 65.6 ft (20 m) aft of the stern and within 6.6 ft (2 m) horizontally of the point where the main groundline enters the water.

2. Vessels with masts, poles, or rigging using conventional hook-and-line gear (vessels not using snap-on gear) are required to use standards when deploying one streamer line. The streamer line must be a minimum of 300 ft (91.4 m) in length and must be in the air for a minimum of 131.2 ft (40 m) aft of the stern.

3. Vessels without masts, poles, or rigging and not capable of adding poles or davits to accommodate a streamer line (including bowpickers) must tow a buoy bag line.

The best available scientific information indicates that vessels greater than 26 ft (7.9 m) and less than or equal to 55 ft (16.8 m) LOA are capable of meeting the proposed standards, and that these standards are effective at reducing potential seabird incidental takes.

The proposed rule also would revise § 679.24(e)(4)(i) and Table 20 to 50 CFR part 679 to eliminate seabird avoidance gear requirements for all hook-and-line vessels fishing in Prince William Sound (NMFS Area 649), the State waters of Cook Inlet, and Southeast Alaska (NMFS Area 659) with certain area exceptions in the inside waters of Southeast Alaska. Three exception areas exist:

1. Lower Chatham Strait south of a straight line between Point Harris (latitude 56°17.25 N.) and Port Armstrong,

2. Dixon Entrance defined as the State groundfish statistical areas 325431 and 325401, and

3. Cross Sound west of a straight line from Point Wimbledon extending south through the Inian Islands to Point Lavinia (longitude 136°21.17 E.).

Maps of these exception areas are in the EA/RIR/IRFA for this action (see **ADDRESSES**) and are available from the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

To prevent potential seabird mortality in the exception areas, hook-and-line vessels would be subject to the same seabird avoidance gear requirements and standards in these exception areas as when fishing in the EEZ. The best available scientific information regarding seabird observations in the State waters of Prince William Sound, Cook Inlet, and Southeast Alaska indicate that ESA-listed seabirds and other seabird species of concern are not likely to occur in these waters, except for the areas listed above in NMFS Area 659. Therefore, the proposed rule would eliminate seabird avoidance measures where seabird mortality is not likely to occur and ensure that they are used in waters where ESA-listed seabirds and seabird species of concern are likely to occur.

Seabird Avoidance Plan

The proposed rule would remove § 679.24(e)(3) and the Seabird Avoidance Plan (SAP) requirement for all vessels. The Council recommended eliminating the SAP requirement based on recommendations from the NOAA Office of Law Enforcement and the NMFS Alaska Region Protected Resources Division. A number of vessels omitted technical SAP violations but were in compliance with the seabird avoidance substantive gear requirements. Because the requirement for a SAP does not seem to impact the use of seabird avoidance gear, removing this requirement should have no effect on seabird mortality.

Other Seabird Avoidance Device

The proposed rule would remove the requirement to use one ''other device'' (weighted groundline, buoy bag, streamer line, or strategic offal discharge) as described in § 679.24(e)(4)(ii), (e)(4)(iii), (e)(6), and Table 20 to 50 CFR part 679. NOAA Office of Law Enforcement reports that the ''other device'' requirement is difficult to enforce, and reduced seabird mortality from the proposed gear standards for small vessels likely would offset any protection lost by removing this requirement.

Weather Exception

The proposed rule would revise § 679.24(e)(5) to allow discretion for vessels more than 26 ft (7.9 m) to less than or equal to 55 ft (16.8 m) LOA to use seabird avoidance devices when winds exceed 30 knots (near gale or Beaufort 7 conditions). The Council raised concerns that the use of seabird avoidance gear on these small vessels in winds exceeding 30 knots may be unsafe because most or all small vessel crew members need to be engaged fully in vessel operations during inclement weather, rather than deploying and retrieving seabird avoidance gear. Information in the EA/RIR/IRFA indicates that seabird foraging activity on hook-and-line gear is likely to decrease with increased wind speeds. Also, streamer lines and buoy bags pose a greater risk of fouling on the fishing gear during high winds. The weather exception would address potential small vessel safety issues related to deploying seabird avoidance gear during high winds and would ensure devices are used when seabirds are more likely to be interacting with hook-and-line gear.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An IRFA was prepared as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The vessels that are directly regulated by the proposed action fish for groundfish or halibut with hook-and-line gear in the waters off Alaska. The seabird avoidance measures presently in

place, and the alternatives and options considered, apply directly to the operator of a vessel deploying hook-and-line gear in the waters off Alaska. These regulations apply to the operation of a vessel and not directly to the holder of an IFQ for halibut or sablefish unless the holder is also the owner/operator of a vessel. Multiple IFQs may be used on a single vessel. Thus, the IRFA analysis of large and small entities is conducted at the vessel level and not the IFQ level. This analysis is complicated by the fact that the halibut fishery is managed somewhat separately than the Federal groundfish fisheries. Thus, data from multiple sources and years have been used to estimate the numbers of large and small entities.

In 2004, approximately 1,523 vessels participated in the Pacific halibut fishery off Alaska, and 674 vessels participated in the Federal hook-and-line groundfish fisheries off Alaska. Logbook research indicates that 506 of the hook-and-line vessels that caught halibut also harvested groundfish in the waters off Alaska that year. Because of overlap between these two fishery groups, the total count of unique vessels is 1,691.

The IRFA uses actual revenue reported by fishing entities for the year 2005 as compiled and supplied in a comprehensive database by the Alaska Fish Information Network (AKFIN). Vessels were considered small, according to the Small Business Administration criteria, if they had estimated 2004 gross revenues less than or equal to $4 million, and were not known to be affiliated with other firms whose combined receipts exceeded $4 million. The analysis revealed that 141 eligible vessels had total gross revenue from all directed fishing sources that was greater than $4 million in 2005. This implies that, ignoring affiliations, 1,550 vessels could be considered small entities. A review of American Fisheries Act (AFA) permit data revealed that none of the vessels with gross revenue less than $4 million in 2004 are AFA-permitted vessels. Because AFA affiliations are relatively stable across years, very few of these vessels are large because of AFA affiliations.

The IRFA indicated that this proposed action is not likely to impose significant costs on directly regulated small entities. The action reduces the regulatory burden on some vessels by eliminating all seabird avoidance requirements for vessels operating in State waters of Prince William Sound, Cook Inlet and most of Southeast Alaska. In addition, vessels operating in the EEZ and State waters may benefit by elimination of the need for an other seabird avoidance device. Vessel operational cost of production data are not presently collected, making it impossible to quantify the net effect on operational costs that might occur under each alternative and option. However, the alternatives and options to the status quo are expected to impose only a slight additional burden, if any. The increased requirement to meet the gear standards for smaller vessels is likely to result in minimal additional costs because these vessels are already using gear manufactured to meet the standards and vessel crew are experienced with using the gear. Any additional costs in training and labor to ensure gear deployment meets the standards would be offset by the reduced costs from no longer being required to deploy the ''other device.''

Since the initial adoption of seabird avoidance regulations, research has been conducted to more precisely identify the geographical distribution and range of seabirds of concern, and on the efficacy of required seabird avoidance devices. Recent research has addressed whether small vessels can properly deploy seabird avoidance devices, given a small vessel's inherent physical limitations, and whether those devices are effective and necessary. The proposed action, which is partly intended to reduce the economic, operational, and reporting burden placed on small entities operating in these fisheries, is a direct result of this research.

An IRFA must describe any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. Including status quo, this proposed action has three alternatives and three options. Alternative 2 reduces the regulatory burden on small entities by eliminating seabird avoidance measures in the inside waters of Prince William Sound, Cook Inlet, and Southeast Alaska. Alternative 3 reduces the seabird avoidance measures in the same locations except for three areas of the Southeast Alaska inside waters where seabirds of concern have been observed. Both Alternatives 2 and 3 increase the regulatory burden on small entities by requiring vessels more than 26 ft (7.9 m) to less than or equal to 55 ft (16.8 m) LOA to meet gear standards while operating in the EEZ and certain State waters. Options 1 and 2 to Alternatives 2 and 3 reduce the regulatory burden and improve safety by removing the Seabird Avoidance Plan requirement and providing discretion for using seabird avoidance gear in high winds, respectively. Option 3 would reduce burden by reducing seabird avoidance gear requirements to only a buoy bag line for hook-and-line vessels more than 26 ft (7.9 m) to less than or equal to 32 ft (16.8 m) LOA operating in the EEZ waters of International Pacific Halibut Commission (IPHC) Area 4E. The suboption to Option 3 would further reduce the regulatory burden in IPHC Area 4E by eliminating the seabird avoidance measures for vessels between 26 ft (7.9 m) and 32 ft (16.8 m) LOA.

One of the objectives of the action was to use new information to better protect seabirds of concern while reducing the burden on fishermen. The status quo does not meet the objectives of the action because it does not reflect new information on the range and geographic distribution of seabirds of concern nor does it reflect new research on the efficacy of seabird avoidance devices. The status quo alternative was rejected in part because it imposed a heavier burden on fishing operations. Alternative 2 was rejected because it did not provide for seabird avoidance measures in those State waters of Southeast Alaska with observed ESA-listed seabirds and other seabird species of concern and, thus, did not meet the objectives of the action. Option 3 and its suboption also were rejected because sufficient information was not available to support reducing or eliminating seabird avoidance measures for IPHC Area 4E; and therefore, did not meet the objectives of the action. The Council recommended Alternative 3 with options 1 and 2 because it would meet the objective to use the latest scientific information available regarding seabird occurrence and effective gear standards for small vessels and to reduce regulatory burden, where possible.

The proposed action alleviates the small entity compliance burden by eliminating seabird avoidance measures in certain State waters where seabirds of concern are absent or very rarely present and where many small entities operate. The action also adopts performance standards, rather than design standards in the EEZ and in State waters. The use of performance standards allows flexibility in the type of avoidance gear used while ensuring an acceptable level of avoidance is achieved. The action also bases requirements on vessel capability (e.g., superstructure configuration, vessel length). Basing the requirements on vessel capability ensures that vessel owners are able to meet the seabird avoidance gear requirements without making costly changes to the vessel structure. Further,

the action would eliminate preparation of a seabird avoidance plan, which eases the compliance and reporting requirements for all affected entities, including the large number of small entities that are potentially directly regulated by the proposed action.

No Federal rules duplicate, overlap, or conflict with the proposed action.

This proposed rule would remove a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by Office of Management and Budget (OMB) under Control Number 0648–474. Public reporting burden for the Seabird Avoidance Plan is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

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

An informal consultation under the Endangered Species Act was concluded for this proposed action on August 8, 2007. As a result of the informal consultation, NMFS determined that fishing activities under this rule are not likely to adversely affect endangered or threatened species or their critical habitat. By requiring gear performance standards for vessels more than 26 ft (7.9 m) and less than or equal to 55 ft (16.8 m) LOA, this proposed action should result in reduced potential for incidental takes of ESA-listed seabirds. Other provisions of this proposed rule would have no effect on ESA-listed species.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: September 13, 2007.

Samuel D. Rauch III

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

For reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

2. Section 679.24 is amended by:

a. Removing paragraphs (e)(3) and (e)(6).

b. Redesignating paragraphs (e)(4) and (e)(5) as paragraphs (e)(3) and (e)(4), respectively.

c. Redesignating paragraphs (e)(7) and (e)(8) as paragraphs (e)(5) and (e)(6), respectively.

d. Revising paragraphs (e)(1), (e)(2)(i), (e)(2)(iii), and newly redesignated paragraphs (e)(3) and (e)(5).

e. Adding paragraph (e)(4)(v).

The revisions and additions read as follows:

§ 679.24 Gear limitations.

* * * * *

(e) * * *

(1) *Applicability.* The operator of a vessel that is longer than 26 ft (7.9 m) LOA fishing with hook-and-line gear must comply with the seabird avoidance requirements as specified in paragraphs (e)(2) and (e)(3) of this section while fishing for:

(i) IFQ halibut or CDQ halibut,

(ii) IFQ sablefish, and

(iii) Groundfish in the EEZ off Alaska.

(2) * * *

(i) *Gear onboard.* Have onboard the vessel the seabird avoidance gear as specified in paragraph (e)(3) of this section;

* * * * *

(iii) *Gear use.* Use seabird avoidance gear as specified in paragraph (e)(3) of this section that meets standards as specified in paragraph (e)(4) of this section, while hook-and-line gear is being deployed.

* * * * *

(3) (See also Table 20 this part.) The operator of a vessel identified in paragraph (e)(1) of this section must comply with the following requirements while fishing with hook-and-line gear for groundfish, IFQ halibut, CDQ halibut, or IFQ sablefish in Federal waters (EEZ) and for IFQ halibut, CDQ halibut, or IFQ sablefish in the State of Alaska waters, excluding NMFS Reporting Area 649 (Prince William Sound), State waters of Cook Inlet, and NMFS Reporting Area 659 (Eastern GOA Regulatory Area, Southeast Inside District), but including waters in the areas south of a straight line at 56°17.25 N. lat. between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at 136°21.17 E. long. from Point Wimbledon extending south through the Inian Islands to Point Lavinia:

(i) Using other than snap gear,

(A) A minimum of 1 buoy bag line as specified in paragraph (e)(4)(i) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA without masts, poles, or rigging.

(B) A minimum of a single streamer line as specified in paragraph (e)(4)(ii) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA with masts, poles, or rigging.

(C) A minimum of a paired streamer line of a standard as specified in paragraph (e)(4)(iii) of this section must be used by vessels greater than 55 ft (16.8 m) LOA.

(ii) Using snap gear,

(A) A minimum of 1 buoy bag line as specified in paragraph (e)(4)(i) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA without masts, poles, or rigging.

(B) A minimum of a single streamer line as specified in paragraph (e)(4)(iv) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA with masts, poles, or rigging.

(C) A minimum of a single streamer line as specified in paragraph (e)(4)(iv) of this section must be used by vessels greater than 55 ft (16.8 m) LOA.

(4) * * *

(v) *Weather Safety Standard.* The use of seabird avoidance devices required by paragraph (e)(3) of this section is discretionary for vessels greater than 26 ft (7.9 m) and less than or equal to 55 ft (16.8 m) LOA in conditions of wind speeds exceeding 30 knots (near gale or Beaufort 7 conditions).

(5) *Other methods.* The following measures or methods must be accompanied by the applicable seabird avoidance gear requirements as specified in paragraph (e)(3) of this section:

(i) Night-setting,

(ii) Line shooter, or

(iii) Lining tube.

* * * * *

3. In 50 CFR part 679, Table 20 is revised to read as follows:

TABLE 20 TO PART 679—SEABIRD AVOIDANCE GEAR REQUIREMENTS FOR VESSELS, BASED ON AREA, GEAR, AND VESSEL TYPE

(See § 679.24(e) for complete seabird avoidance program requirements; see § 679.24(e)(1) for applicable fisheries)

If you operate a vessel deploying hook-and-line gear, other than snap gear, in waters specified at § 679.24(e)(3), and your vessel is...	**Then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...**
>26 ft to 55 ft LOA and without masts, poles, or rigging	minimum of one buoy bag line
>26 ft to 55 ft LOA and with masts, poles, or rigging	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(ii)
>55 ft LOA	minimum of paired streamer lines of a standard specified at § 679.24(e)(4)(iii)

TABLE 20 TO PART 679—SEABIRD AVOIDANCE GEAR REQUIREMENTS FOR VESSELS, BASED ON AREA, GEAR, AND VESSEL TYPE—Continued

(See § 679.24(e) for complete seabird avoidance program requirements; see § 679.24(e)(1) for applicable fisheries)

If you operate a vessel deploying hook-and-line gear and use snap gear in waters specified at § 679.24(e)(3), and your vessel is...	**Then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...**
>26 ft to 55 ft LOA and without masts, poles, or rigging	minimum of one buoy bag line
>26 ft to 55 ft and with masts, poles, or rigging	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv)
>55 ft LOA	minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv)

TABLE 20 TO PART 679—SEABIRD AVOIDANCE GEAR REQUIREMENTS FOR VESSELS, BASED ON AREA, GEAR, AND VESSEL TYPE—Continued

(See § 679.24(e) for complete seabird avoidance program requirements; see § 679.24(e)(1) for applicable fisheries)

If you operate a vessel deploying hook-and-line gear and use snap gear in waters specified at § 679.24(e)(3), and your vessel is...	**Then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...**
If you operate a vessel < 32 ft in the State waters of IPHC Area 4E, or operate a vessel in NMFS Reporting Area 649 (Prince William Sound), State waters of Cook Inlet, and NMFS Reporting Area 659 (Eastern GOA Regulatory Area, Southeast Inside District), but not including waters in the areas south of a straight line at latitude 56 deg. 17.25 N between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at longitude 136 deg. 21.17 E from Point Wimbledon extending south through the Inian Islands to Point Lavinia...	**Then you are exempt from seabird avoidance regulations.**

[FR Doc. E7–18489 Filed 9–18–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 181

Wednesday, September 19, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 12, 2007.

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 Housing Service

Title: 7 CFR 1942–C, ''Fire and Rescue Loans.''

OMB Control Number: 0575–0120.

Summary of Collection: The Rural Housing Service (RHS) is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of essential community facilities primarily servicing rural residents. The primary regulation for administering this Community Facility program is 7 CFR 1942–A. The information must be collected to determine eligibility, analyze financial feasibility, take security, monitor the use of loan funds, and monitor the financial condition of borrowers, and otherwise assisting borrowers.

Need and Use of the Information: The Rural Development field offices will collect the information from applicant/borrowers. This information will be used to determine applicant/borrower eligibility, project feasibility, and ensure borrowers operate on a sound basis and use loan funds for authorized purposes.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 1,735.

Frequency of Responses: Reporting: On occasion; Quarterly; Annually.

Total Burden Hours: 10,004.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–18394 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 13, 2007.

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.

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National Agriculture Statistics Service

Title: Agricultural Surveys Program.

OMB Control Number: 0535–0213.

Summary of Collection: National Agriculture Statistics Service (NASS) primary functions are to prepare and issue state and national estimates of crop and livestock production and collect information on related environmental and economic factors. The Agricultural Surveys Program is a series of surveys that contains basic agricultural data from farmers and ranchers throughout the Nation for preparing agricultural estimates and forecasts. The surveys results provide the foundation for setting livestock and poultry inventory numbers. Estimates derived from the surveys supply information needed by farmers to make decisions for both short and long-term planning. The General authority for

these data collection is granted under U.S. Code Title 7, section 2206.

Need and Use of the Information: The surveys provide the basis for estimates of the current season's crop and livestock production and supplies of grain in storage. Crop and livestock statistics help develop a stable economic atmosphere and reduce risk for production, marketing, and distribution operations. These commodities affect the well being of the nation's farmers, commodities markets, and national and global agricultural policy. Users of agricultural statistics are farm organizations, agribusiness, state and national farm policy makers, and foreign buyers of agricultural products but the primary user of the statistical information is the producer. Agricultural statistics are also used to plan and administer other related federal and state programs in such areas as school lunch program, conservation, foreign trade, education, and recreation. Collecting the information less frequent would eliminate needed data to keep the government and agricultural industry abreast of changes at the state and national levels.

Description of Respondents: Farms.

Number of Respondents: 273,133.

Frequency of Responses: Reporting: Quarterly; Semi-annually; Monthly; Annually.

Total Burden Hours: 165,161.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–18395 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 13, 2007.

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) 720–8958.

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.

Animal Plant and Health Inspection Service

Title: Commercial Transportation of Equines to Slaughter.

OMB Control Number: 0579–0160.

Summary of Collection: Title 21, U.S. C. 117, Animal Industry Act of 1884, authorizes the Secretary of Agriculture to issue guidelines for regulating the commercial transportation of horses to slaughter by person regularly engaged in that activity within the United States. To fulfill this responsibility, the Animal and Plant Health Inspection Service (APHIS) established regulations in title 9, part 88 of the Code of Federal Regulations. The minimum standards cover among other things the food, water, and rest provided to these horses while they are in transit; and to review other related issues that may be appropriate to ensuring that these animals are treated humanely. Implementing these regulations entails the use of two information collection activities in the form of an owner-shipper certificate, as well as the collection of employment information on any person found to be transporting horses to a slaughtering facility.

Need and Use of the Information: APHIS will collect the following information: (1) Shippers name and address and the owner's name and address; (2) description of the transporting vehicle, including the license plate number; (3) a description of the horse's physical characteristics, including its sex, coloring, distinguishing marks, permanent brands, electronic means of identification, or other characteristics that can be use to accurately identify the horse; (4) the number of the USDA back tag that has been applied to the horse for identification purposes; (5) a statement of the animal's fitness to travel, which must indicate that the horse is able to bear weight on all four limbs, is able to walk unassisted, is not blind in both eyes, is older than 6 months of age, and is not likely to give birth during the trip; (6) a description of anything unusual with regard to the physical condition of the horse, such as a wound or blindness in one eye, and any special handling needs; (7) the date, time, and place the horse was loaded on the conveyance; and (8) a statement that the horse was provided access to food, water, and rest prior to transport. This information is helpful in those instances in which APHIS must conduct a trace back investigation of any possibly stolen horses.

Description of Respondents: Business or Other For-Profit; Individuals or Households; Farms.

Number of Respondents: 200.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 4,203.

Animal Plant & Health Inspection Service

Title: Pseudorabies In Swine; Payment To Indemnity.

OMB Control Number: 0579–0137.

Summary of Collection: The United States Department of Agriculture is responsible for preventing the interstate spread of pest and diseases of livestock within the United States and for conducting eradication programs. The Animal and Plant Health Inspection Service (APHIS) established an accelerated pseudorabies program, including the payment of indemnity, to further pseudorabies eradication efforts in cooperation with States and industry and to protect swine not infected with pseudorabies from the disease. Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine. Regulations in 9 CFR part 85 govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies. APHIS will collect information using several APHIS forms.

Need and Use of the Information: APHIS will collect information on the number of animals being relinquished, their estimated weight, and the market price of the animals for the particular week, and the total compensation amount that the owner can expect to

receive. If the information were not collected, APHIS would not be able to launch the accelerated pseudorabies eradication program.

Description of Respondents: Business or other for-profit; Farms; State, Local or Tribal Government.

Number of Respondents: 5,700.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,156.

Animal & Plant Health Inspection Service

Title: Restrictions on Importation of Live Poultry, Poultry Meat, and Other Poultry Products from Specified Regions.

OMB Control Number: 0579–0228.

Summary of Collection: Title 21 U.S.C. 117, Animal Industry Act of 1884, authorizes the Secretary to prevent, control and eliminate domestic diseases such as brucellosis, as well as to take actions to prevent and manage exotic diseases such as classical swine fever and other foreign animal diseases. Veterinary Services of the USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for administering regulations intended to prevent the introduction of animal diseases into the United States. The regulations in 9 CFR Part 94 allow the importation of poultry meat and products and live poultry from Argentina and the Mexican States of Campeche, Quintana Roo, and Yucatan under certain conditions. APHIS will collect information through the use of a certification statement that must be completed by Mexican veterinary authorities prior to export.

Need and Use of the Information: The information collected from the certificate will provide APHIS with critical information concerning the origin and history of the items destined for importation in the United States. Without the information APHIS' ability to ensure that poultry, poultry meat, or other poultry products from certain States within Mexico pose a minimal risk of introducing exotic Newcastle disease and other exotic animal diseases into the United States.

Description of Respondents: Federal Government.

Number of Respondents: 10.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 100.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–18397 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 14, 2007

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.

Risk Management Agency

Title: Risk Management and Crop Insurance Education; Activity Log.

OMB Control Number: 0563–0070.

Summary of Collection: The Federal Crop Insurance Act, Title 7 U.S.C. Chapter 36 Section 1508(k) authorizes the Federal Crop Insurance Corporation (FCIC) to establish crop insurance education and information programs in States that have been historically underserved by theFederal Crop insurance program (7 U.S.C. 1524(a)(2); and provide agricultural producers with training opportunities in risk management. The Risk Management Agency (RMA) refers to these four programs as the Community Outreach and Assistance Partnership, Commodity Partnerships, Targeted States and Small Sessions programs available to carry out certain risk management education provisions of the Federal Crop Insurance Act.

Need and Use of the Information: RMA will use Form RMA–300, Activity Log, to collect information to monitor certain educational activities. Agreement holders are required to record specific information about each educational activity conducted under the agreement in an Activity Log and submit it as part of the required quarterly progress report. In addition, RMA will use information provided by agreement holders to ensure that funded educational projects are progressing.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; State, Local, or Tribal Government.

Number of Respondents: 180.

Frequency of Responses: Reporting: Quarterly.

Total Burden Hours: 778.

Charlene Parker,

Departmental Information Clearance Officer.

[FR Doc. E7–18519 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Off-Highway Vehicle Travel Management Plan

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to prepare an environmental impact statement.

SUMMARY: On August 27, 2007, The Mt. Hood National Forest (Forest) published a Notice of Intent in the **Federal Register** (72 FR 48982) to prepare an environmental impact statement (EIS) to document and disclose the potential environmental effects of establishing and designating a system of roads, trails and areas for off-highway vehicles (OHV). The proposed action will change OHV access through much of the Forest in order to meet the intent of the *Travel Management; Designated Routes and Areas for Motor Vehicle Use; Final Rule* that was published on November 9, 2005 (70 FR 216). The original Notice of Intent listed the final date to receive comments concerning the scope of the analysis as October 1, 2007. The Notice

of Intent is being revised to extend the final date for receiving comments concerning the scope of the analysis to November 1, 2007.

DATES: Comments concerning the scope of this analysis must be received no later than November 1, 2007 to ensure they are fully incorporated into the Draft EIS.

ADDRESSES: Submit written comments to Jennie O'Connor, Off-Highway Vehicle Travel Management Plan Leader, Mt. Hood National Forest, 6780 Highway 35, Parkdale, Oregon 97041. Electronic comments can be submitted to *comments-pacificnorthwest-mthood@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Jennie O'Connor, Natural Resource Planner, Mt. Hood National Forest, 6780 Highway 35, Parkdale, Oregon 97041 (541) 352–6002 x634, or by e-mailing *jmoconnor@fs.fed.us.*

Dated: September 12, 2007.

Gary L. Larsen,

Forest Supervisor, Mt. Hood National Forest.

[FR Doc. 07–4642 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Sites; Federal Lands Recreation Enhancement Act (Title VIII, Pub. L. 108–447)

AGENCY: Manti-La Sal National Forest, USDA Forest Service.

ACTION: Notice of proposed new fee sites.

SUMMARY: The Manti-La Sal National Forest is planning to charge fees at eleven recreation sites. All sites have recently been reconstructed or amenities added to improve services and experiences. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance, market assessment, and public comment. The fees listed are only proposed and will be determined upon further analysis and public comment. Funds from fees would be used for the continued operation and maintenance of these sites.

Indian Creek Guard Station and Seeley Guard Station will be available for overnight rental. A financial analysis is being completed to determine the rental fee but may range between $30 and $50 per night. Guard Stations rentals offer a unique experience and are a widely popular offering on National Forests. These Guard Stations have recently been restored. Fees would continue to help protect and maintain the Guard Stations.

The Manti-La Sal National Forest is proposing to charge a fee of $5 per vehicle per night at Twin Reservoir Fishing/Camping and an overnight fee of $5 per site at Mason Draw Campground, Oowah Lake Campground and Sand Flats Camping Area (Maloy Park). A $7 overnight fee per site is proposed at Fish Creek Campground and Trailhead. These sites are eligible under the Recreation Fee Enhancement Act to collect fees for continued operation and maintenance. A financial analysis is being completed to determine fee rates.

DATES: New fees would begin after April 2008 once a final decision is made and is listed with the National Reservation Service.

ADDRESSES: Rod Player, Acting Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, UT 84501.

FOR FURTHER INFORMATION CONTACT: Ann King, Public Service Staff Officer, 435–636–3535. Information about proposed fees is posted at the individual campgrounds.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VIII, Pub. L. 198–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. This new fee will be reviewed by the Regional Recreation Fee Board and by the Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: September 6, 2007.

Rod Player,

Acting Supervisor, Manti-La Sal National Forest .

[FR Doc. E7–18402 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or the Agency, invites comments on this information collection for which Rural Development intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by November 19, 2007.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Acting Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Ave., SW., STOP 1522, Room 5159 South Building, Washington, DC 20250–1522. Telephone: (202) 720–0784 FAX: (202) 720–8435.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for extension. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele L. Brooks, Acting Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Ave., SW., STOP 1522, Room 5159 South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202) 720–8435.

Title: 7 CFR Part 1783, ''Revolving Fund Program''.

OMB Control Number: 0572–0138.

Type of Request: Extension of a currently approved information collection.

Abstract: Rural Development supports the sound development of rural

communities and the growth of our economy without endangering the environment. Rural Development provides financial and technical assistance to help communities bring safe drinking water and sanitary, environmentally sound waste disposal facilities to rural Americans in greatest need.

The Revolving Fund Program (RFP) has been established to assist communities with water or wastewater systems. Qualified private non-profit organizations will receive RFP grant funds to establish a lending program for eligible entities. Eligible entities for the revolving loan fund will be the same entities eligible to obtain a loan, loan guarantee, or grant from Rural Development Water and Waste Disposal and Wastewater loan and grant programs. As grant recipients, the non-profit organizations will set up a revolving loan fund to provide loans to finance predevelopment costs of water or wastewater projects, or short-term small capital projects not part of the regular operation and maintenance of current water and wastewater systems.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8.24 hour per response.

Respondents: Non-profit institutions.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 7.6

Estimated Total Annual Burden on Respondents: 313 Hours.

Copies of this information collection can be obtained from Gale Richardson, Management Analyst, Program Development and Regulatory Analysis, at (202) 720–0992; FAX: (202) 720–8435.

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: September 12, 2007.

Curtis M. Anderson,

Deputy Administrator, Rural Utilities Service.

[FR Doc. E7–18384 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East Kentucky Power Cooperative: Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development, has made a finding of no significant impact (FONSI) with respect to a request for possible financing assistance to East Kentucky Power Cooperative (EKPC) for the construction of two new Smith Station combustion turbine electric generating units (CTs), two new electric switching stations, and the 36-mile, Smith-West Garrard 345 kilovolt (kV) electric transmission line located in Clark, Madison, and Garrard Counties, Kentucky (Proposal).

ADDRESSES: The Environmental Assessment (EA) and FONSI are available for public review at USDA Rural Development, 1400 Independence Avenue, SW., Washington, DC 20250–1571; and at EKPC's headquarters office located at 4775 Lexington Road, Winchester, Kentucky 40391. To obtain copies of the EA, or for further information, contact: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, 1400 Independence Avenue, SW., Stop 1571 Washington, DC 20250–1571, Telephone: (202) 720–0468 or e-mail: *stephanie.strength@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: EKPC proposes to construct 2 new CTs at EKPC's existing J. K. Smith Electric Generating Station in southern Clark County, Kentucky. The proposed CTs would be fueled by natural gas and would each have a net electrical output of between 82 and 98 megawatts. The proposed new units are needed to provide additional electric generating capacity that would allow EKPC to meet its projected electrical peaking demand for 2009–2011. The Proposal also includes the construction of 2 new electric switching stations, 1 at its existing J. K. Smith Generating Station (utilizing approximately 8 acres) and 1 in western Garrard County, Kentucky (disturbing between 5 and 10 acres), and a 36-mile, 345-kV electric transmission line (on a 150-foot right-of-way) that would extend through Clark, Madison, and Garrard Counties, Kentucky. The proposed new transmission facilities are needed to provide an outlet for the additional electric power that would be generated at the J. K. Smith Generating Station as a result of the installation of the proposed new CTs. The new transmission line would be supported by vertical H-frame steel pole structures that would range in height from 90 to 130 feet above ground. The construction of the Proposal is tentatively scheduled to begin in the fall of 2007 with estimated construction duration of 2 years.

Alternatives considered by Rural Development and EKPC include: (a) No action, (b) alternative generation technology, (c) alternative transmission improvements, (d) alternative sites, and (e) alternate transmission line corridors. The alternatives are discussed in the Smith Station CT Units 9 & 10 and the Smith-West Garrard Transmission Line Project Environmental Report (ER).

Rural Development has accepted the ER as its EA for the proposed project. Rural Development held an agency meeting and a public scoping meeting in an open house format on Tuesday, July 11, 2006 in Richmond, Kentucky. Approximately 22 people attended the meeting. EKPC held 2 additional public open houses, and, as a result of the 3 meetings, 117 comments were received. The comments were subsequently addressed in the EA. The notice of availability of the EA for public review was published in the **Federal Register** Vol. 72, No. 122, Tuesday, June 26, 2007, and was also published in the local papers *Lexington Herald Leader*, Lexington, Kentucky; *Richmond Register*, Richmond, KY; *Garrard Central Record*, Lancaster, KY; and the *Winchester Sun*, Winchester, Kentucky. The EA was distributed for public and agency review. The 30-day comment period on the EA ended July 26, 2007. Comments were received from 2 parties and the concerns were addressed. Rural Development has determined that the Proposal will have no significant impact to water quality, wetlands, the 100-year floodplain, land use, aesthetics, transportation, or human health and safety.

The Proposal will have an adverse effect on 1 historic property eligible for listing on the National Register of Historic Places and 1 currently listed historic property. Mitigation measures for the Proposal are stipulated in a Memorandum of Agreement signed on July 23, 2007 by Rural Development, the Kentucky State Historic Preservation Officer, and EKPC.

Rural Development has also concluded that the Proposal is not likely to affect federally listed threatened and endangered species or designated critical habitat. The Proposal will not disproportionately affect minority and/or low-income populations. No other potential significant impacts resulting from the Proposal have been identified. Therefore, Rural Development has determined that this finding of no significant impact fulfills its obligations under the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental

Quality Regulations (40 CFR 1500–1508), and USDA Rural Development's Environmental Policies and Procedures (7 CFR Part 1794). Since Rural Development's Federal action would not result in significant impacts to the quality of the human environment, an environmental impact statement will not be prepared for its action related to the Proposal.

Dated: September 13, 2007.

James R. Newby,

Assistant Administrator, Electric Programs, Rural Utilities Service.

[FR Doc. E7–18385 Filed 9–18–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Bureau of Economic Analysis Advisory Committee

AGENCY: Bureau of Economic Analysis.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409, Pub. L. 96–523, Pub. L. 97–375 and Pub. L. 105–153), we are announcing a meeting of the Bureau of Economic Analysis Advisory Committee. The meeting's agenda focuses on prototypes estimates of quarterly GDP by industry and GDP by metro area, aspects involved with measuring R&D by industry and the treatment of exports and imports of R&D and intellectual property. In addition, there will be discussion of the bureau's long term plans.

DATE: Friday, November 2, 2007, the meeting will begin at 9 a.m. and adjourn at approximately 3:30 p.m.

ADDRESSES: The meeting will take place at the Bureau of Economic Analysis at 1441 L St. NW., Washington DC.

FOR FURTHER INFORMATION CONTACT: Robert Wehausen, Communications Program Analyst, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; telephone number: (202) 606–9687.

Public Participation: This meeting is open to the public. Because of security procedures, anyone planning to attend the meeting must contact Robert Wehausen of BEA at (202) 606–9687 in advance. The meeting is physically accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids should be directed to Robert Wehausen at (202) 606–9687.

SUPPLEMENTARY INFORMATION: The Committee was established September 2, 1999. The Committee advises the Director of BEA on matters related to the development and improvement of BEA's national, regional, industry, and international economic accounts, especially in areas of new and rapidly growing economic activities arising from innovative and advancing technologies, and provides recommendations from the perspectives of the economics profession, business, and government. This will be the Committee's sixteenth meeting.

Dated: September 12, 2007.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

[FR Doc. E7–18453 Filed 9–18–07; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam''). *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam,* 68 FR 47909 (August 12, 2003) (''*Order*''). We preliminarily find that QVD Food Company Ltd. (''QVD'') sold subject merchandise at less than normal value (''NV'') during the period of review (''POR''), August 1, 2005, through July 31, 2006. We also preliminarily determine that East Sea Seafoods Joint Venture Co., Ltd. (''East Sea'') has not made sales in the United States at prices below normal value. We continue to find that certain frozen fish fillets produced during the expanded POR [1] by Lian Heng Investment Co., Ltd. and Lian Heng Trading Co., Ltd. (collectively ''Lian Heng'') were made from Vietnamese-origin fish and therefore, are covered by this review. In addition, we are preliminarily rescinding the review for nine companies [2] which reported having no shipments of subject merchandise to the United States during the POR. We are also preliminarily rescinding the review for an affiliate of QVD, QVD Dong Thap Food Co., Ltd. (''QVD Dong Thap''), because QVD reported that QVD Dong Thap did not ship any subject merchandise to the United States during the POR.[3] Finally, we continue to apply an adverse facts available rate of 80.88 percent to Can Tho Agricultural and Animal Products Import Export Company (''CATACO'') because it failed to respond to the Department's two quantity and value questionnaires. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

EFFECTIVE DATE: September 19, 2007.

FOR FURTHER INFORMATION CONTACT: Cindy Lai Robinson (Respondent East Sea), Michael Holton (Respondent QVD), and Paul Walker (Respondent Lian Heng), 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) 482–3797, (202) 482–1324 and (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Case History

General

On August 1, 2006, the Department published a notice of an opportunity to request an administrative review of the *Order. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 71 FR 43441 (August 1, 2006). On August 31, 2006, the Department received a request from the Catfish Farmers of America and individual U.S. catfish processors (collectively, ''Petitioners'') for a review covering 51 exporters/

[1] Lian Heng has an expanded POR which covers the period October 22, 2004, through July 31, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 71 FR 57465 (September 29, 2006) (''*Initiation Notice*'').

[2] The nine companies are: Ben Tre Forestry and Aquaproduct Import-Export Company (''FAQUIMEX''); Hung Vuong Co., Ltd.; Nam Viet Company Limited (''NAVICO''); Phu Thuan Company; Sadec Aquatic Products Import Enterprise (''DOCIFISH''); Thuan Hung Co., Ltd. (''Thuan Hung''); United Seafood Packers Co., Ltd.; Van Duc Foods Export Joint Stock Co.; Viet Hai Seafood Company Limited (''Vietnam Fish-One'').

[3] *See* QVD's Separate-Rate Certification dated December 11, 2006.

manufacturers.[4] Additionally, on August 31, 2006, the following four exporters/manufacturers separately requested a review: Cantho Import Export Seafood Joint Stock Company (''CASEAMEX''); East Sea;[5] QVD; and Vinh Hoan.[6]

On September 29, 2006, the Department initiated this antidumping duty administrative review covering all 53 companies. *See Initiation Notice*.

At the request of Petitioners and pursuant to the Department's recent partial affirmative final determination of circumvention of the antidumping duty order on certain frozen fish fillets from Vietnam, we included Lian Heng, a Cambodian producer and reseller of the merchandise under review, in this proceeding with an expanded POR. *See Circumvention and Scope Inquiries on the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Affirmative Final Determination of Circumvention of the Antidumping Duty Order, Partial Final Termination of Circumvention Inquiry and Final Rescission of Scope Inquiry,* 71 FR 38608 (July 7, 2006) (''*Circumvention Inquiry*''). *See, also, Initiation Notice*.

Period of Review

With the exception of Lian Heng, the POR is August 1, 2005, through July 31, 2006. In accordance with the *Circumvention Inquiry*, the POR for Lian Heng is October 22, 2004, through July 31, 2006.

Quantity and Value (''Q&V'') Responses

On October 12, 2006, the Department issued questionnaires requesting the total Q&V of subject merchandise exported to the United States during the POR to all 53 companies subject to the administrative review. In the same letter, the Department also provided information for respondents to submit a Separate-Rate Application or Separate-Rate Certification.[7]

On October 25, 2006, Lian Heng submitted a letter to the Department arguing that it was inappropriate for Lian Heng to respond to the Q&V questionnaire response because its exports of frozen fish fillets are products of Cambodia, not Vietnam. On November 6, 2006, the Department instructed Lian Heng to separately identify the Q&V of those exports that were accompanied by a certificate and those that were not. Lian Heng submitted its Q&V response on November 17, 2006.

On November 3, 2006, the Department issued a letter to all initiated companies who had not submitted a Q&V response granting them a second opportunity to submit the Q&V of any exports of subject merchandise to the United States during the POR by November 17, 2006. *See* Letter from Alex Villanueva, Program Manager, to All Interested Parties, Re: Second Opportunity to Respond to the Quantity and Value Questionnaire for Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (November 3, 2006).

Between October 19, 2006, and November 17, 2006, the Department received Q&V questionnaire responses from the following 17 companies: Alphasea; Agifish; FAQUIMEX; Seaprodex Da Nang; East Sea; Hung Vuong Co., Ltd.; NAVICO; Phu Thuan Company; QVD; DOCIFISH; Thanh Viet Co. Ltd.; Thuan Hung; United Seafood Packers Co., Ltd.; Van Duc Foods Export Joint Stock Co.; Vietnam Fish-One; Vinh Hoan; and Lian Heng (which consists of Lian Heng Investment Co., Ltd., and Lian Heng Trading Co., Ltd.). Of the 17 companies, the following nine companies stated that they did not have sales, shipments, or entries of the subject merchandise to the United States during the POR: FAQUIMEX; Hung Vuong Co., Ltd.; NAVICO; Phu Thuan Company; DOCIFISH; Thuan Hung; United Seafood Packers Co., Ltd.; Van Duc Foods Export Joint Stock Co.; and Vietnam Fish-One.

Between November 8, 2006, and December 11, 2006, the Department received Separate-Rate Certifications from the following five companies: Agifish; QVD; Da Nang; Thuan Hung; and Vinh Hoan, and a Separate-Rate Application from East Sea. In its letter dated December 11, 2006, Lian Heng indicated that it would not respond to the Separate-Rate Application/Certification in this proceeding because it did not export subject merchandise to the United States during the POR.

On November 22, 2006, the Department issued a letter to Alphasea rejecting its Q&V response due to a filing deficiency and instructed it to resubmit its Q&V questionnaire response by December 1, 2006. *See* Letter from Alex Villanueva, Program Manager, to Day N. Ton, Alphasea Co., Ltd., Re: Third Administrative Review on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (November 22, 2006). Alphasea resubmitted its Q&V questionnaire response on December 1, 2006.

Withdrawal Requests and Partial Rescission

On October 25, 2006, CASEAMEX withdrew its request for an administrative review. On December 8, 2006, Vinh Hoan withdrew its request for an administrative review. On December 26, 2006, H&N withdrew its request for the review of its entries of subject merchandise produced and exported by Vinh Hoan. Also on December 26, 2006, Petitioners withdrew their request for 37 exporters/manufacturers.[8] Additionally, on

[4] Petitioners requested a review on the following companies: (1) Alphasea Co., Ltd. (''Alphasea''); (2) An Giang Agriculture and Foods Import Export Company (''Afiex''); (3) An Giang Agriculture Technology Service Company (''ANTESCO''); (4) An Giang Fisheries Import and Export Joint Stock Company (''Agifish''); (5) An Lac Seafood Co., Ltd. (''An Lac''); (6) ANHACO; (7) Bamboo Food Co., Ltd.; (8) Basa Co., Ltd.; (9) FAQUIMEX; (10) Binh Dinh Import Export Company (''Imex Binhdinh''); (11) Blue Sky Co., Ltd.; (12) Cam Ranh Seafood Processing Seaprodex Company (''Cam Ranh''); (13) CATACO; (14) Cantho Seafood Export (''CASEAFOOD''); (15) Can Tho Animal Fishery Products Processing Export Enterprise (''Cafatex''); (16) Da Nang Seaproducts Import-Export Corporation (''Da Nang''); (17) Dragon Waves Frozen Food Factory Co. (''Dragon''); (18) Duyen Hai Foodstuffs Processing Factory (''COSEAFEX''); (19) Geologistics Ltd.; (20) Gepimex 404 Company; (21) Hai Thach Trading Services Co., Ltd.; (22) Hai Vuong Co., Ltd.; (23) Hung Vuong Co., Ltd.; (24) Kien Giang Ltd.; (25) Mekongfish Company (aka Mekong Fisheries Joint Stock Company) (''Mekonimex''); (26) Nam Duong Co., Ltd. (aka KP Khanh Loi or Nam Duong Trading Co.); (27) Nam Hai Co., Ltd.; (28) NAVICO; (29) Nhan Hoa Co., Ltd.; (30) Phan Quan Trading Co., Ltd.; (31) Phu Thanh Frozen Factory; (32) Phu Thuan Company; (33) Phuoc My Seafoods Processing Factory; (34) Phuong Dong Seafood Co., Ltd.; (35) Quang Dung Food Co., Ltd.; (36) QVD; (37) QVD Dong Thap; (38) DOCIFISH; (39) Thanh Viet Co. Ltd.; (40) Thuan Hung; (41) Tin Thinh Co. Ltd.; (42) Tuan Anh Company Limited; (43) United Seafood Packers Co., Ltd.; (44) Van Duc Foods Export Joint Stock Co.; (45) Vietnam Fish-One; (46) Vinh Hiep Co., Ltd.; (47) Vinh Hoan Company, Ltd. (''Vinh Hoan''); (48) Vinh Long Import-Export Company (''Imex Cuu Long''); (49) VN Seafoods Co., Ltd.; and (50–51) Lian Heng.

[5] On August 31, 2006, East Sea also separately requested a new shipper review (''NSR''), but it withdrew its NSR request on November 13, 2006. The Department rescinded East Sea's NSR request on January 23, 2007. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Rescission of Antidumping Duty New Shipper Review,* 72 FR 2857 (January 23, 2007).

[6] On August 29, 2006, H&N Foods International (''H&N''), a U.S.-based importer of the merchandise subject to this administrative review, also requested that the Department conduct an administrative review of H&N's entries of subject merchandise produced and exported by Vinh Hoan.

[7] *See* Letter with Attachments from Alex Villanueva, Program Manager, to All Interested Parties (October 12, 2006). The Q&V questionnaire response was originally due on October 26, 2006. The due date for the Separate-Rate Application was December 11, 2006, and the due date for the Separate-Rate Certification was November 11, 2006.

[8] The 37 companies are: Alphasea; Afiex; ANTESCO; Agifish; An Lac; ANHACO; Bamboo Food Co., Ltd.; Basa Co., Ltd.; Imex Binhdinh; Blue Sky Co., Ltd.; Cam Ranh; CASEAFOOD; Cafatex; Da Nang; Dragon; COSEAFEX; Geologistics Ltd.; Gepimex 404 Company; Hai Thach Trading Services Co., Ltd.; Hai Vuong Co., Ltd.; Kien Giang Ltd.; Mekonimex; Nam Duong Co., Ltd.; Nam Hai Co., Ltd.; Nhan Hoa Co., Ltd.; Phan Quan Trading

December 27, 2006, Petitioners withdrew their review request for QVD. However, QVD still has an active review request.

On March 12, 2007, in accordance with 19 CFR 351.213(d)(1), we rescinded the administrative review with respect to 38 companies. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Rescission and Notice of Intent to Rescind, in Part, and Partial Extension of Time Limit for Preliminary Results of the Third Antidumping Duty Administrative Review*, 72 FR 10981 (March 12, 2007) (''*Partial Rescission and Extension of Preliminary Results*'').

Therefore, this review covers 15 producers/exporters [9] of the subject merchandise and the Vietnam-wide entity.

Respondent Selection

On December 26, 2006, Petitioners submitted comments regarding respondent selection. Specifically, Petitioners requested that the Department conduct a review of the entries of subject merchandise during the POR for the remaining 15 companies.

On January 5, 2007, the Department issued a letter to all interested parties informing them of its decision to select the two largest of the remaining 15 exporters/producers of subject merchandise during the POR as mandatory respondents: East Sea and QVD. Although the Department did not select Lian Heng as a mandatory respondent in this review, because of its claim that its U.S. exports were not harvested in Vietnam, the Department sent Lian Heng a questionnaire regarding its reported Q&V.

For the other 12 remaining companies, *see* ''Preliminary Partial Rescission of No-Shipment Companies and QVD Dong Thap'' section, and ''Application of Adverse Facts Available (''AFA'')'' section (''CATACO'' subsection) below.

Mandatory Respondents and Lian Heng

On January 12, 2007, the Department issued the standard non-market economy questionnaires to East Sea and QVD. On January 17, 2007, the Department issued a ''no shipment questionnaire'' to Lian Heng requesting additional information regarding its shipments to the United States.

1. East Sea

On January 24, 2007, East Sea requested a one-week extension until February 8, 2007, to submit its original section A questionnaire response. On January 29, 2007, the Department granted East Sea the extension, and East Sea submitted its original section A questionnaire response on February 8, 2007. On February 12, 2007, East Sea submitted a letter requesting a nineteen-day extension to submit its original sections C and D questionnaire response. On February 15, 2007, the Department granted East Sea a sixteen-day extension from February 18, 2007, to March 6, 2007. East Sea submitted its original sections C and D questionnaire response on March 6, 2007.

On March 23, 2007, Petitioners submitted its comments on East Sea's original sections A, C and D questionnaire responses. On April 3, 2007, the Department issued its first sections A, C and D supplemental questionnaire to East Sea. On April 13, 2007, East Sea requested a two-week extension to respond to the Department's first sections A, C and D supplemental questionnaire. On April 19, 2007, the Department granted East Sea an eight-day extension until May 2, 2007. On April 27, 2007, East Sea requested a two-day extension to submit its first sections A, C and D supplemental questionnaire response. On April 30, 2007, the Department granted East Sea the extension, and East Sea submitted its first sections A, C and D supplemental questionnaire response on May 4, 2007.

On June 13, 2007, the Department issued its second sections A, C and D supplemental questionnaire to East Sea. On June 20, 2007, East Sea requested a five-day extension to respond to the Department's second sections A, C and D supplemental questionnaire. The Department granted East Sea' request on June 22, 2007.

On June 25 and 27, 2007, the Department issued its third and fourth sections A, C and D supplemental questionnaires, respectively, to East Sea. On July 2, 2007, East Sea requested a three-day extension to respond to the Department's second, third and fourth sections A, C and D supplemental questionnaires. On July 2, 2007, the Department granted East Sea a one-day extension to submit its second sections A, C and D supplemental questionnaire responses, and a three-day extension to submit the remaining second, third and fourth supplemental questionnaire responses. East Sea submitted its responses to the Department's second, third, and fourth supplemental questionnaires on July 3 and 5, 2007, accordingly. On August 14, 2007, Petitioners submitted pre-preliminary results comments with respect to East Sea. On August 20, 2007, East Sea submitted its rebuttal comments.

2. QVD

On January 30, 2007, QVD requested a three-week extension to submit its original section A questionnaire response, which was due on February 2, 2007. On February 1, 2007, the Department granted QVD a ten-day extension until February 12, 2007, to submit its original section A questionnaire response.

On February 12, 2007, QVD submitted its original section A questionnaire response. QVD also requested a four-week extension to submit its original sections C and D questionnaire response, which was due February 18, 2007. On February 15, 2007, the Department granted QVD an extension from February 18, 2007, to March 16, 2007. On March 2, 2007, QVD requested a one-week extension to submit its original section D questionnaire response. On March 6, 2007, Department granted QVD the extension. Also, on March 6, 2007, QVD submitted its original section C questionnaire response. On March 13, 2007, QVD submitted its original section D questionnaire response. On March 27, 2007, Petitioners submitted their comments on QVD's original sections A, C and D questionnaire responses, to which QVD filed a response on April 6, 2007.

On May 8, 2007, the Department issued its first supplemental questionnaire (sections A, C and D) to QVD. On May 17, 2007, QVD requested a one-week extension to submit its first supplemental questionnaire response (sections A and C). On May 18, 2007, the Department granted QVD a one-week extension to submit its first supplemental questionnaire responses (sections A and C) to May, 29, 2007 and June 5, 2007, respectively.

On May 29, 2007, the Department issued a revised version of its first sections A, C and D supplemental questionnaire since the Department had already considered several of QVD's affiliations with certain parties in the final results of the second administrative review of this case. The Department also extended the deadline for QVD's first section A supplemental questionnaire response to June 1, 2007.

On May 29, 2007, QVD requested a one-week extension to submit its first section D supplemental questionnaire

Co., Ltd.; Phu Thanh Frozen Factory; Phuoc My Seafoods Processing Factory; Phuong Dong Seafood Co., Ltd.; Quang Dung Food Co., Ltd.; Thanh Viet Co. Ltd.; Tin Thinh Co. Ltd.; Tuan Anh Company Limited; Vinh Hiep Co., Ltd.; Vinh Hoan; Imex Cuu Long; and VN Seafoods Co., Ltd.

[9] *See* ''Preliminary Partial Rescission of No-Shipment Companies and QVD Dong Thap'' section below.

response. On May 31, 2007, the Department granted QVD the extension. On June 1, 2007, QVD submitted its first section A supplemental questionnaire response. On June 5, 2007, QVD submitted its first section A supplemental questionnaire response. On June 7, 2007, QVD requested a one week extension to submit its first section D supplemental questionnaire response. On June 8, 2007, the Department granted QVD the extension, and QVD submitted its first section D supplemental questionnaire response on June 12, 2007.

On June 29, 2007, the Department issued a second sections C and D supplemental questionnaire to QVD. On July 11, 2007, QVD requested a one-week extension to submit its second sections C and D supplemental questionnaire response. On July 12, 2007, the Department granted QVD a three-day extension to submit its second section C supplemental questionnaire response and a one-week extension to submit its second section D supplemental questionnaire response to July 18, 2007, and July 20, 2007, respectively. On July 18 and 20, 2007, QVD submitted its second sections C and D supplemental questionnaire response, respectively. On August 6, 2007, Petitioners submit pre-preliminary results comments with respect to QVD, to which QVD submitted rebuttal comments on August 14, 2007. We issued a supplemental questionnaire on August 7, 2007, and QVD responded on August 14, 2007.

3. Lian Heng

On November 17, 2006, Lian Heng submitted a Q&V response. On January 17, 2007, the Department issued a supplemental questionnaire, which Lian Heng responded to on February 21, 2007. On January 17, 2007, the Department issued a second supplemental questionnaire, which Lian Heng responded to on May 11, 2007.

Verification

Pursuant to 19 CFR 351.307(b)(iv), we conducted a verification of Lian Heng from June 19, 2007, through June 22, 2007. See Memorandum to the file through Alex Villanueva, Program Manager, Office 9, from Paul Walker, Senior Analyst, Office 9: 3rd Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Verification of Lian Heng Trading Co., Ltd.

Preliminary Partial Rescission of No-Shipment Companies and QVD Dong Thap

No-Shipment Companies

As noted above, after the withdrawal requests, there are 15 remaining companies: FAQUIMEX; CATACO; East Sea; Hung Vuong Co. Ltd.; NAVICO; Phu Thuan Company; QVD; QVD Dong Thap; DOCIFISH; Thuan Hung; United Seafood Packers Co., Ltd.; Van Duc Foods Export Joint Stock Co.; Vietnam Fish-One; and Lian Heng (which consists of Lian Heng Investment Co., Ltd and Lian Heng Trading Co., Ltd.). Nine of these 15 remaining companies reported in their Q&V questionnaire responses that they made no shipments of subject merchandise to the United States during the POR. Our examination of shipment data from CBP for these nine companies confirmed that there were no entries of subject merchandise from them during the POR. Consequently, because there is no evidence on the record to indicate that these nine companies had sales of subject merchandise under this *Order* during the POR, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review with respect to these nine respondents: FAQUIMEX; Hung Vuong Co., Ltd.; NAVICO; Phu Thuan Company; DOCIFISH; Thuan Hung; United Seafood Packers Co., Ltd.; Van Duc Foods Export Joint Stock Co.; and Vietnam Fish-One.

QVD Dong Thap

We are also preliminarily rescinding the review of QVD Dong Thap in accordance with 19 CFR 351.213(d)(3). QVD Dong Thap did not respond to the Department's first and second Q&V questionnaires dated October 12, 2006, and November 3, 2006, respectively. However, on December 11, 2006, QVD submitted a separate-rate certification in which it indicated that it had two affiliated entities [10] which were involved in the production of subject merchandise: (1) QVD Dong Thap; and (2) Thuan Hung. Moreover, QVD indicated that neither company exported subject merchandise to the United States during the POR.

Our examination of shipment data from CBP for QVD Dong Thap confirmed that there were no entries of subject merchandise from it during the POR. Consequently, because there is no evidence on the record to indicate that QVD Dong Thap had sales of subject merchandise under this *Order* during the POR, we are preliminarily rescinding the review with respect to QVD Dong Thap.

Based on withdrawals and subsequent rescissions, and the Department's preliminary determination to rescind the review with respect to an additional ten companies which reported having no shipments of subject merchandise during the POR, five companies remain respondents in this review: East Sea; QVD; Lian Heng (which consists of Lian Heng Investment Co., Ltd. and Lian Heng Trading Co., Ltd.); and CATACO.

Scope of the Order

The product covered by this *Order* is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus.* Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (''regular'' fillets), boneless fillets with the belly flap removed (''shank'' fillets), boneless shank fillets cut into strips (''fillet strips/finger''), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps. The subject merchandise will be hereinafter referred to as frozen ''basa'' and ''tra'' fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 1604.19.4000,[11] 1604.19.5000,[12] 0305.59.4000,[13] 0304.29.6033 [14] (Frozen Fish Fillets of the species Pangasius including basa and tra) of the Harmonized Tariff Schedule of the

[10] *See* ''Affiliations'' section above.

[11] *See Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Third Addition of Harmonized Tariff Number*, (March 1, 2007). This HTS went into effect on March 1, 2007.

[12] *See Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Third Addition of Harmonized Tariff Number*, (March 1, 2007). This HTS went into effect on March 1, 2007.

[13] *See Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Second Addition of Harmonized Tariff Number*, (February 2, 2007). This HTS went into effect on February 1, 2007.

[14] *See Memorandum to the File, from Cindy Robinson, Senior Case Analyst, Office 9, Import Administration, Subject: Frozen Fish Fillets: Addition of Harmonized Tariff Number*, (January 30, 2007). This HTS went into effect on February 1, 2007.

United States (''HTSUS'').[15] This *Order* covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the *Order* is dispositive.

Extension of Preliminary Results

On March 12, 2007, the Department extended the deadline for the preliminary results of this review by 90 days, to August 1, 2007. *See Partial Rescission and Extension of Preliminary Results.* On July 26, 2007, the Department further extended the deadline for the preliminary results of this review by an additional 30 days, to August 31, 2007. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limits for the Preliminary Results of the 3rd Administrative Review*, 72 FR 43235 (August 3, 2007).

Application of Adverse Facts Available (''AFA'')

Section 776(a)(2) of the Tariff Act of 1930, as amended (''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 subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party ''promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information,'' the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, 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 deemed ''deficient'' under section 782(d) 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 from the administering authority or the Commission, the administering authority or the Commission * * *, 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 Uruguay Round Agreements Act (''URAA''), H.R. Rep. No. 103–316, Vol. 1 at 870 (1994).

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; *Mannesmannrohren-Werke AG* v. *United States*, 77 F. Supp. 2d 1302 (CIT 1999). The Court of Appeals for the Federal Circuit (''CAFC''), in *Nippon Steel Corporation* v. *United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (''*Nippon Steel*''), provided an explanation of the ''failure to act to the best of its ability'' standard, stating that the ordinary meaning of ''best'' means ''one's maximum effort,'' and that the statutory mandate that a respondent act to the ''best of its ability'' requires the respondent to do the maximum it is able to do. *Id.* The CAFC acknowledged, however, that ''deliberate concealment or inaccurate reporting'' would certainly be sufficient to find that a respondent did not act to the best of its ability, although it indicated that inadequate responses to agency inquiries ''would suffice'' as well. *Id.* Compliance with the ''best of the ability'' standard is determined by assessing whether a respondent has put forth its maximum effort to provide the Department with full and complete answers to all inquiries in an investigation. *Id.* The CAFC further noted that while the standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping. *Id.*

1. Lian Heng

For these preliminary results, in accordance with sections 776(a)(2)(B)(C) and (D) of the Act, we have determined that the use of AFA is appropriate for exports of subject merchandise for a certain period from Lian Heng.

On July 7, 2006, the Department found that application of AFA to Lian Heng, pursuant to section 781(b)(1) of the Act, was appropriate. *See Circumvention Inquiry.* Specifically, the Department found that under section 781(b)(1)(A) of the Act, the frozen fish fillets exported to the United States by Lian Heng were the same class or kind of merchandise subject to the *Order.* In addition, the Department found that under sections 781(b)(1), (2), and (3) of the Act, Lian Heng circumvented the *Order* by importing Vietnamese-origin whole live fish into Cambodia, where it was subsequently processed and completed into frozen fish fillets for export to the United States. Thus, pursuant to section 781(b) of the Act, frozen fish fillets processed in Cambodia by Lian Heng from Vietnamese-origin whole, live fish for export to the United States were included in the antidumping duty order on frozen fish fillets from Vietnam. *Id.* Furthermore, the Department found that, under section 781(b)(1)(D) of the Act, based on Petitioners' record evidence, and as AFA due to Lian Heng's failure to provide data that could be verified, the value of the Vietnamese-origin whole, live fish is significant compared to the value of the frozen fish fillets. *Id.* Therefore, pursuant to section 781(b)(1)(E) of the Act, the Department determined that it was appropriate and necessary to take action to prevent Lian Heng from circumventing the antidumping duty order on frozen fish fillets from Vietnam. *Id.*

In its determination in the *Circumvention Inquiry*, the Department also stated that, in accordance with section 733(d) of the Act, the Department would continue to direct CBP to suspend liquidation and to

[15] Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the HTSUS.

require a cash deposit of estimated duties, at the Vietnam-wide rate, on all unliquidated entries of frozen fish fillets produced by Lian Heng that were entered, or withdrawn from warehouse, for consumption from October 22, 2004, the date of initiation of the circumvention inquiry, through July 15, 2005. However, for all entries of frozen fish fillets produced by Lian Heng entered on or after July 16, 2005, the Department would direct CBP to allow Lian Heng to certify that no Vietnamese-origin fish was used in the production of the frozen fish fillets. For any entries of frozen fish fillets accompanied by such certification, CBP would not be requested to suspend liquidation, or require a cash deposit of estimated duties at the Vietnam-wide rate. Without such certification, however, CBP would be requested to suspend liquidation the entries of frozen fish fillets and to require a cash deposit of estimated duties, at the Vietnam-wide rate of 63.88 percent. *See Circumvention Inquiry.*

i. Period 1: October 22, 2004 through July 31, 2005

During the course of this review and at verification, Lian Heng was unable to provide verifiable data supporting the country of origin of the whole fish used in its production of frozen fish fillets for the time period October 22, 2004 through July 31, 2005 (''Period 1''). At verification, the Department examined Lian Heng's Hazard Analysis Critical Control Point [16] program documents, and other records Lian Heng maintained in its normal course of business supporting its whole fish country of origin.

With respect to the frozen fish fillets produced by Lian Heng during Period 1, because Lian Heng was unable, throughout the course of this review, to provide data to support the country of origin of the fish used in its production of frozen fish fillets, the Department finds that Lian Heng failed to provide the information in a timely manner and in the form requested and significantly impeded this proceeding, pursuant to sections 776(a)(2)(B) and (C) of the Act. Furthermore, Lian Heng's data regarding the country of origin of its whole fish consumption during Period 1 could not be supported at verification. By Lian Heng providing export data which could not be affirmed at verification regarding the country of origin of its whole fish consumption during Period 1, the Department also finds that the application of facts available is warranted, in accordance with 776(a)(2)(D) of the Act.

Therefore, for these preliminary results, with respect to the frozen fish fillets produced by Lian Heng for Period 1, the Department determines that it is appropriate to use facts otherwise available in reaching the applicable determination in accordance with sections 776(a)(2)(B), (C) and (D) of the Act.

Section 776(b) of the Act provides 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 may use information that is adverse to the interests of that party as facts otherwise available. An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act.

For these preliminary results, the Department finds that Lian Heng has failed to cooperate to the best of its ability. Specifically, the Department finds that Lian Heng claimed that the whole fish it purchased and used in its production of frozen fish fillets for Period 1 were not from Vietnam, but it could not provide verifiable data at verification to support its claim regarding the country of origin of the purchased whole fish at issue. Thus, the Department finds that Lian Heng ''deliberately concealed or inaccurately reported'' the country of origin for its purchased whole fish during Period 1 and, therefore, Lian Heng did not put forth its maximum effort to provide the Department with full and complete answers to all inquiries in this proceeding. Pursuant to section 776(b) of the Act and *Nippon Steel*, the Department finds that Lian Heng did not act to the best of its ability. Because Lian Heng asserted in its Q&V questionnaire response that it had no sales of subject merchandise during Period 1, it did not report its U.S. sales or factors of production information. Because Lian Heng was not able at verification to demonstrate that its sales in Period 1 were not subject merchandise, the Department has once again determined as AFA that these sales are of subject merchandise for which a dumping margin must be determined. In the absence of Lian Heng's sales data, and Lian Heng's failure to cooperate to the best of its ability, the Department is forced to resort to AFA.

As AFA, the Department has selected the rate of 63.88 percent established in the investigation of this *Order.* This rate was the highest margin calculated based on the information in the petition adjusted by the Department to be used as the AFA rate and applied to the Vietnam-wide entity in the investigation. *See Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003) (''*FFF Final Results*''). *See*, *also*, Memorandum to Edward C. Yang, Director, Office IX, AD/CVD Enforcement III, through James C. Doyle, Program Manager, Office IX, from Alex Villanueva, Senior Case Analyst, Office 9, Subject: Preliminary Determination in the Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam'')—Corroboration Memorandum, dated January 24, 2003 (''Investigation Corroboration Memo'').

Since this is secondary information, section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as ''information 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 original investigation of this case, we found that the information supplied by Petitioners was reliable and relevant because it was based upon information from public sources including government publications regarding the processing of live fish into fish fillets from Vietnam. In addition, Petitioners provided information from Agifish, the largest fish fillets exporter from Vietnam, which the Department verified in the underlying investigation as well as information used by the International Trade Commission in making its final injury determination. In this review, we found that this rate (63.88 percent) falls below the highest calculated transaction-specific dumping margin of one of the mandatory respondents, and thus within the range of margins in this review. *See* Memorandum to File, through Alex Villanueva, Program Manager, Office 9,

[16] Details regarding this program can be found at *http://www.cfsan.fda.gov/lrd/haccp.html.*

from Cindy Lai Robinson, Senior Case Analyst, Office 9, Subject: Corroboration of the Adverse Facts Available Rate for the Preliminary Results in the 3rd Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''AR3 Coroboration Memo''), dated August 31, 2007. In the absence of contrary evidence, the Department continues to find the information relevant and reliable. This rate was also selected as an AFA rate in the first and the second reviews of this case. *See FFF Final Results. See*, *also*, *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the First Administrative Review*, 71 FR 14170 (March 21, 2006) (''*FFF1 Final Results*''); *Notice of Final Results of the Second Administrative Review: Certain Frozen Fish Fillets and Socialist Republic of Vietnam,* 72 FR 13242 (March 21, 2007) (''*FFF2 Final Results*''); and *Investigation Corroboration Memo.*

As this rate is both reliable and relevant, we determine that it has probative value, and is thus in accordance with section 776(c), requiring that secondary information be corroborated to the extend practicable (*i.e.*, that it has probative value).

ii. Period 2: August 1, 2005 Through July 31, 2006

For the frozen fish fillets produced by Lian Heng during August 1, 2005 through July 31, 2006 (''Period 2''), Lian Heng was able to demonstrate at verification that the origin of the whole fish Lian Heng used to produce fish fillets was from Cambodia. Accordingly, for Period 2, the Department will continue to allow Lian Heng to certify that no Vietnamese-origin fish was used in the production of the frozen fish fillets. For any entries of frozen fish fillets accompanied by such certification, CBP will continue to not suspend liquidation, or require a cash deposit of estimated duties. Without such certification, however, CBP will suspend liquidation the entries of frozen fish fillets and require a cash deposit of estimated duties, at Lian Heng's AFA rate of 63.88 percent. *See Circumvention Inquiry.*

2. CATACO

For these preliminary results, in accordance with sections 776(a)(2)(A) and 776(a)(2)(B) of the Act, we have determined to continue to apply the individual AFA rate of 80.88 percent to CATACO.

On October 12, 2006, the Department sent CATACO a Q&V questionnaire with a response deadline of October 26, 2006.[17] CATACO did not respond to the Department's Q&V questionnaire by October 26, 2006. On November 3, 2006, the Department granted CATACO a second opportunity and sent CATACO a second Q&V questionnaire with a new response deadline of November 17, 2006. In this letter, the Department also extended the Separate-Rate Certification deadline to coincide with the Separate-Rate Status Application deadline of December 11, 2006.[18] CATACO did not submit a response to the Q&V questionnaire by November 17, 2006, nor did it submit the Separate-Rate Certification/Application by December 11, 2006.

Despite the fact that CATACO was given two opportunities to submit its Q&V questionnaire response and Separate-Rate Certification/Application, CATACO did not respond to the Department's Q&V questionnaire, nor did it submit a Separate-Rate Certification/Application.[19] Furthermore, at no point in the administrative review did CATACO submit comments regarding its status in this proceeding. Based upon CATACO's refusal to submit any Q&V response and Separate-Rate Certification/Application, the Department finds that CATACO failed to provide the information in a timely manner and in the form requested and significantly impeded this proceeding, pursuant to sections 776(a)(2)(B) and (C) of the Act. The Department explicitly stated that a full and accurate response to the Q&V Questionnaire from all participating respondents was needed to ensure that it had the requisite information to appropriately select mandatory respondents. Because CATACO failed to respond to the Department's Q&V questionnaire, it significantly impeded this proceeding. Therefore, the application of facts available is warranted, in accordance with sections 776(a)(2)(B) and 776(a)(2)(C) of the Act. In addition, by failing to submit a Separate-Rate Certification/Application, CATACO failed to demonstrate an absence of government control with respect to its export operations.

For these preliminary results, the Department finds that the Vietnam-wide entity, including CATACO, has failed to cooperate to the best of its ability by its refusal to respond to the Department's two Q&V questionnaires, which was needed for purposes of selecting mandatory respondents in this review. Therefore, we are applying an adverse inference to the Vietnam-wide entity and CATACO[20] in accordance with section 776(b) of the Act.

While it would be consistent with the Department's normal practice for CATACO to be subject to the same rate as all other exporters that are part of the Vietnam-wide entity, the Department determined, as AFA, it is appropriate to continue to apply CATACO's individual rate of 80.88 percent calculated in the first and the second administrative reviews of this *Order* to account for the the Department's prior findings regarding reimbursement.

In the first administrative review of this *Order,* the Department found at the verification that CATACO had reimbursement agreements that had no expiration date with its importer(s) and therefore, the Department assigned to CATACO's sales of subject merchandise an individual rate of 80.88 percent as an AFA rate, based on the highest established rate on the record of that proceeding. *See FFF1 Final Results* at Comments 1 and 2. In addition, in that review, to ensure proper assessment, the Department adjusted the total volume of the examined sales for CATACO as outlined in the memorandum ''Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Can Tho Agricultural and Animal Products Import Export Company (''CATACO'') Analysis for the Final Results of the Administrative Review,'' dated March 13, 2006 (''CATACO Analysis Memo'').

During the course of the second administrative review, CATACO

[17] In this letter, the Department indicated that a full and accurate response to the Q&V questionnaire from all participating respondents was necessary to ensure that the Department had the requisite information to appropriately select mandatory respondents. The Department also stated that if a firm had no exports during the POR, it should submit a statement to that effect, or the Department may have to assign a margin based on AFA. In this letter, the Department further stated that if a firm wished to be considered for a separate rate, it must respond to the Q&V questionnaire as well as provide the Department's Separate-Rate Certification, or Separate-Rate Status Application, as appropriate, by the appropriate deadline. In other words, the Department will not give consideration to any Separate-Rate Status request made by parties that failed to respond to the Q&V questionnaire within the established deadlines.

[18] In this letter, the Department reiterated that in order to receive consideration for a separate rate, a firm must respond to the Q&V questionnaire in addition to providing the Department's Separate-Rate Certification, or Separate-Rate Status Application. Moreover, the Department stated that if a firm failed to cooperate with the Department by not acting to the best of its ability to comply with the requested information, the Department may use information that is adverse to the company's interest in conducting its analysis.

[19] For both Q&V letters sent out by the Department on October 12 and November 3, 2006, the Department did not receive any undeliverable notice from the mail carrier, FEDEX.

[20] As discussed in the ''Separate Rates Determination'' section below, because CATACO did not provide a Q&V response and a Separate-Rate Application/Certification, CATACO is not eligible for a separate rate.

withdrew from participation in the review. Because the agreements had no expiration date, as AFA, the Department presumed that CATACO's agreement to reimburse its importer(s) continued throughout the POR. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 71 FR 53387 (September 11, 2006). *See, also, FFF2 Final Results.*

In this third administrative review, CATACO did not respond to the Department's two Q&V questionnaires dated October 12 and November 3, 2006, respectively. Consistent with the Department's findings in *FFF1 Final Results* and *FFF2 Final Results,* CATACO will continue to receive, as AFA, the individual rate of 80.88 percent, which is the highest established rate on the record of this proceeding (*i.e.*, the Vietnam-wide rate plus an amount to account for the reimbursement). Therefore, inclusive in our adverse inference is a presumption that CATACO continued to reimburse antidumping duties during this POR.

This AFA rate (80.88 percent) was calculated partly based on information in the investigation and partly based on information in the first administrative review. During the investigation, the Department calculated an AFA rate of 63.88 percent [21] based on the information in the petition. During the first administrative review, the Department determined that, based on its verification findings at CATACO, it is appropriate to add an amount to the Vietnam-wide rate (*i.e.*, 63.88 percent) to account for CATACO's reimbursement. The 80.88 percent rate was applied to CATACO as an AFA rate in the first and second administrative reviews. *See FFF1 Final Results* and *FFF2 Final Results.*

As explained in the ''Lian Heng'' section, above, the Department finds that the 63.88 percent AFA rate (and Vietnam-wide rate) calculated in the investigation is still relevant and reliable in this review. With respect to the reimbursement rate, the Department also finds it relevant and reliable because the Department found that CATACO's reimbursement scheme had no expiration date. Absent any evidence to the contrary, following the Department's past practice, the Department continues to find this rate relevant and reliable. *See VN Shrimp.*

As both the Vietnam-wide rate and the reimbursement rate are both reliable and relevant, we determine that it has probative value, and is thus in accordance with section 776(c) of the Act, requiring that secondary information be corroborated to the extent practicable (*i.e.*, that it has probative value).

Non-Market Economy Country Status

In every case conducted by the Department involving Vietnam, Vietnam has been treated as a non-market economy (''NME'') country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004). *See, also, FFF2 Final Results.* None of the parties to this proceeding have contested such treatment. Accordingly, we calculated normal value (''NV'') in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country and Surrogate Values

On February 8, 2007, the Department sent interested parties a letter requesting comments on surrogate country selection and information pertaining to valuing factors of production (''FOP''). On March 12, 2007, Petitioners requested a four-week extension and QVD requested a two-month extension of time to file comments on surrogate country selection, information to value FOPs, and submission of factual information. On March 14, 2007, the Department granted a six-week extension to all interested parties for submitting their comments, factual information, and information pertaining to valuing FOPs, to April 30, 2007.

On April 13, 2007, East Sea requested a two-week extension for submitting surrogate country, surrogate values, and factual information. On April 19, 2007, the Department granted a full extension until May 14, 2007, to all interested parties for submitting their comments, factual information, and information pertaining to valuing FOPs. East Sea, QVD, and the Petitioners submitted surrogate country comments and surrogate value data between May 14, 2007, and June 4, 2007. On July 20, 2007, East Sea submitted pre-preliminary results of review comments on surrogate value data for certain packing materials. On July 27, 2007, Petitioners also submitted pre-preliminary results of review comments regarding certain surrogate value information.

Separate Rates Determination

Designation of a country as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within Vietnam are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China* (''Sparklers''), 56 FR 20588 (May 6, 1991), as amplified by the *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*'').

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments decentralizing control of companies.

It is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate rate claim, regardless of whether the respondent received a separate rate in the past. *See Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 63 FR 12440 (March 13, 1998).

For these preliminary results, we only examined the Separate-Rate Certification/Application for the two mandatory companies, East Sea and QVD.[22] The evidence submitted by the

[21] As stated above in the ''Lian Heng'' section, this rate was also used as the Vietnam-wide rate in the investigation, and first and second administrative reviews.

[22] As explained above, the Department is applying rate of 80.88 percent (the Vietnam-wide rate plus an amount to account for reimbursement) to CATACO in this review because CATACO failed to respond to the Department's Q&V Questionnaire and failed to submit Separate-Rate Application/Certification. Accordingly, CATACO is not eligible

two mandatory respondents includes business licenses, financial statements, and narrative information regarding government laws and regulations on corporate ownership, and the companies' operations and selection of management. The evidence provided by them supports a finding of a *de jure* absence of governmental control over their export activities. Thus, we believe that the evidence on the record supports a preliminary finding of an absence of *de jure* government control based on: (1) An absence of restrictive stipulations associated with the exporter's business license; and (2) the legal authority on the record decentralizing control over the respondents.

B. Absence of De Facto Control

The absence of *de facto* governmental control over exports is based on whether a company: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide,* 59 FR at 22587 and Sparklers, 56 FR at 20589; *see, also, 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).

In their questionnaire responses and Separate-Rate Certification and Separate-Rate Application, where applicable, QVD and East Sea submitted evidence indicating an absence of *de facto* governmental control over their export activities. Specifically, this evidence indicates that: (1) Each company sets its own export prices independent of the government and without the approval of a government authority; (2) each company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each company has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) there is no restriction on any of the companies use of export revenues. Therefore, the Department preliminarily finds that East Sea and QVD have established *prima facie* that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers.*

East Sea and QVD participated fully in this review and are receiving a preliminary antidumping duty rate of 0 percent and 14.59 percent, respectively. As noted above, Agifish, Da Nang, Thuan Hung, and Vinh Hoan have preliminarily been rescinded and therefore, they are not eligible for a separate rate. In addition, CATACO is not eligible for a separate rate because it failed to provide the information necessary to conduct a separate rate analysis and is receiving an AFA rate in this review.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in the Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Paul Walker, Senior Analyst, Office 9: Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Results, August 31, 2007 (''Factor Valuation Memo'').

As discussed in the ''Separate Rates'' section, above, the Department considers Vietnam to be an NME country. The Department has treated Vietnam as an NME country in all previous antidumping proceedings. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding contested such treatment. Accordingly, we treated Vietnam as an NME country for purposes of this review and calculated NV, pursuant to section 773(c) of the Act, by valuing the FOPs in a surrogate country.

The Department determined that Bangladesh, Pakistan, India, Indonesia, and Sri Lanka are countries comparable to Vietnam in terms of economic development.[23] Once it has identified economically comparable countries, the Department's practice is to select an appropriate surrogate country from the list based on the availability and reliability of data from the countries. *See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process* (March 1, 2004). In this case, we have found that Bangladesh is a significant producer of comparable merchandise. We find Bangladesh to be a reliable source for surrogate values because Bangladesh is at a similar level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data. *See* Memorandum to the File, through James C. Doyle, Office Director, Office 9, Import Administration, and Alex Villanueva, Program Manager, Office 9, from Michael Holton, Senior Analyst, Re: 3rd Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Selection of a Surrogate Country (August 31, 2007). Thus, we have selected Bangladesh as the primary surrogate country for this administrative review. However, in certain instances where Bangladeshi data was not available, we used data from Indian sources.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results.

Affiliations

Section 771(33) of the Act provides that:

The following persons shall be considered to be 'affiliated' or 'affiliated persons':

for a separate rate. As discussed above, Lian Heng, the third-country reseller in Cambodia, received a company-specific AFA rate of 63.88 percent of its sale of merchandise under review during Period 1 (October 22, 2004 through July 31, 2005), because it failed to provide verifiable information regarding the country of origin of its purchased whole fish input used to produce frozen fish fillets, in accordance with the Department's past practice. *See, e.g., Notice of Preliminary Determination of sales at Less Than Fair Value and Postponement of Final Determination: Wooden Bedroom Furniture From the People's Republic of China,* 69 FR 35312 (June 24, 2004) (the Department does not conduct further separaterates test for respondents wholly owned by companies outside the PRC).

[23] *See* Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9: Antidumping Administrative Review of Certain Frozen Fish Fillets (''Frozen Fish'') from the Socialist Republic of Vietnam: Request for a List of Surrogate Countries (January 22, 2007).

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act stipulates that: ''For purposes of this paragraph, 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.''

East Sea

Piazza's Seafood World, LLC. (''Piazza'') is a U.S. importer and reseller of seafood products. During the POR, Piazza imported, then resold, the subject merchandise which it purchased from East Sea to its unaffiliated customers. Piazza is also East Sea's principal owner. In addition, the President and a board member of East Sea was also employed as an operations consultant and acted as a manager for Piazza during seven months of the POR. Because Piazza directly owns, controls, and holds with power to vote, more than 5 percent of the outstanding shares of East Sea, Piazza and East Sea are affiliated pursuant to section 771(33)(E) of the Act. In addition, because Piazza and East Sea share a common officer who is in a position to exercise control over both companies, the Department finds that Piazza and East Sea are affiliated, pursuant to section 771(33)(G) of the Act. Therefore, the Department based U.S. price on the constructed export price (''CEP'') for East Sea's sales through Piazza to its first unaffiliated U.S. customer.

QVD

In the final results of the second antidumping duty administrative review, the Department determined that QVD, QVD Dong Thap, Thuan Hung, and QVD Choi Moi Farming Cooperative (''QVD Choi Moi'') should be collapsed as a single entity pursuant to sections 771(33)(A), (B), (E), (F), and (G) of the Act and 19 CFR 351.401(f). *See FFF2 Final Results; see, also,* Supplemental Questionnaire at Attachment II (Memorandum to James C. Doyle, Director, Office 9, through Alex Villanueva, Program Manager, Office 9, from Julia Hancock, International Trade Analyst, Office 9, Subject: 2nd Administrative Review of the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Affiliation & Collapsing (''AR2 Affiliation & Collapsing Memo''), dated August 31, 2006) and Attachment III (referencing the *FFF2 Final Results I&D*). The Department also determined that QVD USA LLC (''QVD USA'') is affiliated with QVD, QVD Dong Thap, Thuan Hung, and QVD Choi Moi, pursuant to sections 771(33)(A), (B), (E), (F), and (G) of the Act. Therefore, the Department determined to calculate a CEP for QVD, QVD Dong Thap, Thuan Hung, QVD Choi Moi, and QVD USA's sales through QVD USA to its first unaffiliated U.S. customer. *See FFF2 Final Results. See, also,* Supplemental Questionnaire at Attachment III (referencing the *FFF2 Final Results I&D*).

In QVD's supplemental section A response, it stated that ''{d}uring the {3rd administrative review} POR there were no changes in corporate structures of any of the QVD companies or affiliates. There were no changes from the 2nd administrative review in the capital structure, scope of operations, affiliations, production capacity, ownership or management.'' *See* Section A Supplemental Questionnaire Response of QVD Food Co. (''SAQR1'') at 12, dated June 1, 2007.

For these preliminary results, based on the information on the record of this proceeding, the Department continues to find that QVD, QVD Dong Thap, Thuan Hung and QVD Choi Moi should be collapsed and treated as a single entity. *See, e.g.,* FFF2 Final Results; *See, e.g.,* also, Supplemental Questionnaire at Attachment II (*AR2 Affiliation & Collapsing Memo*) and Attachment III (*FFF2 Final Results I&D*). See, also, SAQR1 at 12. Similarly, for these preliminary results, based on the information on the record of this proceeding, the Department continues to find that QVD and QVD USA are affiliated pursuant to sections 771(33)(A), (B), (E), (F), and (G) of the Act.

Fair Value Comparisons

To determine whether sales of the subject merchandise made by East Sea or QVD to the United States were at prices below NV, we compared each company's export price (''EP'') or CEP, where appropriate, to NV, as described below.

East Sea: Constructed Export Price

In accordance with section 772(b) of the Act, we used the CEP methodology when the first sale to an unaffiliated purchaser occurred after importation of the merchandise into the United States. In this instance, we calculated CEP for all East Sea's U.S. sales through its U.S. affiliate, Piazza, to unaffiliated U.S. customers.

We made adjustments to the gross unit price for rebates, foreign inland freight, foreign brokerage and handling charges, international freight, U.S. inland freight, and U.S. customs duties. In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including commissions, credit expenses, advertising expenses, indirect selling expenses, and inventory carrying costs. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Where movement expenses were provided by NME-service providers or paid for in NME currency, we valued these services using either Bangladeshi or Indian surrogate values. *See* Memorandum to the File, through Alex Villanueva, Program Manager, Office 9, from Paul Walker, Senior Analyst, Subject: 3rd Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Surrogate Values for the Preliminary Results, (August 31, 2007) (''Surrogate Value Memo''). Where applicable, we used the actual reported expense for those movement expenses provided by market economy (''ME'') suppliers and paid for in ME currency.

QVD: Export Price

For QVD's EP sales, we used the EP methodology, pursuant to section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation and CEP was not otherwise warranted by the facts on the record. We calculated EP based on the free-on-board foreign port price to the first unaffiliated purchaser in the United States. For this EP sale, we also deducted foreign inland freight, foreign cold storage, and international ocean freight from the starting price (or gross unit price), in accordance with section 772(c) of the Act.

QVD: Constructed Export Price

In accordance with section 772(b) of the Act, we used the CEP methodology when the first sale to an unaffiliated purchaser occurred after importation of the merchandise into the United States. We calculated CEP for certain U.S. sales

made by QVD through its U.S. affiliates to unaffiliated U.S. customers.

For QVD's CEP sales, we made adjustments to the gross unit price for billing adjustments, rebates, foreign inland freight, international freight, foreign cold storage, U.S. marine insurance, U.S. inland freight, U.S. warehousing, U.S. inland insurance, other U.S. transportation expenses, and U.S. customs duties. In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including commissions, credit expenses, advertising expenses, indirect selling expenses, inventory carry costs, and U.S. re-packing costs. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Where movement expenses were provided by NME-service providers or paid for in NME currency, we valued these services using either Bangladeshi or Indian surrogate values. *See Surrogate Value Memo.* Where applicable, we used the actual reported expense for those movement expenses provided by ME suppliers and paid for in ME currency.

Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the 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. Because information on the record does not permit the calculation of NV using home-market prices, third-country prices, or constructed value and no party has argued otherwise, we calculated NV based on FOPs reported by East Sea and QVD, pursuant to sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

As the basis for NV, East Sea and QVD provided FOPs used in each of the stages for processing frozen fish fillets. QVD also reported that it is an integrated producer (*i.e.*, it farms and processes the whole fish input). QVD provided its affiliated farm (Choi Moi)'s FOP information used in each of the production stages, from the fingerling stage to the frozen fish fillet processing stage, separately.

Our general policy, consistent with section 773(c)(1)(B) of the Act, is to value the FOPs that a respondent uses to produce the subject merchandise. If the NME respondent is an integrated producer, we take into account the factors utilized in each stage of the production process. For example, in a previous aquaculture case, one of the respondents, Zhanjiang Guolian, was a fully integrated firm, and the Department valued both the farming and processing FOPs because Zhanjiang Guolian bore all the costs related to growing the shrimp. *See Notice of Final Determination at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China,* 69 FR 70997 (December 8, 2004) and accompanying Issues and Decision Memorandum at Comment 9(e).

In this case, we are valuing those inputs reported by QVD that were used to produce the main input to the processing stage (whole fish) when calculating NV, whether they were farmed from Choi Moi or purchased by QVD.

To calculate NV, we valued East Sea's and QVD's reported per-unit factor quantities using publicly available Bangladeshi, Indian, and Indonesian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we adjusted the value of material inputs to account for delivery costs. Specifically, we added surrogate freight costs to surrogate values using the reported distances from the Vietnam port to the Vietnam factory, or from the domestic supplier to the factory, where appropriate. This adjustment is in accordance with the decision of the CAFC in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997).

For those values not contemporaneous with the POR, we adjusted for inflation using data published in the International Monetary Fund's *International Financial Statistics.* Import data from South Korea, Thailand and Indonesia were excluded from the surrogate country import data due to generally available export subsidies. *See China Nat'l Mach. Import & Export Corp.* v. *United States,* CIT 01–1114, 293 F. Supp. 2d 1334 (CIT 2003), *aff'd* 104 Fed. Appx. 183 (Fed. Cir. 2004), and *Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 12651, and accompanying Issues and Decision Memorandum at Comment 4 (March 15, 2005). Additionally, we excluded prices from NME countries and imports that were labeled as originating from an ''unspecified'' Asian country. The Department excluded these imports because it could not ascertain whether they were from either an NME country or a country with general export subsidies. We converted the surrogate values to U.S. dollars as appropriate, using the official exchange rate recorded on the dates of sale of subject merchandise in this case, obtained from Import Administration's website at *http://www.ia.ita.doc.gov/exchange/index.html.* For further detail, *see Surrogate Values Memo.*

Preliminary Results of the Review

As a result of our review, we preliminarily find that the following margins exist for the period August 1, 2005, through July 31, 2006:

CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Manufacturer/exporter	Weighted-average margin (percent)
CATACO	80.88
East Sea	0
Lian Heng [24]	63.88
QVD	14.59
Vietnam-wide Rate [25]	63.88

Public Comment

The Department will disclose to parties of this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 20 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette

[24] This AFA rate is applied only to the merchandise under review exported by Lian Heng from October 22, 2004, through July 31, 2005, because it is considered to be produced from Vietnam-origin fish. *See* ''Application of Adverse Facts Available'' section above.

[25] The Vietnam-wide rate includes all entries of frozen fish fillets of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus* produced by CATACO during the POR. As stated above in the ''CATACO'' section, CATACO continues to receive an AFA rate of 80.88 percent which is the Vietnam-wide rate plus an amount to account for reimbursement.

containing the public version of those comments. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

Assessment Rates

Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. For the two mandatory respondents, East Sea and QVD, we will calculate importer-specific duty assessment rates on a per-unit basis.[26] Where the assessment rate is *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. For the respondents receiving dumping rates based upon AFA (*i.e.*, CATACO, and Lian Heng for the period October 22, 2004, through July 31, 2005), the Department, upon completion of these reviews, will instruct CBP to liquidate entries for the POR as specified above in the ''Period of Review'' section of this notice pursuant to 19 CFR 351.212(b). The Department will issue appraisement instructions directly to CBP upon the completion of the final results of these administrative reviews.

Cash-Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review 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 Vietnam and non-Vietnam exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnam exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of 63.88 percent, and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporters that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

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 POR. 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.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–18490 Filed 9–18–07; 8:45 am]

BILLING CODE 3510–DS–P

[26] We divided the total dumping margins (calculated as the difference between NV and EP or CEP) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. We 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.

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty–Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before October 9, 2007. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 2104.

Docket Number: 07–059. Applicant: Northwestern University, 633 Clark St., Evanston, IL 60208. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument is intended to be used by students at all levels of instruction, from academic courses to PhD candidates and will provide an analytical characterization instrumentation resource for hands–on microscope training and academic instruction. It will be used in courses such as microelectronic technology, mechanical engineering nanotechnology and for material science and engineering courses. The instrument will allow simultaneous FIB milling and SEM imaging. Application accepted by Commissioner of Customs: August 29, 2007.

Docket Number: 07–061. Applicant: University of Pennsylvania, 415 South University Ave., Philadelphia, PA 19104. Instrument: Electron Microscope, Model JEM–1011. Manufacturer: Jeol, Ltd., Japan. Intended Use: The instrument is intended to be used to investigate a broad range of biological samples, such as animal and plant tissues, eukaryotic and prokaryotic cells, subcellular organelles, macromolecular complexes and individual biomolecules. Electron microscopy is needed to obtain structural information of biological samples at a high resolution level. Application accepted by Commissioner of Customs: August 29, 2007.

Faye Robinson,

Director, Statutory Import Programs StaffImport Administration.

[FR Doc. E7–18471 Filed 9–18–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for Restoration of Clear Zones and Stormwater Drainage Systems at Boca Chica Field, Naval Air Station, Key West, FL

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Record of Decision.

SUMMARY: The Department of the Navy announces its decision to restore clear zones and stormwater drainage systems at Boca Chica Field, Naval Air Station, Key West, Florida. Restoration actions include a combination of controlled woody vegetation removal, salt marsh

conversion, and future vegetation maintenance. Stormwater drainage system restoration includes the installation of aprons and wing walls on culverts and the replacement of several damaged undersized culverts.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Reed, Naval Facilities Engineering Command Southeast (Code EVc2), 2155 Eagle Drive, North Charleston, SC 29406, telephone 843–820–5543.

SUPPLEMENTARY INFORMATION: The text of the entire Record of Decision (ROD) is provided as follows: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4332(2)(c), and the regulations of the Council on Environmental Quality that implement NEPA procedures, Code of Federal Regulations (CFR) Title 40, Parts 1500–1508, the Department of the Navy (Navy) announces its decision to restore the clear zones and stormwater drainage systems at Boca Chica Field, Naval Air Station Key West (NAS Key West). The proposed restoration activities will be accomplished as set out in Alternative 2, described in the Final Environmental Impact Statement (Final EIS) as the Preferred Alternative.

The Navy proposes to restore clear zones and stormwater drainage systems on Boca Chica Field to bring the airfield into compliance with Navy and Federal Aviation Administration (FAA) Safety Regulations. NAS Key West's primary mission is to provide pilot training facilities and services as well as access to superior airspace and training ranges for tactical aviation squadrons. As such, NAS Key West serves as the Navy's premier East Coast pilot training facility for tactical aviation squadrons. The purpose of the Proposed Action is to ensure the safety of flight operations at Boca Chica Field. The need for the Proposed Action is to ensure continued Department of Defense (DoD) operation of Boca Chica Field through compliance with *Airfield Safety Clearances* (Naval Facilities P–80.3), *Airfield and Heliport Planning and Design* (Unified Facilities Criteria 3–260–01), and *Objects Affecting Navigable Airspace* (Federal Aviation Regulation 14 CFR Part 77).

Because of the size and complexity of this action, the Navy will use a phased approach for the completion of this project, implementing it over several years and utilizing an adaptive management approach as the project goes forward. This phased approach will enable the Navy to incorporate lessons learned as the project evolves, and is consistent with natural resources management goals and objectives identified in the NAS Key West Integrated Natural Resources Management Plan. The project involves both restoration and long-term maintenance that will be completed in various locations at Boca Chica Field. Maintenance measures include trimming and/or removal of vegetation that protrudes into vertically controlled airfield surfaces or that should not be present in laterally controlled surfaces, clearing and grubbing, grading, filling low areas, replanting select areas with native salt marsh vegetation, and supplemental improvements to drainage conditions. Restoration methods will include the use of hand-clearing or mechanized methods (i.e., traditional construction equipment or specialized equipment). Maintenance methods may include mowing, hand-clearing, and prescribed burning where feasible. Use of the adaptive management approach will allow the Navy to restore and maintain safety of flight conditions in a manner that also provides protection to the Lower Keys marsh rabbit (LKMR) and minimizes impacts to wetland communities.

The alternatives for analysis in the Final EIS were developed through a planning process and several internal Navy meetings involving pilots, airfield managers, public works, and environmental staff, as well as stakeholder meetings with the NAS Key West Natural Resources and Environmental Compliance Partnering Team (Partnering Team). The Partnering Team was created in order to protect and conserve the Florida Keys' natural resources, maintain environmental compliance, and enhance the Navy's ability to meet its mission critical objectives. Partnering Team members include representatives from the Navy, as well as from Federal, State, and local government agencies. Specifically, these include: NAS Key West; Commander Navy Region Southeast; Naval Facilities Engineering Command Southeast; United States Environmental Protection Agency (EPA); United States Fish & Wildlife Service (USFWS); the Florida Keys National Marine Sanctuary; Florida Department of Environmental Protection; Monroe County; and City of Key West. The Florida Fish and Wildlife Conservation Commission, National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries), Florida Department of Community Affairs, South Florida Water Management District, and the U.S. Coast Guard are also part of this team, but are not core members. The Partnering Team will serve as an integral source of information prior to design and construction for each phase of the project. At the conclusion of each phase, the Partnering Team will discuss the effectiveness of the specific components of the project and provide suggestions and input relative to the success of each phase based on the proposed monitoring plans.

The Partnering Team was briefed on the Proposed Action during NAS Key West Partnering Team meetings and their input and concerns were solicited. These meetings included discussions on vegetation and wildlife present within the airfield safety clearance zones, specific airfield safety criteria, airfield safety waivers, and the identification of selection criteria to be used to determine the full range of alternatives to be analyzed in the EIS. The Navy determined that the project alternatives would be evaluated based on the following criteria: (1) Meets applicable airfield criteria for Class B runways to include permanent Naval Air Systems Command (NAVAIR) waivers; (2) minimizes disturbance to wetlands and threatened and endangered species and their habitats; (3) is economically feasible; and (4) minimizes the amount of off-site mitigation. Initially the Navy identified four action alternatives for bringing Boca Chica Field into compliance with Navy and FAA criteria. Two of the potential alternatives (fill areas within airfield clearance zones, and dredge and fill select areas within airfield clearance zones) were eliminated from further consideration as candidate alternatives because they did not fulfill all of the aforementioned alternative evaluation criteria.

A Draft and Final EIS were prepared to assess the impacts of the remaining two alternatives. The comparative analysis of the two alternatives was accomplished by evaluating the impacts associated with each approach. The EIS also evaluated the No-Action Alternative, which involves the continued performance of routine airfield grounds maintenance in mowed areas and maintenance of drainage features adjacent to runways and taxiways.

Public Involvement: Public involvement commenced with the scoping process in August 2004 that included publication in the **Federal Register** of a Notice of Intent to prepare the EIS and one scoping meeting to actively solicit input from the public, local governments, Federal and State agencies, and environmental groups. The Draft EIS was filed with the EPA on November 9, 2006, followed by an extended 60-day public comment period. A public hearing was held in December 2006 which provided an opportunity for the public to evaluate

the proposal and analyses contained in the Draft EIS. The Final EIS was filed with the EPA on August 3, 2007, followed by a 30-day no action period to allow public review of the Final EIS. The Final EIS included identification of the Preferred Alternative, conservation measures to reduce environmental consequences, and public and agency comments on the Draft EIS as well as responses to those comments.

Alternatives Analyzed: Two action alternatives were identified and carried forward for detailed analysis in the EIS. Alternative 1, Restoration of Original Clear Zones, would return the airfield condition as originally constructed, including removal of all vegetation within clear zones and restoring drainage and elevations to meet existing safety criteria. NAVAIR-issued waivers would not be required. Alternative 2, Restoration of Clear Zones to Meet Permanent Waivers, would provide vegetation and drainage maintenance to meet permanent safety criteria waivers issued by NAVAIR, and would include management and conservation activities such as the conversion of mangrove wetlands to salt marsh wetlands. Use of the permanent waivers allows the Alternative 2 project footprint to be substantially smaller than the Alternative 1 footprint.

The Navy identified Alternative 2, Restoration of Clear Zones to meet Permanent Waivers, as its Preferred Alternative in the Draft and Final EIS. Under Alternative 2, restoration measures would be completed in clear zones to meet airfield safety clearance criteria taking into account the permanent waivers, and including the conversion of 37.59 acres of area within LKMR habitat to high quality salt marsh (preferred habitat of the LKMR) and other conservation measures. As a result, fewer environmental impacts would result under implementation of this alternative than from Alternative 1. The No-Action Alternative would have the least potential for adverse environmental consequences, and therefore is the environmentally preferred alternative. Implementation of the No-Action Alternative, however, would only solve site-specific safety concerns for a short duration and would ultimately be labor and cost prohibitive. Consequently, the purpose of the Proposed Action, to ensure the safety of flight operations at Boca Chica Field, while at a minimum complying with NAVAIR permanent waivers, would not be met.

Decision: After considering the potential environmental consequences of both Alternatives 1 and 2, and the No-Action Alternative, the Navy has decided to implement the Preferred Alternative, Alternative 2, to restore clear zones and stormwater drainage systems on Boca Chica Field.

Environmental Consequences: In the EIS, the Navy analyzed the environmental impacts that could occur as a result of implementing each of the alternatives, as well as the No-Action Alternative. Chapter 4 of the Final EIS provides a detailed discussion of impacts and mitigation measures. This ROD, however, will focus on the impacts associated with the Preferred Alternative, Alternative 2, Restoration of Clear Zones to Meet Permanent Waivers. The EIS analyzed environmental impacts and the potential magnitude of those impacts relative to nine categories of environmental resources: biological resources; Earth resources; water resources; air quality; noise; cultural resources; Bird Aircraft Strike Hazard (BASH); socioeconomics; and environmental contamination. The Preferred Alternative presents no significant impacts to air quality, noise, BASH, socioeconomics or environmental contamination. Therefore, no mitigation or conservation measures are offered in those areas.

A discussion of those resource categories where the potential for significant impacts was identified, or that were the subject of substantial comments, follows.

Biological Resources: Approximately 260 acres of total wetland communities would be affected by the proposed action under the Preferred Alternative. Woody vegetation that is incompatible with airfield operations and airfield safety would experience the greatest impact, and includes 132.6 acres of mangrove forest, 25.4 acres of scrub mangrove, 27 acres of buttonwoods, and 5 acres of freshwater hardwoods. Grassy salt marsh, low salt marsh, and freshwater marsh would experience minimal impacts overall. Implementation of the Preferred Alternative would result in no loss of wetland habitat within the project area. This will be accomplished through the conversion of mangrove wetlands to salt marsh wetlands.

Effects to the 15 species listed (including one candidate species) under the Endangered Species Act (ESA) that may occur or are known to occur at NAS Key West are addressed in the No Jeopardy Biological Opinion (BO) issued by the USFWS on March 7, 2007. Two of the 15 species addressed are plant species, the Garber's spurge (a listed species), and the Blodgett's wild mercury (a candidate species). The USFWS concluded the Navy's Proposed Action would have ''no effect'' on either plant. The BO also addressed thirteen listed animal species that may occur or are known to occur in the vicinity of Boca Chica Field. Of these, the USFWS concluded the Navy's Proposed Action will have ''no effect'' on Eastern indigo snake, loggerhead sea turtle, green sea turtle, leatherback sea turtle, hawksbill sea turtle, Kemp's Ridley sea turtle, and Stock Island tree snail. The USFWS BO determined that the Navy's Proposed Action ''may affect, but is not likely to adversely affect'' Florida manatee, silver rice rat, bald eagle, roseate tern, and American crocodile.

USFWS reached a determination of ''may affect, likely to adversely affect'' for the LKMR. In an Incidental Take Statement to the BO, the USFWS authorized incidental take of this species resulting from implementation of the Preferred Alternative.

No significant adverse impacts to migratory birds or non-listed wildlife species are expected.

Although there would be no net loss of wetland habitat with the conversion of mangrove wetland to salt marsh wetlands, the Preferred Alternative would result in the loss of 185.14 acres of mangrove habitat classified as Essential Fish Habitat. The Navy submitted an EFH Assessment in March of 2006 as part of consultation with NOAA Fisheries. NOAA Fisheries has provided programmatic comments on the overall project, noting they would continue to review and provide additional recommendations for each future phase of the project. The expanded consultation with NOAA Fisheries will continue through the remaining phases of the project.

On March 30, 2007, NOAA Fisheries Protected Resources Division (PRD) concluded consultation regarding the impacts to the smalltooth sawfish and sea turtles (the ESA-listed species that fall under NOAA Fisheries PRD's purview). Considering the Navy's commitment to conduct advance mitigation of mangrove habitat and complete the remainder of the mitigation concurrent with each phase of the proposed mangrove removal in areas that are accessible to smalltooth sawfish, NOAA Fisheries PRD believed that smalltooth sawfish in or near the project area would have available refuge habitat during and after project completion. Therefore, NOAA Fisheries PRD believed indirect effects on smalltooth sawfish due to habitat loss would be insignificant. NOAA Fisheries PRD concurred with the Navy's determination that the proposed activity is not likely to adversely affect any ESA-listed species under NOAA Fisheries PRD purview.

Mitigation and Conservation Measures: Specific conservation measures have been identified for the following biological resources: Wetlands, the LKMR, EFH and the smalltooth sawfish. For wetlands, the following measures have been identified: (1) Maintain permanent waivers at Boca Chica Field, which reduces the overall project footprint by 77.73 acres and reduces the effects to wetlands by 58.83 acres; (2) no loss of wetland habitat including 37.59 acres of area within LKMR habitat to be converted to high quality salt marsh; and (3) approximately 109 acres of select mangroves outside of LKMR habitat to be filled and converted to maintainable wetlands (e.g., salt marsh wetlands to be maintained by mowing, thereby retaining the hydrologic wetland function on Boca Chica Field while eliminating the flight hazard currently present on the airfield).

For the LKMR, the following measures have been identified in addition to reducing the project footprint as described above: (1) Retain and enhance LKMR habitat; (2) utilize specialized equipment in select areas (i.e., customized or modified equipment that would minimize the amount of disturbance to the substrate, vegetation and wildlife); (3) utilize hand-held equipment in some areas (with a focus on LKMR habitat) which will eliminate heavy machinery and vehicles from those areas, minimizing impacts to substrate and existing herbaceous vegetation, and reducing the potential for wildlife mortality due to vehicular traffic; and (4) in total, convert 37.59 acres of area within LKMR habitat to high quality salt marsh vegetation planted to include species that are known to be preferred food sources of the LKMR, and that can be used as escape cover. Other wildlife found on Boca Chica Field would potentially utilize this marsh habitat as well, including shorebirds and small mammals.

For EFH, the following conservation measures have been identified in addition to reduction in project footprint described above: (1) In some areas where mangrove forests must be removed to meet airfield safety requirements, create high salt marsh which will retain wetland functions and provide episodic support for marine species during periods of inundation; (2) several advanced mitigation projects are proposed on Big Coppitt Key and Geiger Key that will provide creation or enhancement of approximately 60 acres of mangrove habitat; and (3) the Navy has agreed to trim within the transitional surface of the airfield clear zone in an area that will not pose a safety of flight issue (south of the Runway 25 approach), thereby reducing impacts to EFH by 2.47 acres.

For the smalltooth sawfish, conservation measures previously listed for ''wetlands'' and ''EFH'' (including reduction of project footprint and trimming of 2.47 acres south of the Runway 25 approach) have been identified.

These conservation measures, while created specifically for each of these biological resources, will be beneficial to all other biological resources found on Boca Chica Field, including, but not limited to, listed and non-listed wildlife and plant species, seagrasses, and migratory birds.

Earth Resources: Implementation of the Preferred Alternative would result in moderate short-term adverse impacts to existing Earth resources (topography, geology and soil resources) during clearing, grading, grubbing, and dredging and filling activities. No geologic features would be impacted. The Preferred Alternative would result in the disturbance of greater than 1 acre of soil, requiring a National Pollutant Discharge Elimination System (NPDES) *Generic Permit for Storm Water Discharge from Large Construction Activities, Florida Administrative* Code (FAC) 62–621.300(4)(a). Under the Preferred Alternative, the Navy would impact a total of 438.14 acres. This alternative would also use a combination of clearing and grading equipment and techniques to minimize soil disturbance within specific areas.

Mitigation and Conservation Measures: Under the provisions of the Clean Water Act, the Navy would be required to apply for permits pursuant to sections 401 and 404. Prior to issuing its section 404 permit, the U.S. Army Corps of Engineers (USACE) would require the Navy to conduct turbidity and construction management and monitoring. Under the provisions of the NPDES permit, FAC 62–621.300(4)(a), the Navy would be required to complete a Stormwater Pollution Prevention Plan (SWPPP) to reduce pollution at the construction site. The SWPPP would be used to identify and implement Best Management Practices (BMPs) and measures to minimize erosion and sedimentation and properly manage stormwater. BMPs include, but are not limited to: Turbidity screens, silt fences, sediment traps, and storm drain inlet protection. These same measures would be used in order to prevent potential impacts to water resources, as discussed below.

Water Resources: Implementation of the Preferred Alternative would result in short-term minor adverse impacts on existing water resources (hydrology and water quality) during clearing, grading, and grubbing activities. No impacts on groundwater resources or floodplains would be expected. The Preferred Alternative would likely result in short-term erosion due to the removal of vegetation during clearing activities. As a result, loose sediments may migrate into local coastal waters via stormwater runoff, thereby increasing the potential for turbidity. The proposed phasing of the project would minimize the amount of impacts at any one time. Additionally, during any clearing activities the Navy would implement BMPs to reduce the turbidity associated with this project. Over the long-term, the proposed drainage restoration activities to be completed would result in an overall improvement to airfield drainage and safety. Nearly all of the stormwater conveyances on Boca Chica Field drain into natural areas, wetland areas, and stormwater ponds prior to discharging to surrounding water bodies. This provides natural storage which results in increased retention times and functions to minimize stormwater and sedimentation impacts to surrounding surface water bodies.

Cultural Resources: Implementation of the Preferred Alternative would not result in any impacts to historical or archaeological resources. The State Historic Preservation Official (SHPO) concurred with the Navy that the Preferred Alternative, Alternative 2, was the most appropriate option. In a January 5, 2007 letter, the SHPO identified 4 archaeological sites in and around the Area of Potential Effect. Although these 4 areas are located on the Boca Chica installation, none are within the project footprint. The Navy agreed in a letter dated February 8, 2007 to avoid all sites mentioned by the SHPO. Additionally, the Navy agreed to create contingency plans to stop ground disturbing work in case of inadvertent discoveries and to follow Section 106 of the National Historic Preservation Act of 1966, as amended, and 36 CFR part 813: *Post-Review Discoveries;* Chapter 267, *Florida Statutes,* in the event of any inadvertent discovery during the construction phases.

Response To Comments Received On the Final EIS: The Navy received comments on the Final EIS from one Federal agency and two state agencies. The Florida Department of Transportation's comments on the Draft EIS were resolved in the Final EIS. EPA Region 4 recommended inclusion in the ROD of a commitment by the Navy to include turbidity and construction monitoring in the project's SWPPP. This

comment has been addressed within the Earth Resources section of this ROD by clarifying that the USACE permitting process requires turbidity and construction monitoring.

The South Florida Water Management District indicated concern with turbidity and wetland impacts, including secondary wetland impacts. Such concerns are typically addressed through the permitting process, and accordingly the Final EIS indicates that the Navy will comply with permit requirements that implement appropriate pollution prevention techniques to minimize erosion and sedimentation and properly manage stormwater. Additionally the Final EIS states that Best Management Practices and the conditions of the NPDES and other permits will be followed and will limit potential adverse impacts. As part of the permitting process, Navy will apply for an Environmental Resource Permit from the State of Florida, and will be required to demonstrate that a reduction and elimination analysis of proposed wetland impacts has been conducted pursuant to the requirements of the appropriate state agency. Any potential mangrove habitat loss and conversion will be offset through Navy's monitoring and mitigation plan, using a functional analysis (Uniform Mitigation Assessment Methodology) to determine, numerically, the existing wetland functions and proposed mangrove functional loss in affected areas. Specific mitigation will be identified concurrent with each phase of construction and discussed in meetings with the Partnering Team for appropriate input. The Navy's monitoring and mitigation plan will address any secondary impacts that may occur.

SUMMARY: In determining how best to restore the clear zones and stormwater drainage systems on Boca Chica Field, I considered impacts to the following areas: Biological resources; Earth resources; water resources; air quality; noise; cultural resources; BASH; socioeconomics; and environmental contamination. I have also taken into consideration the Navy's consultation with the USFWS regarding endangered species, NOAA Fisheries regarding EFH, and NOAA Fisheries PRD regarding the smalltooth sawfish and sea turtles. I have also considered the comments sent to the Navy by the regulatory community, state and local governments, and the public. After carefully weighing all of these factors, I have determined that the Preferred Alternative, Alternative 2, Restoration of Clear Zones to Meet Permanent Waivers, will best meet the needs of the Navy while also minimizing the environmental impacts associated with airfield restoration.

Dated: September 12, 2007.

BJ Penn,

Assistant Secretary of the Navy (Installations and Environment).

[FR Doc. E7–18383 Filed 9–18–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Closed Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The CNO Executive Panel will report on the findings and recommendations of the Iran Subcommittee to the Chief of Naval Operations. The meeting will consist of discussions of current and future Navy strategy, plans, and policies with respect to Iran, and discussions of future operating environments and force posture implications.

DATES: The meeting will be held on November 29, 2007 from 10 a.m. to 12 p.m.

ADDRESSES: The meeting will be held in CNA Corporation Building, 4825 Mark Center Drive, Alexandria, VA 22311, Boardroom.

FOR FURTHER INFORMATION CONTACT: LCDR Lester Brown, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, telephone: 703–681–4939.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Individuals or interested groups interested may submit written statements for consideration by the Chief of Naval Operations Executive Panel at any time or in response to the agenda of a scheduled meeting. All requests must be submitted to the Designated Federal Officer at the address detailed below.

If the written statement is in response to the agenda mentioned in this meeting notice then the statement, if it is to considered by the Panel for this meeting, must be received at least five days prior to the meeting in question.

The Designated Federal Officer will review all timely submissions with the Chief of Naval Operations Executive Panel Chairperson, and ensure they are provided to members of the Chief of Naval Operations Executive Panel before the meeting that is the subject of this notice.

To contact the Designated Federal Officer, write to Executive Director, CNO Executive Panel (NOOK), 4825 Mark Center Drive, 2nd Floor, Alexandria, VA 22311–1846.

Dated: September 12, 2007.

T. M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–18477 Filed 9–18–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 19, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early

opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 12, 2007.

Delores J. Barber,

Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Assessment Accommodations for English Language Learners.

Frequency: Annually.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 3,667.

Burden Hours: 397.

Abstract: This study will examine the effect of a test accommodation and its impact on the validity of assessments for English language learners (ELLs). Specifically, it will examine the ways in which linguistic students' ability to access content (e.g. math) during testing. Linguistic modification is theory-based process in which the language in test items, directions, and/or response options are modified in ways that clarify and simplify the text without simplifying or significantly altering the construct tested. By comparing the effects of linguistic modification on the performance of ELL students with that of English language proficient general education students without disabilities (non-ELL/non-SD), this study aims to increase understanding of the effects of an accommodation—one that holds promise as a means of decreasing the achievement gap between non-ELL/non-SD and ELL students—on construct validity, differential validity, and incremental validity of achievement test scores. While the initial phase of this study focuses on instrument refinement and validation, the second phase uses experimental design to examine the effectiveness of this accommodation for ELLs on tests of mathematics achievement.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3412. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–18454 Filed 9–18–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 19, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 13, 2007.

James Hyler,

Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.

Office of the Chief Financial Officer

Type of Review: New Collection.

Title: ED–524 Budget Information Non-Construction Programs Form and Instructions.

Frequency: New Awards.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 17,000.

Burden Hours: 297,500.

Abstract: The ED–524 Budget Information Non-Construction Programs Form and Instructions were previously part of another collection, OMB control number 1890–0004. The 1890–0004 collection currently includes three distinct information collection instruments, the ED 524 Budget Form, the ED 524B Grant Performance Report and the administrative requirements in the Education Department General

Administrative Regulations (EDGAR). As part of the renewal of these instruments, we are requesting that each of the instruments be approved under separate OMB control numbers. Separating these instruments into three information collections will make it easier to make additional deletions, revisions or other needed changes to each instrument throughout the approval period and eliminate any potential confusion when changes are made to only one of the instruments. We are requesting a new OMB control number for the ED 524, Budget Form and a three-year approval. Please note that the ED 524B, Grant Performance Report will retain the 1890–0004 number.

The ED 524 form and instructions are included in U.S. Department of Education (ED) discretionary grant application packages and are needed in order for applicants to submit summary-level budget data by budget category, as well as a detailed budget narrative, to request and justify their proposed grant budgets which are part of their grant applications.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3372. When you access the information collection, click on ''Download Attachments ✖ to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–18516 Filed 9–18–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 19, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 13, 2007.

James Hyler,

Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.

Office of the Chief Financial Officer

Type of Review: New.

Title: EDGAR Recordkeeping and Reporting Requirements.

Frequency: On occasion; as needed or required.

Affected Public: Individuals or household; businesses or other for-profit; not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 7,835.

Burden Hours: 33,395.

Abstract: The Education Department General Administrative Regulations (EDGAR) Recordkeeping and Reporting Requirements are currently part of another collection, OMB Control Number 1890–0004. The 1890–0004 collection currently includes three distinct information collection instruments, the ED 524 Budget Form, the ED 524B Grant Performance Report and the recordkeeping and reporting requirements that carry burden in EDGAR. As part of the renewal of these instruments, we are requesting that each of the instruments be approved under separate OMB Control numbers. Separating these instruments into three information collections will make it easier to make additions, deletions, revisions, or other needed changes to each instrument throughout the approval period and eliminate any potential confusion when changes are made to only one of the instruments. We are requesting a new OMB Control number for the EDGAR Recordkeeping and Reporting Requirements and a three-year approval for this collection. Please note that the ED 524B, Grant Performance Report will retain the 1890–0004 number.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3381. When you access the information collection, click on ''Download Attachments'' to view.'' Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–18568 Filed 9–18–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the forms EIA–63A, ''Annual Solar Thermal Collector Manufacturers Survey,'' EIA–63B, ''Annual Photovoltaic Module/Cell Manufacturers Survey,'' and the EIA–902, ''Annual Geothermal Heat Pump Manufacturers Survey,'' to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*, at 3507(h)(1)).

DATES: Comments must be filed by October 19, 2007. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX at 202–395–7285 or e-mail to *Nathan_J._Frey@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place, NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–7345. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland. To ensure receipt of the comments by the due date, submission by FAX (202–586–5261) or e-mail (*grace.sutherland@eia.doe.gov*) is also recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Ms. Sutherland may be contacted by telephone at (202) 586–6264.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e., new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. EIA–63A, ''Annual Solar Thermal Collector Manufacturers Survey,'' EIA–63B, ''Annual Photovoltaic Module/Cell Manufacturers Survey,'' and the EIA–902, ''Annual Geothermal Heat Pump Manufacturers Survey.''
2. Energy Information Administration
3. OMB Number 1905–0196
4. Three-year extension
5. Mandatory
6. EIA's Forms EIA–63A and EIA–63B collect data on the manufacture, shipment, and importation of solar thermal collectors and photovoltaic modules/cells. The data are used by the private sector, the renewable energy industry, the DOE, and other government agencies. Respondents are U.S. companies that manufactured, shipped, and/or imported solar thermal collectors and/or photovoltaic modules and cells. The EIA–902 is used to collect data about the manufacture and distribution of geothermal heat pumps and the status of the industry. The information collected will be used by public and private analysts that are interested in geothermal heat pumps and related energy issues.
7. Business or other for-profit
8. 563 hours

Please refer to the supporting statement as well as the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible nonstatistical uses) of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*, at 3507(h)(1))

Issued in Washington, DC, September 13, 2007.

Jay Casselberry,

Agency Clearance Officer, Energy Information Administration.

[FR Doc. E7–18414 Filed 9–18–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the ''Annual Survey of Alternative Fueled Vehicles'' to the Office of Management and Budget (OMB) for a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 et seq., at 3507(h)(1)).

DATES: Comments must be filed by October 19, 2007. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by Fax at 202–395–7285 or e-mail to *Nathan_J._Frey@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place, NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–7345. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland. To ensure receipt of the comments by the due date, submission by FAX (202–586–5271) or e-mail (*grace.sutherland@eia.doe.gov*) is also recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Ms. Sutherland may be contacted by telephone at (202) 586–6264.

SUPPLEMENTARY INFORMATION: This section contains the following

information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (i.e., the Department of Energy component; (3) the current OMB docket number (if applicable); (4) the type of request (i.e., new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Forms EIA–886, ''Annual Survey of Alternative Fueled Vehicles''

2. Energy Information Administration

3. OMB Number 1905–0191

4. Three-year extension of a currently approved collection

5. Mandatory

6. EIA's ''Annual Survey of Alternative Fueled Vehicle Suppliers and Users'' collects basic data necessary to meet EIA's legislative mandates as well as the needs of EIA's public and private customers. Data collected include the number and type of Alternative Fueled Vehicles (AFVs) that vehicle suppliers made available in the previous calendar year and plan to make available in the following calendar year; the number, type and geographic distribution of AFVs in use in the previous calendar year; and the amount and distribution of each type of Alternative Transportation Fuel (ATF) consumed in the previous calendar year. The data are used for analyses and publications.

7. Federal, State and Local governments; fuel providers; Original Equipment Manufacturers; and Conversion facilities.

8. 10,812.50 hours

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) (44 U.S.C. 3501 et seq.).

Issued in Washington, DC, September 13, 2007.

Jay H. Casselberry,

Agency Clearance Officer, Energy Information Administration.

[FR Doc. E7–18421 Filed 9–18–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

September 12, 2007.

Bethlehem Renewable Energy, LLC (EG07–53–000); El Segundo Power II LLC (EG07–57–000); Forward Energy LLC (EG07–58–000); Kleen Energy Systems, LLC (EG07–59–000); Hopewell Cogeneration Limited Partnership (EG07–60–000); Peetz Table Wind Energy, LLC (EG07–62–000); NRG Texas Power LLC (EG07–63–000); Jamaica Private Power Company Limited and Private Power Operators Limited (FC07–51–000)

Take notice that during the month of August 2007, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18444 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ07–8–000]

Bonneville Power Administration; Notice of Filing

September 12, 2007.

Take notice that on September 6, 2007, pursuant to 18 CFR 35.28(e) and 18 CFR 385.207, Bonneville Power Administration filed a petition for declaratory order granting reciprocity approval for certain terms and conditions of its Open Access Transmission Tariff and a request for an exemption of the filing fee.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 9, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18441 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1005]

City of Boulder; Notice Soliciting Applications

September 13, 2007.

On August 30, 2004, the City of Boulder (City), the licensee for the Boulder Canyon Hydroelectric Project No.1005, filed a notice of intent to file an application for a small conduit exemption for a reconfigured Boulder Canyon Project, pursuant to section 15(b)(1) of the Federal Power Act (FPA). The current license for Project No. 1005 expires on August 31, 2009.

The project is located on Boulder Creek, in Boulder County, near the City of Boulder, Colorado. The project occupies about 36 acres of U.S. Forest Service lands within Roosevelt National Forest. The licensed project consists of: (a) A concrete gravity dam about 720 feet long having a maximum height of 175 feet, including a spillway about 127 feet long with a crest elevation of 8,181.5 feet mean sea level (msl), creating the Barker Reservoir which has

a surface area of 200 acres and a gross storage capacity of 11,687 acre-feet at normal pool elevation 8,180 feet msl; (b) an outlet gate control structure; (c) a 5-foot-by-5-foot concrete tunnel, about 225 feet long and connecting by way of a valve house to an 11.7-mile-long, 36-inch-diameter concrete gravity pipeline; (d) the Kossler Reservoir, a reregulating reservoir having a surface area of 12.25 acres and a gross storage capacity of 165 acre-feet at maximum pool elevation 7,717.6 feet msl and formed by three earth embankment structures: (i) Southwest Dam, an earth-concrete core structure about 450 feet long and about 18 feet high; (ii) Northeast Dam, an earth embankment structure about 20 feet high and 180 feet long; and (iii) West Dam, an earth embankment structure 420 feet long, having a maximum height of about 5 feet; (e) a concrete outlet structure with trash screens and a gate connecting to a 9,340-foot-long steel penstock varying in diameter from 56 to 44 inches; (f) a powerhouse containing two generating units having a total installed capacity of 20 megawatts; (g) a 13–kV generator bus and two 13/115–kV step-up transformers; and (h) appurtenant facilities.

The City did not file an application for a new license or an exemption application for the project. Pursuant to 18 CFR 16.25 (2007), the Commission is soliciting license applications from potential applicants other than the existing licensee. This is necessary because the deadline for filing an application for new license or exemption and any competing applications, pursuant to 18 CFR 16.9 (2007) was August 31, 2007, and no other applications for license for this project were filed.

The licensee is required to make available certain information described in 18 CFR 16.7 (2007). Such information is available by contacting the City of Boulder, Director of Public Water Works for Utilities, P.O. Box 791, Boulder, CO 80306–0791, or by phone at (303) 441–3266.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under Part I of the FPA and Part 4 (except section 4.38) of the Commission's Regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of 18 CFR 16.8 and 16.10 of the Commissions regulations.

Questions concerning this notice should be directed to Gaylord Hoisington, (202) 502–6032 or by e-mail at *Gaylord.hoisington@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18424 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER07–1193–000]

CPV Liberty, LLC; Notice of Issuance of Order

September 13, 2007.

CPV Liberty, LLC (CPV Liberty) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. CPV Liberty also requested waivers of various Commission regulations. In particular, CPV Liberty requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by CPV Liberty.

On September 10, 2007, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by CPV Liberty, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is October 10, 2007.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, CPV Liberty is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of CPV Liberty, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of CPV Liberty's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18425 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC07–204–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Filing

September 13, 2007.

Take notice that on August 28, 2007, Great Lakes Gas Transmission Limited Partnership (''Great Lakes LP'') submitted a filing requesting approval of its accounting treatment for changes in deferred tax balances as the result of a sale and purchase of an existing general partner interest, and a corresponding Internal Revenue Code section 754 election. Great Lakes LP's accounting treatment writes off 46.45 percent of its deferred tax liabilities to equity. In addition, Great Lakes LP proposes to write off to equity deferred tax liabilities associated with retirement plans provided by the seller of the general partner interest. These adjustments reduce Great Lakes LP's deferred tax balances and increase its equity by approximately $135 million.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 27, 2007.

Kimberly Bose,

Secretary.

[FR Doc. E7–18430 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–669–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

September 13, 2007.

Take notice that on August 31, 2007, National Fuel Gas Supply Corporation, (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, 105th Revised Sheet No. 9, to be effective September 1, 2007.

National states that Article II, sections 1 and 2 of the settlement provide that National will recalculate the maximum Interruptible Gathering (IG) rate semi-annually and monthly.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 pm Eastern Time September 18, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18422 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–446–000]

Natural Gas Pipeline Company of America; Notice of Request Under Blanket Authorization

September 12, 2007.

Take notice that on September 6, 2007, Natural Gas Pipeline Company of America (Natural), 747 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP07–446–000, a prior notice request pursuant to sections 157.205 and 157.210 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to increase the horsepower of one of the existing gas turbine compressor units at Compressor Station 342 (CS 342), located in Cameron Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Natural states that in order to create a degree of operational flexibility, compressor Unit #5 at CS 342 will be upgraded from 4,200 horsepower to 5,280 horsepower at the same time it will be undergoing a routine overhaul. Natural asserts that the increase in horsepower will not increase mainline capacity nor will it change the design throughput capacity of CS 342. Natural estimates the cost of construction to be $545,000.

Any questions regarding the application should be directed to Bruce H. Newsome, Vice President, Natural Gas Pipeline Company of America, 747 East 22nd Street, Lombard, Illinois 60148–5072, or call at (630) 691–3526.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the

Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18445 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–45–005]

Northwest Pipeline Corporation; Notice of Application

September 13, 2007.

Take notice that on August 24, 2007, Northwest Pipeline Corporation (Northwest), filed in the above referenced docket, an abbreviated application pursuant to section 7(c) of the Natural Gas Act to amend the certificate of public convenience and necessity that was issued for its Parachute Lateral project by Commission order dated August 16, 2006 in Docket Nos. CP06–45–000 and CP06–45–001.

Northwest requests the Commission to amend the existing certificate of public convenience and necessity issued in Docket Nos. CP06–45–000 and 001 authorizing Northwest to transfer the ownership of the facilities constructed in Docket Nos. CP06–45–000 and 001 to Parachute Pipeline LLC (Parachute) and lease back the Parachute Lateral Facilities from Parachute and continue to operate them as part of Northwest's jurisdictional pipeline system.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time September 19, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18427 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Pacific Connector Gas Pipeline, LP (Docket Nos. CP07–441–000, CP07–442–000, and CP07–443–000) and Jordan Cove Energy Project, L.P. (Docket No. CP07–444–000); Notice of Application for Certificate of Public Convenience and Necessity and Section 3 Authorization

September 13, 2007.

Take notice that on September 4, 2007, Pacific Connector Gas Pipeline, LP, 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket Nos. CP07–441–000, CP07–442–000, and CP07–443–000, an application under section 7 of the Natural Gas Act (NGA) and Parts 157 and 284 of the Federal Energy Regulatory Commission's (Commission) regulations for, respectively, a certificate of public convenience and necessity authorizing the construction and operation of the Pacific Connector Gas Pipeline (Pacific Connector); a blanket certificate to perform certain routine activities and operations; and a blanket certificate to provide open access firm transportation services. The proposed pipeline is approximately 230-miles long and 36 inches in diameter which will transport up to 1 Billion cubic feet (Bcf) per day of regasified liquefied natural gas (LNG) from the Jordan Cove Energy Project, L.P.'s Jordan Cove LNG Import Terminal (Jordan Cove LNG) in Coos County, Oregon to interconnects with Northwest Pipeline Company in Douglas County, Oregon, Avista Corporation in Jackson County, Oregon and with Pacific Gas and Electric Company, Gas Transmission Northwest Corporation and Tuscarora Gas Transmission Company at the terminus of the system in Klamath County, Oregon.

Also take notice that on September 4, 2007, Jordan Cove Energy Project, L.P., 125 Central Avenue, Suite 380, Coos Bay, Oregon 97402, filed with the Commission, in Docket No. CP07–444–000, an application under section 3 of the NGA and Part 153 of the Commission's regulations for authorization to site, construct, and operate a liquefied natural gas import terminal and associated storage facilities in Coos County, Oregon, for the purpose of importing LNG into the United States.

The Pacific Connector and Jordan Cove LNG projects are more fully described as set forth in the applications that are on file with the Commission and open to public inspection. The instant filings may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659

Any questions regarding the applications should be directed to: Beth L. Webb, Dickstein Shapiro, LLP, 1825 Eye Street, NW., Washington, DC 20006, (202) 420–2200 for Jordan Cove LNG; and Teresa Silcox Torrey/Lynn Dahlberg, Pacific Connector Gas Pipeline, LLC, P.O. Box 58900, Salt Lake City, Utah 84158–0900, (801) 584–7051.

On May 1, 2006, the Commission staff granted Jordan Cove LNG's and Pacific Connector's requests to utilize the Pre-Filing process and assigned Docket No. PF06–25–000 to staff activities involving the Jordan Cove LNG project and Docket No. PF06–26–000 to Pacific Connector project. Now, as of the filing of the September 4, 2007 applications, the Pre-Filing Process for these projects has ended. From this time forward, these proceedings will be conducted in Docket Nos. CP07–441–000, CP07–442–000, CP07–443 -000, and CP07–444–000 as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, and to ensure compliance with the National Environmental Policy Act, 42 U.S.C. 4321–4347, the Commission staff will issue a Notice of Schedule for Environmental Review within 90 days of the date of this Notice. The Notice of Schedule for Environmental Review will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) for the proposal. The Notice will also alert other agencies of the requirement to complete necessary reviews and authorizations within 90 days of the

date of issuance of the Commission staff's FEIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 4, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18426 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ07–7–000]

Southwest Transmission Cooperative, Inc.; Notice of Filing

September 12, 2007.

Take notice that on September 5, 2007, Southwest Transmission Cooperative, Inc. filed a request for a declaratory order and submit its Safe Harbor Reciprocity Open Access Transmission Tariff, in order to update its rates, effective September 1, 2007, pursuant to the Arizona Corporation Commission's rate increase.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 5, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18442 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–34–003]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

September 13, 2007.

Take notice that on September 7, 2007, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed an abbreviated application, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Rules and Regulations to amend its Leidy to Long Island certificate issued on May 18, 2006 in Docket No. CP06–34–000, as amended by order issued on January 11, 2007. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Transco requests authorization to amend its certificate to (i) adjust the estimated cost of facilities to capture increase in the estimated cost of materials and labor for certain of the project facilities, and (ii) revise the initial recourse rates for the project to reflect the increased estimated cost.

Any questions regarding the application are to be directed to Bill Hammons, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251–1396; phone number (713) 215–2130.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment

date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: September 27, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18428 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 12, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–166–001.

Applicants: Legg Mason, Inc.

Description: Legg Mason, Inc. submits its Second Amended and Restated Request for Blanket Authorization to Acquire Securities under Section 203 of the Federal Power Act.

Filed Date: 09/10/2007.

Accession Number: 20070912–0070.

Comment Date: 5 p.m. Eastern Time on Thursday, September 20, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–79–000.

Applicants: NRG Texas Power, LLC.

Description: NRG Texas Power, LLC. Notice of Self Certification of Exempt Wholesale Generator Status.

Filed Date: 08/31/2007.

Accession Number: 20070831–5087.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: EG07–80–000.

Applicants: NRG Cedar Bayou Development Company, LLC.

Description: NRG Cedar Bayou Development Company, LLC. submits its Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 09/07/2007.

Accession Number: 20070907–5079.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–324–010; ER97–3834–016.

Applicants: Detroit Edison Company; DTE Energy Trading, Inc.

Description: The Detroit Edison Co. and DTE Energy Trading, Inc. submits amendments to their market-based rate tariffs in compliance with the Commission's Order 697.

Filed Date: 09/04/2007.

Accession Number: 20070907–0052.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 25, 2007.

Docket Numbers: ER98–1150–010; ER07–964–001.

Applicants: Tucson Electric Power Company; UNS Electric, Inc.

Description: Tucson Electric Power Company and UNS Electric, Inc. submit amendments to their market-based rate tariffs in compliance with Order 697.

Filed Date: 09/07/2007.

Accession Number: 20070910–0126.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 19, 2007.

Docket Numbers: ER00–3614–006; ER06–1351–001.

Applicants: BP Energy Company; BP West Coast Products, LLC.

Description: BP Energy Company et al submit a Notice of Change in Status with respect to its market-based rate wholesale power sales authority.

Filed Date: 09/06/2007.

Accession Number: 20070910–0160.

Comment Date: 5 p.m. Eastern Time on Thursday, September 27, 2007.

Docket Numbers: ER02–2330–048.

Applicants: New England Power Pool.

Description: ISO New England Inc. submits report in compliance with FERC's 9/20/02 order.

Filed Date: 09/10/2007.

Accession Number: 20070912–0066.

Comment Date: 5 p.m. Eastern Time on Monday, October 01, 2007.

Docket Numbers: ER03–647–010.

Applicants: New York Independent System Operator, Inc.

Description: Response of the New York Independent System Operator, Inc. to Comments on the ICAP Demand Curve Compliance Filing.

Filed Date: 09/07/2007.

Accession Number: 20070907–5093.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER05–522–005.

Applicants: Bluegrass Generation Company, LLC.

Description: Bluegrass Generation Company, LLC submits its Refund Report.

Filed Date: 08/31/2007.

Accession Number: 20070831–5011.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER05–1232–005; ER05–283–006.

Applicants: JPMorgan Ventures Energy Corporation; JPMorgan Chase Bank, N.A.

Description: Notice of Non-Material Change in Status of JPMorgan Chase Bank, N.A., *et al.*

Filed Date: 09/11/2007.

Accession Number: 20070911–5050.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 02, 2007

Docket Numbers: ER07–1022–001.

Applicants: Duke Energy Carolinas, LLC.

Description: Duke Energy Carolinas, LLC submits the Fifth Revised Volume 3 and Third Revised Volume 5 to comply with FERC's 8/7/07 Order and Order 697.

Filed Date: 09/06/2007.

Accession Number: 20070911–0061.

Comment Date: 5 p.m. Eastern Time on Thursday, September 27, 2007.

Docket Numbers: ER07–1263–001.

Applicants: High Sierra Power Marketing, LLC.

Description: High Sierra Power Marketing, LLC submits Substitute Original Sheets 2 and 3 to its FERC Electric Tariff, Original Volume 1 pursuant to Order 697 under ER07–1263.

Filed Date: 09/10/2007.

Accession Number: 20070912–0065.

Comment Date: 5 p.m. Eastern Time on Thursday, September 20, 2007.

Docket Numbers: ER07–1264–001.

Applicants: Sierra Power Asset Marketing, LLC.

Description: Sierra Power Asset Marketing, LLC submits Substitute Original Sheet 2 and 3 to FERC Electric Tariff, Original Volume 1 pursuant to Order 697.

Filed Date: 09/10/2007.

Accession Number: 20070912–0064.

Comment Date: 5 p.m. Eastern Time on Thursday, September 20, 2007.

Docket Numbers: ER07–1303–001.

Applicants: PS Energy Group, Inc.

Description: PS Energy Group, Inc. submits an amendment to its 8/23/07 filing of its Petition for Acceptance of

Initial Tariff, etc. PS Energy Group, Inc. also amended this filing on 9/12/07.

Filed Date: 09/10/2007; 09/12/07.

Accession Number: 20070911–0060.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 19, 2007.

Docket Numbers: ER07–1349–001.

Applicants: Cheyenne Light Fuel & Power Company.

Description: Cheyenne Light, Fuel and Power Co. requests that FERC accept the Test Power Rate Schedule effective as of 10/1/07.

Filed Date: 09/07/2007.

Accession Number: 20070911–0062.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1351–000.

Applicants: York Generation Company, LLC.

Description: York Generation Co., LLC submits its Rate Schedule FERC 2 re charges and revenue requirements.

Filed Date: 09/05/2007.

Accession Number: 20070907–0051.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 26, 2007.

Docket Numbers: ER07–1352–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas & Electric Company submits document entitled ''PG&E Wholesale Distribution Tariff-Service Agreement for Wholesale Distribution Service to Western Area Power Administration, etc.''

Filed Date: 09/07/2007.

Accession Number: 20070911–0066.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1353–000.

Applicants: Vermont Transco, LLC.

Description: Vermont Electric Power Company, Inc. submits the Hydro-Quebec Participation Agreement, etc.

Filed Date: 09/07/2007.

Accession Number: 20070911–0067.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1354–000.

Applicants: Vermont Electric Power Company, Inc.; Hydro-Québec Transénegie.

Description: Vermont Electric Power Co., Inc., *et al.*, submit their final English-French translated version of the Highgate Asset Owners Agreement.

Filed Date: 09/07/2007.

Accession Number: 20070911–0059.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1355–000.

Applicants: Avista Energy, Inc.

Description: Avista Energy, Inc. submits a Notice of Cancellation of its First Revised Rate Schedule FERC 1.

Filed Date: 09/07/2007.

Accession Number: 20070911–0058.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1356–000.

Applicants: BE Alabama, LLC.

Description: BE Alabama, LLC submits a notification of succession and a change of name from BE Tenaska, LLC.

Filed Date: 09/07/2007.

Accession Number: 20070911–0057.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1357–000.

Applicants: Glacial Holdings.

Description: Petition of Glacial Holdings for acceptance of Initial Rate Schedule, Waivers and Blanket Authority.

Filed Date: 09/07/2007.

Accession Number: 20070911–0056.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1358–000.

Applicants: BE Louisiana, LLC.

Description: BE Louisiana, LLC submits a notification of succession and a change of name from BE Cleco, LLC.

Filed Date: 09/07/2007.

Accession Number: 20070911–0055.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1359–000.

Applicants: Central Hudson Gas & Electric Corp.

Description: Central Hudson Gas & Electric Corp. submits Seventh Revised Sheet 9 et al to its Rate Schedule FERC 202.

Filed Date: 09/07/2007.

Accession Number: 20070911–0054.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

Docket Numbers: ER07–1360–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc submits Service Agreement 206 to FERC Electric Tariff, Third Revised Volume 6 with the City of Alma, Kansas.

Filed Date: 09/10/2007.

Accession Number: 20070911–0053.

Comment Date: 5 p.m. Eastern Time on Monday, October 01, 2007.

Docket Numbers: ER07–1361–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc submits Service Agreement 207 to FERC Electric Tariff, Third Revised Volume 6 with the City of Wathena, Kansas.

Filed Date: 09/10/2007.

Accession Number: 20070911–0052.

Comment Date: 5 p.m. Eastern Time on Monday, October 01, 2007.

Docket Numbers: ER07–1362–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison submits a revised Amended and Restated Service Agreement for Wholesale Distribution Service.

Filed Date: 09/10/2007.

Accession Number: 20070911–0051.

Comment Date: 5 p.m. Eastern Time on Monday, October 01, 2007.

Docket Numbers: ER07–1363–000.

Applicants: Upper Peninsula Power Company.

Description: Upper Peninsula Power Co. submits a notice of termination and rate schedule sheet terminating the Emergency Capacity Sales Agreement with Escanaba Municipal Electric Utility.

Filed Date: 09/10/2007.

Accession Number: 20070911–0050.

Comment Date: 5 p.m. Eastern Time on Monday, October 01, 2007.

Docket Numbers: ER07–1364–000.

Applicants: American Electric Power Service Corp.

Description: American Electric Power Service Corp submits fully executed generation interconnection agreements between AEP Texas Central Company and Texas Gulf Wind, LLC.

Filed Date: 09/11/2007.

Accession Number: 20070912–0068.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 02, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–57–000.

Applicants: Northeast Utilities Service Company.

Description: Northeast Utilities Service Company submits its Application to Issue Securities pursuant to section 204 and on 9/10/07 submit a supplement to this filing.

Filed Date: 08/31/2007; 9/10/07.

Accession Number: 20070831–5054; 20070910–5007.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ES07–59–000.

Applicants: Louisville Gas & Electric Company.

Description: Application for an order pursuant to Section 204 of the Federal Power Act authorizing LG&E to issue debt securities in an amount not exceeding $400 million.

Filed Date: 09/04/2007.

Accession Number: 20070906–0135.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 25, 2007.

Docket Numbers: ES07–60–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities Company submits an application for an order pursuant to Section 204 of the Federal Power Act authorizing them to issue debt securities in an amount not exceeding $400 million at a time.

Filed Date: 09/04/2007.

Accession Number: 20070906–0136.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 25, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–18413 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 12495–000, 12619–000, 12621–000]

Cascade Creek LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Alternative Licensing Procedures

September 13, 2007.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Alternative Licensing Procedures.

b. *Project Nos.:* 12495, 12619, and 12621.

c. *Dated Filed:* August 3, 2007.

d. *Submitted By:* Cascade Creek LLC.

e. *Name of Projects:* Cascade Creek, Ruth Lake, and Scenery Lake Hydroelectric Projects.

f. *Location:* The Cascade Creek Project would be located on Swan Lake and Cascade Creek; the Ruth Lake Project would be located on Ruth Lake and Delta Creek; and Scenery Lake would be located on Scenery Lake and Scenery Creek. All three projects would be located in Petersburg-Wrangle Borough, Alaska, within the Tongass National Forest.

g. *Filed Pursuant to:* 18 CFR 5.3(b)(2) of the Commission's regulations

h. *Applicant Contact:* Mr. Steven C. Marmon, Cascade Creek, LLC, 3633 Alderwood Avenue, Bellingham, WA 98225; phone: (360) 738–9999.

i. *FERC Contact:* David Turner at (202) 502–6091; or e-mail at *david.turner@ferc.gov*.

j. Cascade Creek LLC filed its request to use the Alternative Licensing Procedures on August 3, 2007. Cascade Creek LLC provided public notice of its request on August 9, 2007. In a letter dated September 13, 2007, the Director of the Office of Energy Projects approved Cascade Creek LLC's request to use the Alternative Licensing Procedures.

k. Cascade Creek LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

l. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

m. Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18423 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.: 2677–019]

City of Kaukauna, WI; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

September 12, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2677–019.

c. *Date Filed:* August 29, 2007.

d. *Applicant:* City of Kaukauna, Wisconsin.

e. *Name of Project:* Badger-Rapide Croche Hydroelectric Project.

f. *Location:* On the Fox River in Outagamie County, near the city of Kaukauna, Wisconsin. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mike Pedersen, Kaukauna Utilities, 777 Island Street, P.O. Box 1777, Kaukauna, WI 54130–7077, 920–462–0220, or Arie DeWaal, Mead & Hunt, Inc., 6501 Watts Road, Madison, WI 53719, 608–273–6380.

i. *FERC Contact:* John Smith (202) 502–8972 or *john.smith@ferc.gov.*

j. *Cooperating Agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing

such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* October 29, 2007.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. 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.

m. This application is not ready for environmental analysis at this time.

n. The existing project works consists of the following two developments:

The existing Badger Development utilizes the head created by the 22-foot-high Army Corps of Engineers (Corps) Kaukauna dam and consists of: (1) A 2,100-foot-long, 100-foot-wide power canal that bifurcates into a 260-foot-long, 200-foot-wide canal and a 250-foot-long, 80-foot-wide canal leading to; (2) the Old Badger powerhouse containing two 1,000-kilowatt (kW) generating units for a total installed capacity of 2,000 kW; and (3) the New Badger powerhouse containing two 1,800-kilowatt (kW) generating units for a total installed capacity of 3,600 kW; and (4) appurtenant facilities.

The existing Rapide Croche Development utilizes the head created by the 20-foot-high Corps Rapide Croche dam, located approximately 4.5 miles downstream from the Badger Development and consists of: (1) A powerhouse, located on the south end of the dam, containing four 600-kW generating units for a total installed capacity of 2,400 kW; (2) the 5-mile-long, 12-kV transmission line; and (3) appurtenant facilities.

The proposed project would include decommissioning the Old Badger and New Badger plants and constructing a new 7-MW powerhouse about 150 feet upstream from the existing New Badger plant site. Proposed project works would consist of: (1) A modified power canal leading to; (2) a new powerhouse with integral intake; and (3) two identical 3.5-to 3.6-MW horizontal Kaplan ''S'' type turbines. The Old Badger development would be converted to an alternative use. The New Badger development would be decommissioned, demolished, and removed. The existing service road would be demolished and removed. The tailrace area associated with the existing Old Badger development would be filled with soil. A new service road would be constructed over the filled area. No significant changes are proposed for the Rapide Croche development.

The existing Badger and Rapide Croche developments currently operate in run-of-river mode and as proposed, the new project would continue to operate in a run-of-river mode.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Wisconsin State Historic Preservation Officer (SHPO), as required by 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR at 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate. The Commission staff proposes to issue one environmental assessment (EA) rather than issue a draft and a final EA. Comments, terms and conditions, recommendations, prescriptions, and reply comments, if any, will be addressed in an EA. Staff intends to give at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application. A more detailed processing schedule will be included in the next notice issued for this project.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18438 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12862–000]

FFP Project 5, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

September 12, 2007.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–12862–000.

c. *Date Filed:* July 25, 2007.

d. *Applicant:* FFP Project 5, LLC.

e. *Name of the Project:* Twelve Mile Point Project.

f. *Location:* The project would be located on the Mississippi River in St. Bernard and Orleans Parishes, Louisiana. The project uses no dam or impoundment.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicants Contact:* Mr. Dan Irvin, FFP Project 5, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232–3536.

i. *FERC Contact:* Patricia W. Gillis, (202) 502–8735.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12862–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 5,000 proposed 20-kilowatt Free Flow generating units having a total installed capacity of 100-megawatts, (2) a proposed transmission line, and (4) appurtenant facilities. The project would have an average annual generation of 438-gigawatt-hours and be sold to a local utility.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18439 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12855–000]

FFP Project 11, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

September 12, 2007.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–12855–000.

c. *Date Filed:* July 25, 2007.

d. *Applicant:* FFP Project 11, LLC.

e. *Name of the Project:* Kenner Bend Project.

f. *Location:* The project would be located on the Mississippi River in St.

Charles and Jefferson Parishes, Louisiana. The project uses no dam or impoundment.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicants Contact:* Mr. Dan Irvin, FFP Project 11, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232–3536.

i. *FERC Contact:* Patricia W. Gillis, (202) 502–8735.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12855–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 2,250 proposed 20-kilowatt Free Flow generating units having a total installed capacity of 45-megawatts, (2) a proposed transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 197.1-gigawatt-hours and be sold to a local utility.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', and ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18440 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD07–12–000]

Reliability Standard Compliance and Enforcement in Regions With Independent System Operators and Regional Transmission Organizations; Final Notice and Agenda for the Technical Conference

September 13, 2007.

As announced on June 15, 2007 and August 2, 2007, the staff of the Federal Energy Regulatory Commission will hold a technical conference in the above-referenced proceeding on September 18, 2007, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC. It will be held in the Commission Meeting Room (Room 2C) from 9:30 a.m. until 1 p.m. (EDT).

All interested persons are invited, and there is *no* registration fee to attend.

The conference will explore issues associated with the cost recovery of penalties for Reliability Standard violations assessed against independent system operators (ISOs) and regional transmission organizations (RTOs), as set forth in *Midwest Independent Transmission System Operator, Inc.,* 119 FERC ¶ 61,222 (May 31, 2007) in Docket Nos. ER07–701–000 and AD07–12–000. In that Order, the following topics were identified for discussion:

1. How each ISO's or RTO's regional tariffs and other operational agreements and protocols allocate reliability responsibilities among the parties;

2. What provisions exist in those tariffs, agreements, and protocols to establish responsibility for penalty costs associated with Reliability Standard violations;

3. What provisions exist that may prevent an entity from being registered for compliance with relevant Reliability Standards if its failure to perform under such tariffs, agreements, and protocols leads to a violation of Reliability Standards; and

4. What policies for any pass-through of penalty costs associated with Reliability Standard violations by ISOs and RTOs would both best provide due process for entities that would ultimately be required to pay these penalty costs and also avoid redundant investigations and litigation of Reliability Standard violations.

The agenda, panelists and topics for the conference will be as follows:

Welcome and Introduction to the conference: 9:30–9:45 a.m.

Panel One: 9:45–10:45 a.m.

New York ISO: Mark Lynch, Chief Executive Officer.

PJM Interconnection, LLC. (PJM): Steven Pincus, Senior Counsel for PJM.

ERCOT: Mike Grable, Assistant General Counsel.

California ISO: Anthony Ivancovich, Assistant General Council—Regulatory.

Southwest Power Pool (SPP): Les Dillahunty, Vice President, Regulatory Policy.

Midwest Independent Transmission System Operator, Inc. (MISO): Stephen G. Kozey, Vice President, General Counsel and Secretary.

Panelists should be prepared to address Commission Topics 1, 2, 3 and 4 above. In addition, panelists are requested to consider the following topics:

A. Should an RTO or ISO be permitted to allocate to its customers or members reliability penalties assessed against it pursuant to section 215 of the FPA? If so, should this be handled by tariff or by contract? What allocation method would fairly apportion the cost burden?

B. If an RTO or ISO is permitted to pass on to its customers or members the reliability penalties assessed against it, how should the Commission ensure that the RTO/ISO has adequate incentives to comply with the Reliability Standards?

C. Should an RTO or ISO be permitted to directly assign to specific customers, market participants or members reliability penalties assessed against it, and if so, how should duplicative proceedings be avoided and due process ensured?

Break: 10:45–11a.m.

Panel Two: 11 a.m.–12 p.m.

Dale Landgren, Vice President and Chief Strategic Officer, American Transmission Company.

Brian F. Thumm, P.E., Manager, ERO/Regional Affairs, ITC Holdings.

Maureen Borkowski, Vice President of Transmission, Ameren Services.

Tamara Linde, Vice President—Regulatory, PSEG Services Corporation.

Bary K. Warren, Director of Transmission Policy and Compliance, Empire District Electric Company.

John A. Anderson, President and CEO, Electricity Consumers Resource Council (ELCON).

Panelists should be prepared to address Commission Topics 1, 2, 3 and 4 above. In addition, panelists are requested to consider the following topics:

A. Should an RTO or ISO be permitted to allocate to its customers or members reliability penalties assessed against it pursuant to section 215 of the FPA? If so, should this be handled by tariff or by contract? What allocation method would fairly apportion the cost burden?

B. If an RTO or ISO is not permitted to pass on reliability penalty costs assessed against it, what source of funds is suggested for payment?

C. Should an RTO or ISO be permitted to directly assign to specific customers, market participants or members reliability penalties assessed against it, and if so, how should duplicative proceedings be avoided and due process ensured?

Panel Three: 12–1 p.m.

NERC: David Whiteley, Executive Vice President.

ReliabilityFirst Corporation (RFC): Raymond Palmieri, Vice President and Director of Compliance.

Texas Regional Entity (TRE): Larry Grimm, Director of Compliance.

Northeast Power Coordinating Council (NPCC): Edward Schwerdt, President and CEO.

Midwest Reliability Organization (MRO): Dan Skaar, President.

Panelists should be prepared to address Commission Topics 3 and 4 above. In addition, panelists are requested to consider the following topics:

A. How would Regional Entities and NERC address in enforcement proceedings assessment of penalties for matters in which an RTO or ISO and one or more customers or members violated the same Reliability Standard or different Reliability Standards?

B. If an RTO or ISO asserts that an entity that is not listed in NERC's compliance registry is responsible for the RTO's or ISO's violation of a Reliability Standard, in an enforcement hearing pursuant to section 215 of the FPA, will Regional Entities or NERC inquire if the root cause of the violation lies with that entity and provide the entity an opportunity to participate in the proceeding?

Closing Remarks: 1 p.m.

A free Web cast of this event will be available through *www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its Web cast. The Capitol Connection provides technical support for the Web casts and offers access to the meeting via a phone bridge for a fee. If you have any questions, visit

www.CapitolConnection.org or contact Danelle Perkowski or David Reininger at 703–993–3100.

Transcripts of the meeting will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646). They will be available for free on the Commission's eLibrary system and on the events calendar approximately one week after the conference.

FERC conferences and meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

Questions about the conference should be directed to Don LeKang by e-mail at *donald.lekang@ferc.gov* or by phone at 202–502–8127.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18429 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

September 13, 2007.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: September 20, 2007, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on-line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

922ND—Meeting

REGULAR MEETING

[September 20, 2007, 10 a.m.]

Item No.	Docket No.	Company
		ADMINISTRATIVE
A–1	AD02–1–000	Agency Administrative Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Energy Market Update.
		ELECTRIC
E–1	RR06–1–008	North American Electric Reliability Council North American Electric Reliability Corporation.
	RR07–1–001	Delegation Agreement Between the North American Electric Reliability Corporation and Texas Regional Entity, a division of ERCOT.
	RR07–2–001	Delegation Agreement Between the North American Electric Reliability Corporation and Midwest Reliability Organization.
	RR07–3–001	Delegation Agreement Between the North American Electric Reliability Corporation and Northeast Power Coordinating Council: Cross Border Regional Entity, Inc.
	RR07–4–001	Delegation Agreement Between the North American Electric Reliability Corporation and ReliabilityFirst Corporation.
	RR07–5–001	Delegation Agreement Between the North American Electric Reliability Corporation and SERC Reliability Corporation.
	RR07–6–001	Delegation Agreement Between the North American Electric Reliability Corporation and Southwest Power Pool, Inc.
	RR07–7–001	Delegation Agreement Between the North American Electric Reliability Corporation and Western Electricity Coordinating Council.
	RR07–8–001	Delegation Agreement Between the North American Electric Reliability Corporation and Florida Reliability Coordinating Council.
	RR06–3–003	North American Electric Reliability Corporation.
E–2	RR06–1–009	North American Electric Reliability Corp.
E–3	EL07–56–000 EL07–58–000	Allegheny Electric Cooperative, Inc., et al. v. PJM Interconnection LLC; Organization of PJM States, Inc., et al. v. PJM Interconnection, L.L.C.
E–4	RM01–8–006	Revised Public Utility Filing Requirements for Electric Quarterly Reports.
E–5	ER07–1192–000	Wisconsin Electric Power Company.
E–6	ER07–1142–000	Arizona Public Service Company.
E–7	EF07–2021–000	United States Department of Energy—Bonneville Power Administration.
E–8	ER02–2330–047	ISO New England Inc.
E–9	EL07–81–000	NSTAR Electric Company v. ISO New England Inc.
E–10	EL01–93–012	Mirant Americas Energy Marketing, L.P., Mirant New England, LLC, Mirant Kendall, LLC and Mirant Canal, LLC v. ISO New England Inc.
	ER03–631–003	ISO New England Inc.
E–11	EL00–66–007	Louisiana Public Service Commission and the Council of the City of New Orleans v. Entergy Corporation.
E–12	QM07–4–001	American Electric Power Service Corporation, Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company.

REGULAR MEETING—Continued

[September 20, 2007, 10 a.m.]

Item No.	Docket No.	Company
E–13	ER07–543–001	Linden VFT, LLC.
E–14	OMITTED.	
E–15	ER06–274–005	Southwestern Public Service Company.
E–16	OMITTED.	
E–17	ER06–615–007	California Independent System Operator Corporation.
	ER02–1656–033	
E–18	EL07–33–001	California Independent System Operator Corporation.
E–19	EL06–97–001	Wisconsin Public Service Corp., Upper Peninsula Power Co., WPS Energy Services, Inc. and WPS Power Development, LLC v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.
E–20	EL05–19–002	Golden Spread Electric Cooperative, Inc., Lyntegar Electric Cooperative, Inc., Farmers' Electric Cooperative, Inc., Lea County Electric Cooperative, Inc., Central Valley Electric Cooperative, Inc. and Roosevelt County Electric Cooperative, Inc. v. Southwestern Public Service Company.
	ER05–168–001	Southwestern Public Service Company.
GAS		
G–1	RM07–20–000	Fuel Retention Practices of Natural Gas Companies.
G–2	RM07–9–000	Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines.
G–3	IS06–356–003	SFPP, L.P.
HYDRO		
H–1	P–7267–017	Joseph M. Keating.
H–2	P–2216–068	New York Power Authority.
H–3	P–12734–002	Midwest Hydraulic, Inc.
H–4	P–2539–033	Erie Boulevard Hydropower, L.P.
H–5	P–2426–206	California Department of Water Resources and the City of Los Angeles.
CERTIFICATES		
C–1	RM06–7–002	Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates.
C–2	CP07–90–000	Tres Palacios Gas Storage, LLC.
	CP07–91–000	
	CP07–92–000	
C–3	CP07–44–000	Southeast Supply Header, LLC.
	CP07–44–001	Southern Natural Gas Company.
	CP07–45–000	Southeast Supply Header, LLC.
	CP07–46–000.	
	CP07–47–000.	
C–4	CP06–470–000	Southern LNG, Inc.
	CP06–471–000	Elba Express Company, LLC
	CP06–471–001	
	CP06–472–000	
	CP06–472–001	
	CP06–473–000	
	CP06–473–001.	
	CP06–474–000	Southern Natural Gas Company.
	CP06–474–001	
C–5	CP05–91–000	Calhoun LNG, L.P.
	CP05–380–000	Point Comfort Pipeline Company, L.P.
	CP05–381–000.	
	CP05–382–000.	

A free webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–18387 Filed 9–18–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Wind Hydropower Integration Feasibility Study

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a Draft Study Work Plan.

SUMMARY: The Western Area Power Administration (Western) is publishing this notice to inform interested parties of the draft Study Work Plan for performing the Wind Hydropower Integration Feasibility Study (WHFS). The WHFS involves a study on the integration of wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply power to Western. This study applies only to Western's Upper Great Plains Region (UGPR).

DATES: The comment period begins today and will end October 19, 2007. Western will hold a public meeting on the draft Study Work Plan associated with the WHFS on September 27, 2007, and will commence at 9 a.m. CDT.

ADDRESSES: Send written comments to Mr. Robert J. Harris, Regional Manager, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, or e-mail *UGPWindHydroFS@wapa.gov*. The public meeting location is the Comfort Inn, 1030 East Interstate Avenue, Bismarck, North Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. Michael A. Radecki, Energy Services Specialist, Upper Great Plains Region, Western Area Power Administration, 2900 4th Avenue North, Billings, MT 59101–1266, telephone (406) 247–7442, e-mail *radecki@wapa.gov*.

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 2005, section 2606 (EPAct 2005, Sec 2606), Public Law 109–058, requires that:

> The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that uses wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

EPAct 2005, Sec. 2606 also directed the formation of a study team to include an independent tribal engineer and a Western customer representative. In March 2007, through written correspondence, Western requested nominations for an independent tribal engineer from each of the 25 Indian tribes in the UGPR. Three Indian tribes and one tribal organization responded to this request and are serving as WHFS study team members. Western solicited non-tribal customer representation through the Mid-West Electric Consumers Association, which represents the majority of Western's customers in the UGPR. Three UGPR customers serve as customer representative project team members.

Objectives

The objectives of the WHFS as required by EPAct 2005, Sec. 2606, include: (1) Determine the economic and engineering feasibility of blending wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers, including an assessment of the costs and benefits of blending wind energy and hydropower compared to current sources used for firming power to Western; (2) review historical and projected requirements for patterns of availability and use and reasons for historical patterns concerning the availability of firming power; (3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period; (4) determine the seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation and identify costs associated with these activities; and (5) incorporate to the extent appropriate the results of the Dakotas Wind Transmission Study.

WHFS Work Scope

Western seeks public comment on the proposed scope of work.

The draft WHFS work plan has been structured to address the requirements of EPAct 2005, Sec. 2606, as well as incorporate and make best use of previous wind integration and transmission studies. The WHFS work plan consists of six work elements, which have been summarized below. The complete work plan can be found at *http://www.wapa.gov/ugp/Power_Marketing/WindHydro/Default.htm.*

Work Element 1: WHFS Work Plan

Develop a final work plan that will communicate the overall approach to the WHFS Project Team and the general public. A proposed WHFS work plan was initially developed and reviewed by the study team and is now available for public review and comment.

Work Element 2: Analysis of Historical Western Purchase Requirements

This work element will assess a broad range of historical requirements and costs for additional capacity and energy required to meet Western's firm power obligations. Specific objectives of this work element include the identification of historical purchase power patterns as compared to availability of hydropower system load characteristics and other system requirements. The results of this work element will serve as a foundation for determining an appropriate quantity of tribal wind energy integration and the best possible locations for tribal wind energy projects.

Work Element 3: Wind Project Identification

A standard questionnaire will be developed to obtain information on proposed projects to demonstrate potential costs and benefits associated with the use of wind power to displace energy that would otherwise be purchased. It is expected that potential projects will be in various stages of development and may, therefore, result in less than complete information.

Work Element 4: Transmission System Evaluation

Potential tribal wind energy projects identified in Work Element 3 will be assessed for potential impacts to the UGPR transmission system, including the scope and costs of any transmission system improvements or modifications required to integrate potential tribal wind energy projects.

Work Element 5: Assessment of UGPR Impacts

This work element will consist of two major components: (1) Long-term economics and (2) operational feasibility. Both components will be assessed through the use of PROMOD IV software. The long-term economics are predominantly driven by the market price of purchased power as compared to the cost of displacement energy generated by tribal energy projects. The operational feasibility study will assess various degrees of wind energy integration and the resulting impacts on UGPR's overall system operations and transmission constraints.

Work Element 6: WHFS Report

The resulting WHFS report will address the efforts and conclusions of each work element as well as contain: (1) A comparison of the potential energy cost or benefits to the customers of Western through the use of combined wind and hydropower; (2) a description of the economics and engineering/

operational characteristics of the combined wind and hydropower system on Western's UGPR, including potential reductions of reservoir fluctuation, enhanced efficient and reliable energy production, and identified Missouri River management flexibility; (3) recommendations and general criteria for a project to be carried out by Western in partnership with an Indian tribal government or tribal energy resource development organization and Western customers to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to Western; (4) a discussion of identified economic and environmental cost of, or benefits to be realized through, a Federal-tribal-customer partnership; and (5) an identification of the manner in which a Federal-tribal-customer partnership could contribute to the energy security of the United States.

Study Guidelines

All models and system data will be coordinated with and consistent with existing Mid-Continent Area Power Pool and Midwest Independent System Operator models and databases. Wind turbine models will reflect specifications identified per each tribal energy project.

Availability of Information

The WHFS work plan will be available for inspection and copying at the UGPR office located at 2900 4th Ave. North, Billings, Montana. This document is also available for viewing at *http://www.wapa.gov/ugp/Power_Marketing/WindHydro/Default.htm.*

Work Plan Procedure Requirements

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021), Western is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

Dated: September 12, 2007.

Timothy J. Meeks,

Administrator.

[FR Doc. E7–18480 Filed 9–18–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0177; FRL–8148–5]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 56228–EUP–GO from the United States Department of Agriculture's Animal and Plant Health Inspection Service (USDA APHIS) requesting an experimental use permit (EUP) for the mammalian gonadotropin releasing hormone (GnRH). This is a new active ingredient. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before October 19, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0177, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0177. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Joanne Edwards, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number:

(703) 305–6736; e-mail address: *edwards.joanne@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Background

USDA APHIS is applying for an EUP for the use of GonaCon™ Immunocontraceptive Vaccine, containing the active ingredient GnRH, to investigate the efficacy of reproductive control in female elk (*Cervus elaphus*) at the Rocky Mountain National Park, Colorado. There are approximately 265,000 acres in the park, although the treated area will be much less than this. Maximum quantity of active ingredient to be used is 36 milligrams (120 milliliters of formulated product).

III. What Action is the Agency Taking?

Following the review of the USDA APHIS application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: September 11, 2007.

Kathy S. Monk,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–18361 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2007–0903, FRL–8469–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements and Exemptions for Specific RCRA Wastes; EPA ICR No. 1597.08, OMB Control No. 2050–0145

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on February 29, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below. The Agency is considering combining the Used Oil Management Standards Recordkeeping and Reporting Requirements ICR (EPA ICR No. 1286.07, OMB Control No. 2050–0124) into this ICR. That ICR is not scheduled to expire until March 31, 2009.

DATES: Comments must be submitted on or before November 19, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2007–0903, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: rcra-docket@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* RCRA Docket (5305T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* 1301 Constitution Ave., NW., Room 3334, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2007–0903. 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* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured

and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Tab Tesnau, Office of Solid Waste (mail code 5303P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–605–0636; fax number: 703–308–8617; E-mail address: *tesnau.tab@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2007–0903, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for RCRA Docket is (202) 566–0270.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply To?

Affected entities: Entities potentially affected by this action are Business, Farms, State, Local, or Tribal Governments.

Title: Requirements and Exemptions for Specific RCRA Wastes.

ICR numbers: EPA ICR No. 1597.08, OMB Control No. 2050–0145.

ICR status: This ICR is currently scheduled to expire on February 29, 2008. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In the 1976 Resource Conservation and Recovery Act (RCRA), as amended, Congress directs the U.S. Environmental Protection Agency (EPA) to develop and administer a comprehensive program for the safe management and disposal of hazardous waste. In 1980, EPA promulgated regulations in 40 CFR parts 261–265 to comply with RCRA. EPA has since added to these regulations on many occasions. This ICR concerns two such additions.

In 1995, EPA promulgated regulations in 40 CFR part 273 that govern the collection and management of widely-generated hazardous wastes known as ''Universal Wastes''. Universal Wastes are wastes that are generated in non-industrial settings by a vast community, and are present in non-hazardous waste management systems. Examples of Universal Wastes include certain batteries, pesticides, mercury-containing lamps and thermostats. The part 273 regulations are designed to separate Universal Waste from the municipal wastestream by encouraging individuals and organizations to collect these wastes and to manage them in an appropriate hazardous waste management system. EPA distinguishes two types of handlers of Universal Wastes: Small quantity handlers of Universal Waste (SQHUW) and large quantity handlers of Universal Waste (LQHUW). SQHUWs do not accumulate more than 5,000 kg of any one category of Universal Waste at one time, while LQHUWs may accumulate quantities at or above this threshold. More stringent requirements are imposed on LQHUWs because of greater potential environmental risks.

In 2001, EPA promulgated regulations in 40 CFR part 266 that provide increased flexibility to facilities managing wastes commonly known as ''Mixed Waste''. Mixed Waste are low-level mixed waste (LLMW), and naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. These wastes are also regulated by the Atomic Energy Act. As long as specified eligibility criteria and conditions are met, LLMW and NARM are exempt from the definition of hazardous waste as

defined in part 261. Although these eligible wastes are exempted from RCRA manifest, transportation, and disposal requirements, they must still comply with the manifest, transportation, and disposal requirements under the NRC (or NRC-Agreement State) regulations. There are two conditional exemptions. The Storage and Treatment Conditional Exemption applies to any generator of LLMW who is licensed by NRC or an NRC Agreement State to manage radioactive materials. This exemption is available only to LLMW generated under a single NRC or NRC Agreement State license. LLMW generators must notify EPA of the LLMW storage units for which they are claiming an exemption, and must meet the conditions listed in § 266.230. This exemption is valid as long as the Mixed Waste meets the conditions, remains in a conditionally exempt storage unit, and is subject to NRC regulation.

The Transportation and Disposal Conditional Exemption from the definition of hazardous waste applies to generators and treaters who send their treated waste to a commercial low-level radioactive waste disposal facility (LLRWDF) licensed by NRC or NRC Agreement State. The eligible LLMW or NARM waste would be exempted from RCRA Subtitle C once it is placed on the transportation vehicle bound for disposal at the LLRWDF. The waste could then be transported to the LLRWDF as strictly radioactive waste using an NRC Uniform LLW Manifest. Generators and treaters under the exemption must undertake the information collection requirements listed in § 266.345.

In 1992, EPA finalized management standards for used oils destined for recycling (see 40 CFR part 279). To document and ensure proper handling of used oil, these regulations establish notification, testing, tracking and recordkeeping requirements for used oil transporters, processors, re-refiners, marketers, and burners. They also set standards for the prevention and cleanup of releases to the environment during storage and transit, and for the safe closure of storage units and processing and re-refining facilities to mitigate future releases and damages. EPA believes these requirements minimize potential hazards to human health and the environment from the potential mismanagement of used oil by used oil handlers, while providing for the safe recycling of used oil. Information from these information collection requirements is used to ensure compliance with the Used Oil Management Standards in 40 CFR part 279.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 121,422.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.02.

Estimated total annual burden hours: 653,520.

Estimated total annual costs: $34,208,000. This includes an estimated labor burden cost of $24,193,000 and an estimated cost of $10,015,000 for capital investment or maintenance and operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: September 11, 2007.

Matthew Hale,

Director, Office of Solid Waste.

[FR Doc. 07–4643 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8470–3]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses To Agency Clearance Requests

OMB Approvals

EPA ICR No. 0116.08; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program (Renewal); was approved 08/21/2007; OMB Number 2060–0060; expires 08/31/2010.

EPA ICR No. 2260.01; Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency; was approved 08/31/2007; OMB Number 2090–0029; expires 02/29/2008.

EPA ICR No. 1063.10; NSPS for Sewage Sludge Treatment Plants (Renewal); in 40 CFR part 60, subpart O; was approved 08/30/2007; OMB Number 2060–0035; expires 08/31/2010.

EPA ICR No. 1966.03; NESHAP for Boat Manufacturing (Renewal); in 40 CFR part 63, subpart VVVV; was approved 09/10/2007; OMB Number 2060–0546; expires 09/30/2010.

EPA ICR No. 1611.06; NESHAP for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (Renewal); in 40 CFR part 63, subpart N; was approved 09/10/2007; OMB Number 2060–0327; expires 09/30/2010.

Comment Filed

EPA ICR No. 2263.01; NSPS for Petroleum Refineries for which

Construction, Reconstruction, or Modification Commenced after Date of Final Rule (Proposed Rule); in 40 CFR part 60, subpart Ja; OMB Number 2060–0602; OMB filed a comment on 09/04/2007.

EPA ICR No. 1230.19; Prevention of Significant Deterioration and Non-Attainment New Source Review: Emissions Test for Electric Generating Units (Proposed Rule); OMB Number 2060–0003; OMB filed a comment on 08/21/2007.

EPA ICR No. 1684.10; Information Requirements for Non-road and On-Highway Heavy-Duty Engines (Proposed Rule for Marine Engines); OMB Number 2060–0287; OMB filed a comment on 08/21/2007.

EPA ICR No. 2224.01; Exposure to n-propyl Bromide under the Significant New Alternatives Policy (SNAP) Program (Proposed Rule); OMB Number 2060–0601; OMB filed comments on 08/14/2007.

EPA ICR No. 1715.08; TSCA Section 402 and 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities (Second Proposed Rule Addendum); OMB Number 2070–0155; OMB file comment on 09/10/2007.

Dated: September 11, 2007.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. E7–18511 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0726; FRL–8470–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Aerospace Manufacturing and Rework (Renewal), EPA ICR Number 1687.07, OMB Control Number 2060–0314

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before October 19, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0726, to (1) EPA online using *www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T , 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 5, 2006 (71 FR 38853), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2006–0726, which is available for public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket and Information Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Aerospace Manufacturing and Rework (Renewal).

ICR Numbers: EPA ICR Number 1687.07, OMB Control Number 2060–0314.

ICR Status: This ICR is scheduled to expire on September 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The respondents to the information collection are owners or operators of new, reconstructed, and existing aerospace manufacturing and rework facilities where the total hazardous air pollutants (HAP) emitted are greater than or equal to 10 tons per year of any one HAP; or where the total HAP emitted are greater than or equal to 25 tons per year of any combination of HAP. Operations covered include: Cleaning, primer and top coat application, depainting, chemical milling maskant application, and handling and storage of waste. This information will then be used by enforcement agencies to verify that sources subject to the standard are meeting the emission reductions mandated by the Clean Air Act.

Owners/operators of aerospace manufacturing and rework facilities are required to submit initial notification, performance tests, and periodic reports. Respondents are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Semiannual reports are also

required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NESHAP.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintain reports and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart GG as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 259 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Aerospace manufacturing and rework.

Estimated Number of Respondents: 136.

Frequency of Response: Initially, quarterly, semiannually and on occasion.

Estimated Total Annual Hour Burden: 141,018.

Estimated Total Annual Cost: $12,611,605, which includes $0 annualized Capital Startup costs, $136,000 annualized Operating and Maintenance (O&M) costs, and $12, 575,605 annualized Labor costs.

Changes in the Estimates: There is an adjustment decrease of 627 hours in the total estimated burden hours as currently identified in the OMB Inventory of Approved Burdens, This decrease is not due to any program changes.

Dated: September 11, 2007.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. E7–18513 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2007–0201; FRL–8470–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Listing of Fish Advisories (Renewal), EPA ICR Number 1959.03, OMB Control Number 2040–0226

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 19, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2007–0201, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *OW–Docket@epa.gov*, or by mail to: Environmental Protection Agency, EPA Docket Center, Water Docket (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Erica Fleisig, National Fish Contamination Program (4305T), Office of Science and Technology, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 566–1057; fax number: (202) 566–0409; e-mail address: *fleisig.erica@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 12, 2007 (72 FR 18475), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received 1 comment during the comment period, which is addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2007–0201, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: National Listing of Fish Advisories (Renewal).

ICR numbers: EPA ICR No. 1959.03, OMB Control No. 2040–0226.

ICR Status: This ICR is scheduled to expire on September 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond

to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Listing of Fish Advisories (NLFA) Database contains information on the number of new advisories issued by each state, territory, or tribe annually. The advisory information collected identifies the waterbody under advisory, the fish or shellfish species and size ranges included in the advisory, the chemical contaminants and residue levels causing the advisory to be issued, the waterbody type (river, lake, estuary, coastal waters), and the target populations to whom the advisory is directed. This information is collected under the authority of section 104 of the Clean Water Act, which provides for the collection of information to be used to protect human health and the environment. The results of the survey are shared with states, territories, tribes, other federal agencies, and the general public through the NLFA database and the distribution of annual fish advisory fact sheets. The responses to the survey are voluntary and the information requested is part of the state public record associated with the advisories. No confidential business information is requested.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 38.76 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State (or other entity) health departments and state (or other entity) EPAs.

Estimated Number of Respondents: 92.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 3,565 labor hours.

Estimated Total Annual Cost: $124,755, including $538 in operation and maintenance costs. No capital or startup costs are required.

Changes in the Estimates: There is a change in cost burden to remove $124,214 from that identified in the ICR currently approved by OMB. This is to correct a mistake of including labor hours in the cost burden instead of just the operations and maintenance costs of $538.

Dated: September 11, 2007.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. E7–18517 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0038; FRL–8147–9]

Guident Technologies, Nortel Government Solutions; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Guident Technologies and its subcontractor, Nortel Government Solutions in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Guident Technologies and its subcontractor, Nortel Government Solutions, have been awarded a contract to perform work for OPP, and access to this information will enable Guident Technologies and its subcontractor, Nortel Government Solutions, to fulfill the obligations of the contract.

DATES: Guident Technologies and its subcontractor, Nortel Government Solutions, will be given access to this information on or before September 24, 2007.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0038. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Contractor Requirements

Under Contract No. EP07D000102, Guident Technologies and its subcontractor, Nortel Government Solutions, will develop application for the Office of Pesticide Programs. This development will be in support of the following initatives: E-Submission Development and Implementation; Pesticide Registration Improvement Renewal Act; Endangered Species Development and Implementation; Registration Review Development and Implementation; and Enterprise Content Management Systems for Information Services Branch.

The OPP has determined that access by Guident Technologies and its subcontractor, Nortel Government

Solutions, to information on all pesticide chemicals may be necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Guident Technologies and its subcontractor, Nortel Government Solutions prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Guident Technologies and its subcontractor, Nortel Government Solutions, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Guident Technologies and its subcontractor, Nortel Government Solutions Staff, until the requirements in this document have been fully satisfied. Records of information provided to Guident Technologies and its subcontractor, Nortel Government Solutions Staff, will be maintained by EPA Project Officers for this contract. All information supplied to Guident Technologies and its subcontractor, Nortel Government Solutions Staff, by EPA for use in connection with this contract will be returned to EPA when Guident Technologies and its subcontractor, Nortel Government Solutions Staff, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: September 11, 2007.

Oscar Morales,

Acting Director, Office of Pesticide Programs.

[FR Doc. E7–18469 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–8148–3]

Access to Confidential Business Information by Computer Sciences Corporation and its Identified Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the contract until September 30, 2008, by which its authorized contractor, Computer Sciences Corporation (CSC) of Chantilly, VA and its subcontractors, will access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI). Authority exists under the contract to extend it until September 30, 2009. If the contract is extended until September 30, 2009, CBI access will continue until that date.

DATES: Access to the confidential data will continue through September 30, 2008.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Scott M. Sherlock, TSCA Security Staff, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; e-mail address: *sherlock.scott@epa.gov*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or who may be subject to TSCA reporting requirements. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

II. What Action is the Agency Taking?

Previously in the ≤**Federal Register** notices of February 26, 2003 (68 FR 8894) (FRL–7293–3), August 15, 2006 (71 FR 46900) (FRL–8087–8), and also January 10, 2007 (72 FR 1224) (FRL–8110–7), EPA advised that under GSA Contract Number GS00T99ALD0204, Task Order Number T0002AJMZ39, Computer Sciences Corporation (CSC) of 15000 Conference Center Drive, Chantilly, VA, and various named subcontractors would assist the Office of Pollution Prevention and Toxics (OPPT) in computer operations and maintenance of TSCA CBI Computer Systems and Communications Network, linking CBI sites, located in Washington, DC. CSC and its subcontractors would also assist in

maintaining and operating the EPA CBI computer facilities located in Research Triangle Park, NC. Access to TSCA data, including CBI, was to continue until September 30, 2007.

The contract has been extended until September 30, 2008. CSC and its subcontractors, Digital Intelligence Systems Corporation (Disys) of 4151 LaFayette Center Drive, Suite 600, Chantilly, VA; Tek Systems of 7437 Race Road S, Hanover, MD; Yoh I.T. of 1818 Market Street, Philadelphia, PA; Excel Management Systems of 691 N. High Street, 2nd Floor, Columbus, OH; Kenrob, Inc. of 44084 Riverside Parkway, Suite 125, Leesburg, VA; Paloma Systems of 7002 Evergreen Court, Annandale, VA; APPTIS of 4800 Westfields Blvd. Chantilly, VA 20151, previously PlanetGov of 14155 Newbrook Drive, Chantilly, VA; Superlative Technologies, Inc. (STI) of 8300 Greensboro Drive, Suite 425, McLean, VA; SoftPath of 1945 Cliff Valley Way NE, Suite 312, Atlanta, GA; and Apex Systems of 4400 Cox Road, Suite 200, Glen Allen, VA will continue to undertake the identified function.

It is possible that the contract will be extended a further year, until September 30, 2009. If this occurs no further notice will be provided.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide CSC and its identified subcontractors access to materials, including CBI materials on a need-to-know basis until September 30, 2008, unless the contract is extended again. All access to TSCA CBI under this contract will take place at EPA Headquarters and Research Triangle Park, NC facilities, the CSC facility at Research Triangle Park, NC, and also remote electronic access using secure means.

CSC and subcontractor personnel are required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: September 13, 2007.

Brion T. Cook,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E7–18491 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8470–6]

Research Plan for Dosimetric and Toxicologic Assessment of Amphibole Asbestos Fiber-Containing Materials From Libby, MI

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Data Availability.

SUMMARY: This action announces a plan for a series of research projects aimed at addressing the toxicological effects and dosimetry of amphibole asbestos-contaminated vermiculite from Libby, Montana (referred to here as Libby amphibole). Although available human data establish the toxicity of asbestos, and preliminary dose response analyses for Libby amphibole have been developed, these estimates can be refined by addressing some of the key uncertainties that exist due to gaps in our understanding or lack of quantitative descriptions of internal dosimetry and toxicological effects. This planned set of projects is aimed at addressing these gaps and providing tools for quantitative characterization, including a comparative analysis of the toxicity of Libby amphibole relative to asbestos fibers and asbestos-like mineral occurrences. Other key areas of research will also inform the risk assessment, including inherent toxicity of Libby amphibole relative to other forms of asbestos and differential susceptibility, including that of different life stages. EPA conducted an internal and external review of the research plan and has documented the responses to comments.

FOR FURTHER INFORMATION CONTACT: Stephen H. Gavett, PhD, Pulmonary Toxicology Branch, Experimental Toxicology Division, National Health and Environmental Effects Research Laboratory, Office of Research and Development (B143–01), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–2555; fax number: 919–541–0026; e-mail address: *gavett.stephen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of the Research Plan and the Responses to Peer Review Comments?

1. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/* or *http://www.epa.gov/region8/superfund/libby.*

Dated: September 13, 2007.

James Woolford,

Director, Office of Superfund Remediation and Technology Innovation.

[FR Doc. E7–18521 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0934; FRL–8149–7]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 4–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review the interpretation of the Ecological Significance of Atrazine Stream-Water Concentrations Using a Statistically-Designed Monitoring Program.

DATES: The meeting will be held on December 4-7, 2007, from approximately 8:30 a.m. to 5 p.m, Eastern Standard Time.

Comments. The Agency encourages written comments be submitted by November 19, 2007 and requests for oral comments be submitted by November 27, 2007. Written comments and requests to make oral comments are accepted until the date of the meeting but anyone submitting written comments after November 19, 2007 should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT**. For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

Nominations. Nominations of candidates to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before October 3, 2007.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Crowne Plaza – Washington National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202. The telephone number for the Crowne Plaza – Washington National Airport is (703) 416–1600.

Comments. Submit your comments, identified by docket identification (ID)

number EPA–HQ–OPP–2007–0934, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions. Direct your comments to docket ID number EPA–HQ–OPP–2007–0934. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

Nominations, requests to present oral comments, and requests for special accommodations. Submit nominations to serve as an ad hoc member of the FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Jim Downing, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8432; fax number: (202) 564–8382; e-mail addresses: *downing.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of particular interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2007–0934 in the subject line on the first page of your request.

1. *Written comments*. The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than November 19, 2007, to provide FIFRA SAP the time necessary to consider and review the written comments. Written comments are accepted until the date of the meeting but anyone submitting written comments after November 19, 2007 should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**. Anyone submitting written comments at the meeting should bring 30 copies for distribution to the FIFRA SAP.

2. *Oral comments*. The Agency encourages that each individual or group wishing to make brief oral comments to FIFRA SAP submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than November 27, 2007, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the

Chair of the FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting*. Seating at the meeting will be open and on a first-come basis.

4. *Request for nominations to serve as ad hoc members of the FIFRA SAP for this meeting*. As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Aquatic ecology, aquatic community modeling, environmental sampling statistics, environmental monitoring design and exposure assessment, watershed vulnerability assessment, including experience in evaluating chemical run-off potential, and soil science. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before October 3, 2007. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel.

In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 10 ad hoc scientists. FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on the FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website at *http://epa.gov/scipoly/sap* or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

II. Background

A. Purpose of the FIFRA SAP

The FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Scientific Advisory Panel. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Public Meeting

A risk assessment was conducted by EPA as part of the 2003 Interim Registration Eligibility Document (IRED) for the pesticide active ingredient atrazine. The assessment indicated potential community-and population-level risk to sensitive aquatic ecosystems at prolonged concentrations of atrazine from 10 – 20 parts per billion. As a condition of re-registration, atrazine registrants were required to develop a monitoring program to determine the extent to which atrazine concentrations in streams associated with corn and sorghum production may be exceeding levels that could cause effects to aquatic communities. If the threshold were exceeded, then a watershed-based mitigation program could be required.

The atrazine exposure threshold was developed based on an analysis of the magnitude and duration of atrazine exposure that caused significant effects as reported in experimental microcosm and mesocosm studies. The primary endpoint of concern focused on impacts

to the primary producers in the aquatic plant community and the subsequent impacts to community structure. The monitoring program design was based on a population of 1,172 watersheds whose streams were identified as highly vulnerable to atrazine exposure based on factors such as atrazine use intensity in corn and sorghum production and run-off vulnerability. A sub-set of 40 sites was selected for monitoring using a stratified, random statistical survey design. Streams were monitored for a minimum of two years with samples collected at least once every four days. Data from each stream were evaluated on a yearly basis to determine if atrazine concentrations were detected at sufficient levels over sufficiently long time durations to exceed the exposure threshold of concern. Based on the sampling design, the results from the streams in the 40 watersheds allow statistically-based inferences to the larger population of 1,172 watersheds vulnerable to atrazine runoff.

Key questions to be addressed by the FIFRA SAP at this public meeting are as follows:

1. Based on available experimental microcosm and mesocosm studies and ecosystem response models were the relationships between atrazine exposure profiles and aquatic community responses determined in a reasonable and transparent manner to establish thresholds of concern for atrazine?

2. Based on the monitoring design, is the approach to estimating the extent of watersheds in corn and sorghum producing areas that exceed atrazine thresholds of concern for aquatic community effects appropriate?

3. Based on results of the monitoring study, are the hypotheses and related methods and data sets being employed to identify potential watershed attributes associated with higher atrazine exposures appropriate?

C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to the FIFRA SAP, FIFRA SAP composition (i.e., members and ad hoc members for this meeting), and the meeting agenda will be available by mid-November 2007. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap*.

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 13, 2007.

Clifford J. Gabriel,

Director, Office of Science Coordination and Policy.

[FR Doc. E7–18455 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0098; FRL–8146–5]

Tribal Pesticide Program Council; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Tribal Pesticide Program Council will hold a 2–1/2 day meeting, beginning on October 10, 2007 and ending October 12, 2007. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on October 10–11, 2007 from 9 a.m. to 5p.m. and 9 a.m. to 12 noon on October 12, 2007.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the BlueWater Resort & Casino, 11300 Resort Drive, Parker, AZ 85344.

FOR FURTHER INFORMATION CONTACT: Georgia McDuffie, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: mcduffie.georgia@epa.gov or Lillian Wilmore, TPPC Coordinator, PO Box 470329 Brookline Village, MA 02447; Telephone: (617) 232–5742; Fax: (617) 277–1656; e-mail address: NAEcology@aol.com.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in TPPC information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process, you are invited and encouraged to attend the meetings and participate as appropriate. '' Potentially affected entities may include, but are not limited to: Those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0098 Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Tentative Agenda:

1. TPPC State of the Council Report
2. Tribal Presentations
3. FIFRA Discussion (Problems for Tribes)
4. Section 18s and 24c Issues (FIFRA 2ee Solution/Yakama Pilot)
5. Tribal Invasive Species Working Group Report
6. Reports from the State FIFRA Issues Research Evaluation Group (SFIREG); Pesticide Program Dialogue Committee (PPDC); Forum on State and Tribal Toxics Actions (FOSTTA); California Indian Basketweavers Association (CIBA); National Tribal Environmental Council (NTEC); and Alaska Intertribal Council.
7. Tribal Caucus (TPPC Only)
8. US EPA Region Reports

9. Tribal Strategic Plan Follow-up Discussion

10. Endangered Specifies/Bulletins/Fish & Wildlife's to De-list the Bald Eagle.

11. Beyond the Navajo Nation C& T Plan/Certification and Training of applicators in Indian Country

12. Discussions on Inspection Reporting/Multi-tribal Options/Accountability/Measures.

List of Subjects

Environmental protection.

Dated: September 7, 2007.

William R. Diamond,

Director, Field External Affairs Division, Office of Pesticide Programs.

[FR Doc. E7–18353 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0037; FRL–8144–2]

Pesticide Registration Review; New Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's intent not to open a registration review docket for liquid nitrogen. This pesticide does not currently have any actively registered pesticide products and is not, therefore, scheduled for review under the registration review program.

DATES: Comments must be received on or before November 19, 2007.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: For information about the pesticides included in this document, contact the specific Chemical Review Managers/Regulatory Action Leaders for these pesticides as identified in the table in Unit III.A.

For general questions on the registration review program, contact Kennan Garvey, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7106; fax number: (703) 308–8090; e-mail address: *garvey.kennan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review published in the **Federal Register** of August 9, 2006, and effective on October 10, 2006 (71 FR 45719) (FRL–8080–4). You may also access the Procedural Regulations for Registration Review on the Agency's website at *http://www.epa.gov/fedrgstr/EPA-PEST/2006/August/Day-09/p12904.htm*. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be periodically reviewed. The goal is a review of a pesticide's registration every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is periodically reviewing pesticide registrations to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. The implementing regulations establishing the procedures for registration review appear at 40 CFR part 155. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Pesticide Docket ID Number	Chemical Review Manager, Telephone Number, E-mail Address
Farnesol and Nerolidol; Case 6061	EPA–HQ–OPP–2007–0569	Russell Jones; email: jones.russell@epa.gov; (703) 308-5071
Pseudomonas syringae; Case 6007	EPA–HQ–OPP–2007–0509	Susanne Cerrelli; email: cerrelli.susanne@epa.gov; (703) 308-8077
Pseudomonas fluorescens;Case 6006	EPA–HQ–OPP–2007–0567	Susanne Cerrelli; email: cerrelli.susanne@epa.gov; (703) 308-8077
Chitin; Case 6063	EPA–HQ–OPP–2007–0566	Chris Pfeifer; email: pfeifer.chris@epa.gov; (703) 308-0031

EPA is also announcing that it will not be opening a docket for Liquid nitrogen, Case 6064 because this pesticide is not included in any products actively registered under FIFRA section 3. Liquid nitrogen (CAS No. 7727–37–9, PC Code 128934) was first registered in 1987. The last product was cancelled in 2004 due to non-payment of maintenance fees (69 FR 207: October 27, 2004). There is an exemption from the requirement of a tolerance for residues of the chemical when used after harvest in modified atmospheres for stored product insect control on all food commodities. The exemption from tolerance established in 40 CFR 180.1050 (65 FR 33716: May 24, 2000) met the FQPA 1996 safety standard. The Agency will take separate actions to cancel any remaining section 24(c) Special Local Needs registrations with this active ingredient and to propose revocation of any affected tolerances that are not supported for import purposes only.

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

• An overview of the registration review case status.

• A list of current product registrations and registrants.

• **Federal Register** notices regarding any pending registration actions.
• **Federal Register** notices regarding current or pending tolerances.
• Risk assessments.
• Bibliographies concerning current registrations.
• Summaries of incident data.
• Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

• To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

• The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information.

• Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

• As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 7, 2007.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E7–18356 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006-0936; FRL–8144–3]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before October 19, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the assigned docket ID number and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: The person listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP Number	Docket ID Number
PP 1F6253	EPA–HQ–OPP–2007–0637 (07P-1242)
PP 7F3530	EPA–HQ–OPP–2007–0704 (07P-1243)
PP 7F7219	EPA–HQ–OPP–2007–0564 (07P-1244)
PP 7F7220	EPA–HQ–OPP–2007–0565 (07P-1245)

III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

New Tolerance

1. PP 1F6253. (EPA–HQ–OPP–2007–0637). Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268, proposes to establish a tolerance for residues of the fungicide 1,3-D, [1,3-dichloropropene] in or on the food commodity grape at 0.009 parts per million (ppm). There is a practical analytical method for detecting and measuring levels of 1,3-D in or on food with a limit of quantitation (LOQ) of 0.003 ppm. Contact: Tamue Gibson, 703-305-9096, e-mail address: *gibson.tamue@epa.gov.*

2. PP 7F3530. (EPA–HQ–OPP–2007–0704). Janssen Pharmaceutica, Inc., Preservation and Material Protection Division, 1125 Trenton-Harbourton Road, Titusville, NJ 08560, proposes to establish a tolerance for the combined residues of the fungicide imazalil, 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1H-imidazole and its metabolite, 1-(2,4-dichlorophenyl)-2-(1H-imidazole-1-yl)-1-ethanol (R014821) in or on the food commodities melon crop subgroup (9-A), except watermelon at 5.0 ppm and corn, fresh, sweet, forage and fodder at 0.2 ppm. Melon crop subgroup (9-A), except watermelon includes the raw agricultural commodities cantaloupe, casaba, citron melon, crenshaw melon, golden pershaw melon, honeydew melon, honeyballs, mango melon, Persian melon, pineapple melon, Santa Claus melon , snake melon, and true cantaloupe. The Pesticide Analytical Manual (PAM) Volume II lists a gas chromatography/electron capture detector (GC/ECD) method, designated as Method I for the quantification of residues of imazalil and its metabolite R014821. Briefly, residues are extracted from plant samples with heptane:isoamyl alcohol (95:5, v:v), partitioned into 0.1 NH_2SO_4 and re-extracted from alkaline solution into heptane:isoamyl alcohol (95:5, v:v). The extract is evaporated to dryness and *N,O*-bis(trimethylsilyl) acetamide is added to convert the metabolite to the trimethylsilyl derivative. Imazalil and the derivatized metabolite are determined separately by GC with ECD from a single injection of the derivative solution. The limit of detection (LOD) ranges from 0.01 – 0.05 ppm, depending on the plant matrix. This enforcement method has been successfully radio-validated. Contact: John Bazuin, 703-305-7381, e-mail address: *bazuin.john@epa.gov*.

3. PP 7F7219. (EPA–HQ–OPP–2007–0564). E. I. du Pont de Nemours and Company, DuPont Crop Protection, Laurel Run Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to establish a tolerance for residues of the herbicide thifensulfuron methyl, methyl-3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino] sulfonyl]-2-thiophenecarboxylate, in or on the food commodities barley, hay at 0.7 ppm; oat, forage at 0.2 ppm; oat, hay at 2.0 ppm; wheat, forage at 1.0 ppm; and wheat, hay at 0.8 ppm. Thifensulfuron methyl residues in wheat forage and hay, barley hay, and oat forage and hay were determined by an analytical method utilizing liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) analysis. The analytes were resolved by high pressure liquid chromatography (HPLC) and quantitatively analyzed by using the Total Ion Chromatogram (TIC) from two molecular ion transitions for each analyte. The LOQ was 0.01 ppm in these commodities. Contact: Vickie Walters, 703-305-5704, e-mail address: *walters.vickie@epa.gov*.

4. PP 7F7220. (EPA–HQ–OPP–2007–0565). E. I. du Pont de Nemours and Company, DuPont Crop Protection, Laurel Run Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to establish a tolerance for residues of the herbicide tribenuron methyl; methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino]carbonyl] amino]sulfonyl]benzoate in or on the food commodities wheat, forage at 0.3 ppm; wheat, hay at 0.3 ppm; barley, hay at 0.3 ppm; oat, forage at 0.3 ppm; oat, hay at 0.8 ppm. Tribenuron methyl residues in wheat forage and hay, barley hay, and oat forage and hay were determined by an analytical method utilizing liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) analysis. The analytes were resolved by HPLC and quantitatively analyzed by using the Total Ion Chromatogram (TIC) from two molecular ion transitions for each analyte. The LOQ was 0.01 ppm in these commodities. There are other analytical methods to determine tribenuron methyl residues in wheat forage and hay, including HPLC column switching and ultraviolet (UV) detection. The LOQ is 0.01 ppm for wheat grain and forage, and 0.05 ppm for wheat hay. Contact: Vickie Walters, 703-305-5704, e-mail address: *walters.vickie@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 11, 2007.

Kathy S. Monk,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–18362 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0832; FRL–8132–6]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Proposed AEGL Values; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances (NAC/AEGL Committee) is developing AEGLs on an ongoing basis to provide Federal, State, and local agencies with information on short-term exposures to hazardous substances. This notice provides a list of 37 hazardous substances for Proposed AEGL values, which are available for public review and comment. Comments are welcome on both the Proposed AEGL values and the Technical Support Documents in the public docket.

DATES: Comments must be received on or before October 19, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2006–0832, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2006–0832. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2006–0832. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding

Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Office of Pollution Prevention and Toxics (7406M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the general public to provide an opportunity for review and comment on Proposed AEGL values and their supporting scientific rationale. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State and local agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. What Action is the Agency Taking?

EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) published in the **Federal Register** of October 31, 1995 (Ref. 1) a notice establishing the NAC/AEGL Committee with the stated charter objective of ''the efficient and effective development of AEGLs and the preparation of supplementary qualitative information on the hazardous substances for Federal, State, and Local agencies and organizations in the private sector concerned with chemical emergency planning, prevention, and response.'' The NAC/AEGL Committee is a discretionary Federal advisory committee formed with the intent to develop AEGLs for hazardous substances through the combined efforts of stakeholder members from both the public and private sectors in a cost-effective approach that avoids duplication of efforts and provides uniform values, while employing the most scientifically sound methods available.

This action provides notice of availability for public review and comment, of proposed AEGL values and underlying supporting documents for 37 hazardous substances. These values represent the 10th set of exposure levels proposed and published by the NAC/AEGL Committee. For the previous 9 **Federal Register** notices (Refs. 2-10) that proposed AEGLs values for 140 hazardous substances, see Unit IV. These 9 **Federal Register** notices were published to provide an opportunity for public review and comment. Background information on the AEGL Program may be found in these earlier **Federal Register** notices or on the AEGL website (*http://www.epa.gov/oppt/aegl*).

Following public review and comment, the NAC/AEGL Committee will reconvene to consider relevant comments, data, and information that may have an impact on the NAC/AEGL Committee's position and will again seek consensus for the establishment of Interim AEGL values. Although the Interim AEGL values will be available to Federal, State, and local agencies and to organizations in the private sector as biological reference values, it is intended to have them reviewed by a subcommittee of the National Academies (NA). The NA subcommittee will serve as a peer review of the Interim AEGL values and as the final arbiter in the resolution of issues regarding the AEGL values, and the data and basic methodology used for setting AEGL values. Following concurrence, Final AEGL values will be published under the auspices of NA.

III. List of Hazardous Substances

On behalf of the NAC/AEGL Committee, EPA is providing an opportunity for public comment on the Proposed AEGL values for the 37 hazardous substances identified in the table in this unit. Technical Support Documents and key literature references are in the public docket.

PROPOSED AEGL HAZARDOUS SUBSTANCES TABLE

Hazardous Substances Name	CAS Number
1,2,3-trimethylbenzene	526–73–8
1,2,4-trimethylbenzene	95–63–6
1,3,5-trimethylbenzene	108–67–8

PROPOSED AEGL HAZARDOUS SUBSTANCES TABLE—Continued

Hazardous Substances Name	CAS Number
Adamsite	578–94–9
Aluminum phosphide	20859–73–8
Arsenic trioxide	1327–53–3
Biphenyl	92–52–4
bis-Chloromethyl ether	542–88–1
Calcium phosphide	1305–99–3
Cyclohexyl isocyanate	3173–53–3
Diphenylchloroarsine	712–48–1
Ethyldichloroarsine	598–14–1
Hexafluoroacetone	684–16–2
Hexafluoropropylene	116–15–4
Ketene	463–51–4
Magnesium aluminum phosphide	None
Magnesium phosphide	12057–74–8
Methyl chlorosilane	993–00–0
Methyl dichlorosilane	75–54–7
Methyl t-butyl ether	1634–04–4
Methyldichloroarsine	593–89–5
Nitrogen mustard HN-1 bis(2-chloroethyl)ethylamine	538–07–8
Nitrogen mustard HN-2 bis(2-chloroethyl)methyl amine	51–75–2
Nitrogen mustard HN-3 tris(2-chloroethyl)amine	555–77–1
Phenyldichloroarsine	696–28–6
Phenylmercaptan	108–98–5
Potassium phosphide	20770–41–6
Propargyl alcohol	107–19–7
Selenium hexafluoride	7783–79–1
Silane	7803–62–5
Sodium phosphide	12058–85–4
Strontium phosphide	12504–13–1
Sulfuryl chloride	7791–25–5
Tetramethoxy silane	681–84–5
Trimethoxy silane	2487–90–3
Vinyl acetate monomer	108–05–4

PROPOSED AEGL HAZARDOUS SUBSTANCES TABLE—Continued

Hazardous Substances Name	CAS Number
Zinc phosphide	1314–84–7

IV. References

1. EPA. Establishment of a National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances. **Federal Register** (60 FR 55376, October 31, 1995) (FRL–4987–3). Available on-line at: *http://www.epa.gov/fedrgstr*.

2. EPA. National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notices. **Federal Register** (62 FR 58840, October 30, 1997) (FRL–5737–3). Available on-line at: *http://www.epa.gov/fedrgstr*.

3. EPA. National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances, Proposed AEGL Values; Notice. **Federal Register** (65 FR 14186, March 15, 2000) (FRL–6492–4). Available on-line at: *http://www.epa.gov/fedrgstr*.

4. EPA. National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances, Proposed AEGL Values; Notice. **Federal Register** (65 FR 39264, June 23, 2000) (FRL–6591–2). Available on-line at: *http://www.epa.gov/fedrgstr*.

5. EPA. National Advisory Committee for Acute Exposure Guideline Levels(AEGLs) for Hazardous Substances; Proposed AEGL Values. **Federal Register** (65 FR 77866, December 13, 2000) (FRL–6752–5). Available on-line at: *http://www.epa.gov/fedrgstr*.

6. EPA. National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances; Proposed AEGL Values. **Federal Register** (66 FR 21940, May 2, 2001) (FRL–6776–3). Available on-line at: *http://www.epa.gov/fedrgstr*.

7. EPA. National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances; Proposed AEGL Values. **Federal Register** (67 FR 7164, February 15, 2002) (FRL–6815–8). Available on-line at: *http://www.epa.gov/fedrgstr*.

8. EPA. National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances; Proposed AEGL Values. **Federal Register** (68 FR 42710, July 18, 2003) (FRL–7189–8). Available on-line at: *http://www.epa.gov/fedrgstr*.

9. EPA. National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances; Proposed AEGL Values; Notice of Availability. **Federal Register** (69 FR 54144, September 7, 2004) (FRL–7350–2). Available on-line at: *http://www.epa.gov/fedrgstr*.

10. EPA. National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances; Proposed AEGL Values; Notice of Availability. **Federal Register** (71 FR 60141, October 12, 2006) (FRL–8095–1). Available on-line at: *http://www.epa.gov/fedrgstr*.

List of Subjects

Environmental protection, Acute Exposure Guideline Levels (AEGLs), Hazardous substances.

Dated: September 10, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–18479 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007– 0086; FRL–8147–7]

Implementation of the Emerging Pathogens and Disinfection Hierarchy for Antimicrobial Products; Notice of Availability; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period.

SUMMARY: EPA is reopening the comment period for a notice of availability concerning implementation of the emerging pathogens and disinfection hierarchy guidance for antimicrobial products published in the **Federal Register** of July 25, 2007. This document reopens the comment period for an additional 60 days. The comment period is reopened because additional time has been requested by several pesticide entities to prepare detailed comments on the planned implementation.

DATES: Comments must be received on or before November 19, 2007.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the notice of availability published in the **Federal Register** of July 25, 2007.

FOR FURTHER INFORMATION CONTACT: Laura Bailey, Antimicrobials Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308-6212; fax number: (703) 308-

6467; e-mail address: *bailey.laura@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency identified in the notice of availability those who may be potentially affected by that action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How and to Whom Do I Submit Comments?

To submit comments, or access the public docket, follow the detailed instructions provided in the Unit entitled, ''**ADDRESSES**'' and the **SUPPLEMENTARY INFORMATION** of the July 25, 2007 notice of availability.

II. What Action is EPA Taking?

This document reopens the comment period established in a notice published in the **Federal Register** of July 25, 2007 (72 FR 40879) (FRL–8134-2). In that document, the Agency announced the availability of and solicited comments on the pesticide draft science guidance document entitled ''Implementation of the Emerging Pathogens and Disinfection Hierarchy for Antimicrobial Products.'' The guidance proposes to utilize an organism hierarchy to identify effective products for use with emerging pathogens and to permit registrants, in accordance with EPA regulations, to make limited label statements regarding product efficacy against such pathogens. The guidance applies to emerging enveloped and non-enveloped viruses and may be implemented after the Centers for Disease Control and Prevention has identified the taxonomic genera of the emerging virus. Limitations, label recommendations and the process for implementation are discussed in detail in the supporting guidance document. The supporting implementation guidance is available in the docket at *http://www.regulations.gov*, document ID No. EPA–HQ–OPP–2007–0086. EPA is reopening the comment period, which expired on August 24, 2007, for an additional 60 days. The new comment period ends on November 19, 2007.

III. What is the Agency's Authority for Taking this Action?

Provisions are made in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, to allow a public comment period. However, the Administrator may extend the comment period if additional time for comment is requested. In this case, the Innovation Reform Group (IRG), the American Chemistry Council Biocides Panel (Panel), and the Consumer Specialty Products Association (CSPA) have requested additional time to develop comments. The Agency believes that an additional 60 days is warranted.

List of Subjects

Environmental protection, Pesticide and pests, Disinfection hierarchy, Emerging pathogens, Antimicrobial products.

Dated: September 6, 2007.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E7–18372 Filed 9–18–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

AGENCY: Federal Election Commission.

DATE & TIME: Monday, September 24, 2007, to be held at the Conclusion of the open meeting

PLACE: 999 E Street, NW., Washington, DC. This meeting will be closed to the public.

Items to be Discussed:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE & TIME: Monday, September 24, 2007, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor)

STATUS: This meeting will be open to the public.

Items to be Discussed:

Correction and Approval of Minutes.

Draft Advisory Opinion 2007–13: United American Nurses, AFL–CIO, by counsel, Laurence Gold.

Draft Advisory Opinion 2007–14: Associated Builders and Contractors, the National Federation of Independence Business and the National Restaurant Association by counsel, Jan Witold Baran and Carol A. Laham.

Draft Advisory Opinion 2007–15: GMAC LLC, by, counsel, Jan Witold Baran and Caleb P. Burns.

Report of the Audit Division on Craig Romero for Congress, Inc.

Draft Final Rules on the Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other Than Personal Use.

Management and Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–4680 Filed 9–17–07; 3:19 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011075–069.

Title: Central America Discussion Agreement.

Parties: APL Co. PTE Ltd.; Crowley Liner Services, Inc.; Dole Ocean Cargo Express; Great White Fleet; King Ocean Services Limited; Trinity Shipping Line, S.A.; and Seaboard Marine, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Washington, DC 20036.

Synopsis: The amendment deletes Trinity Shipping Line, S.A. as a party to the agreement effective September 30, 2007.

Agreement No.: 011275–023.

Title: Australia/United States Discussion Agreement.

Parties: A.P. Moller-Maersk A/S; Hamburg-Süd; Safmarine Container Lines NV; and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would add ANL Singapore Pte Ltd. as a party to the agreement.

By Order of the Federal Maritime Commission.

Dated: September 14, 2007.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E7–18493 Filed 9–18–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

The Visca Corp., 5540 West Century Blvd., Unit 5, Los Angeles, CA 90045. Officers: Ramon T. Villamor, President (Qualifying Individual), Susana Abarquez, Vice President.

Envios Catrachos Inc., 8275 NW. 66th Street, Miami, FL 33166. Officers: Miriam Soledad Fernandez, President (Qualifying Individual), George S. Fernandez, Vice President.

Nidsan Inc., 37 West 39 Street, Suite 1003, New York, NY 10018. Officers: Mohammed Azam, Vice President (Qualifying Individual), Liaquat Begum, President.

Sync Logistics Inc., 3031 Camino Real Drive South, Kissimmee, FL 34744. Officer: Luis Hallon, President (Qualifying Individual).

Global Trade Corp. dba Cargo Bridge, 600 E. Washington Blvd., Suite 205, Los Angeles, CA 90015. Officers: Kee Bum Kim, CFO (Qualifying Individual), Eun Kyung Kimko, President.

OBI Shipping, Inc., 1442 Rancho Hills Drive, Chino Hills, CA 91709. Officer: Lisa X. Song, President (Qualifying Individual).

Ebayanbox.Com, Inc., 100 N. Brand Blvd., Suite 419, Glendale, CA 91203. Officers: Aureo Lagrimas, Jr., President (Qualifying Individual), Eric J. Tan, CEO.

C Xpress Logistics, LLC dba C Xpress Lines, 9631 Fontainebleu Blvd., Suite 414, Miami, FL 33166. Officers: Catalina E. Mejia, Manager (Qualifying Individual), Cheslavo F. Korykowski, Manager.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Yen-Mex Cargo Corporation, 7215 NW. 46th Street, Miami, FL 33166. Officers: Ernesto Ackerman, President (Qualifying Individual), Gisela Ackerman, Vice President.

Water Ways Logistics USA Inc., 100 Middlesex Avenue, Suite A, Carteret, NJ 07008–3499. Officer: Leiv O. Knutsen, President (Qualifying Individual).

Fofo Import Export Retail Inc., 1065 East 21 Street, Hialeah, FL 33013. Officer: Emile Destin, President (Qualifying Individual).

ASCO Freight Management, LLC, 1755 Federal Road, Houston, TX 77015. Officers: Richard S. Higgins, President (Qualifying Individual), Christopher Lloyd, Vice President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Global International Shipping dba GIS, 415 N. Edgeworth Street, Suite 101, Greensboro, NC 27401. Officers: Ziad Najjar, President (Qualifying Individual), Huthaifa Al Adwan, Secretary.

Fletmar International Corp., 7915 SW. 21 Street, Miami, FL 33155. Officer: Maria M. Conde, DST (Qualifying Individual).

Navis Logistics Network, Inc., 5675 DTC Blvd., #280, Greenwood Village, CO 80111. Officers: Alicia M. Penny, Vice President (Qualifying Individual), Benjamin J. Blakeley, President.

Fraternity Express Shipping, 1049 Hyde Park Avenue, Hyde Park, MA 02136. Lesly Pierre, Sole Proprietor.

Worldwide Logistics of Columbus LLC, 6663 Huntley Road, Suite N, Columbus, OH 43229. Officers: Nina Mallah-Faries, Operations Manager (Qualifying Individual), Kwadwo W. Asante, Finance Officer.

Jolaco Maritime Services Inc., 6630 Harwin Drive, Suite 108, Houston, TX 77036. Officer: John Ola Coker, President (Qualifying Individual).

Dated: September 14, 2007.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E7–18452 Filed 9–18–07; 8:45 am]

BILLING CODE 6730–01–P

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 #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—08/20/2007			
20071881	Mr. Ronny Pecik	Springwater MWZ Holdings S.a.r.l.	MWZ Beteiligungs-GmbH.
20071882	Mag. Georg Stumpf	Springwater MWZ Holdings S.a.r.l.	MWZ Beteiligungs-GmbH.
20071921	Hewlett-Packard Company	Opsware Inc	Opsware Inc.
20071934	Intel Corporation	EMC Corporation	VMware, Inc.
20071941	Chrestview Partners, L.P	Ronald I. Dozeretz, M.D	FHC Health Systems, Inc.
20071945	Cisco Systems, Inc	EMC Corporation	VMware, Inc.
20071947	Gordon W. Ommen	US BioEnergy Corporation	US BioEnergy Corporation.
20071957	EMC Corporation	BusinessEdge Solutions Inc	BusinessEdge Solutions Inc.

Trans #	Acquiring	Acquired	Entities
20071961	Concur Technologies, Inc	Jupiter Partners L.P	H–G Holdings, Inc.
20071974	HBK Fund, L.P	Blackstone ECC Communications Partners, L.P.	Montecito Television License Corp. of Topeka, Montecito Television License Corp. of Wichita, SJL of Kansas Corp., Topeka Television Corp.
20071976	Warburg Pincus Private Equity IX, L.P	Inspire Pharmaceuticals, Inc	Inspire Pharmaceuticals, Inc.
20071986	Sector Performance Fund, LP	Joseph D. Kestenbaum	Unitek USA, LLC.
20071994	Anil Ambani	Yipes Holdings, Inc	Yipes Holdings, Inc.
Transactions Granted Early Termination—08/21/2007			
20071931	Waste Connections, Inc	Dominick DiVello	BroadAcre Landfill, Inc., U.S. Waste Industries, Inc.
20071932	Waste Connections, Inc	Victor DiVello	BroadAcre Landfill, Inc., U.S. Waste Industries, Inc.
20071968	Wolseley plc	Davidson Pipe Company Inc	Davidson Pipe Company Inc.
20071972	F5 Networks, Inc	Acopia Networks, Inc	Acopia Networks, Inc.
20071980	Bank of America Corporation	ABN AMRO Holdings N.V	ABN AMRO North America Holding Company.
Transactions Granted Early Termination—08/22/2007			
20071346	Rockwood Holdings, Inc	Elementis plc	Elementis Holdings Ltd.
20071939	Harold L. Rosbottom, Jr	W. Barry Milner	Exploreco Energy, Inc., Exploreco Pipe LLC.
20071940	Harold L. Rosbottom, Jr	Don K. Milner	Exploreco Energy, Inc., Exploreco Pipe LLC.
20071942	HTS Stiftung	Austria Metall Aktiengesellschaft	Austria Metall Aktiengesellschaft.
Transactions Granted Early Termination—08/23/2007			
20071853	Carl C. Icahn	Biogen Idec Inc	Biogen Idec Inc.
20071854	Ichan Partners Master Fund LP	Biogen Idec Inc	Biogen Idec Inc.
20071855	Icahn Partners Master Fund II L.P	Biogen Idec Inc	Biogen Idec Inc.
20071856	Icahn Partners L.P	Biogen Idec Inc	Biogen Idec Inc.
20071936	BBA Aviation PLC	Landow Aviation Limited Partnership	Landow Aviation Limited Partnership.
20071943	Citigroup Inc	Ameriquest Capital Corporation	ACC Capital Holdings Corporation, AMC Mortgage Services, Inc., Ameriquest Mortgage Company, Argent Mortgage Company LLC.
20071969	IHOP Corp	Applebee's International, Inc	Applebee's International, Inc.
20071970	Ristretto Holdings SCA	Williams Scotsman International, Inc	Williams Scotsman International, Inc.
20071981	ZM Private Equity Fund I, L.P	EAC Holdings, L.L.C	Erickson Air-Crane Incorporated.
Transactions Granted Early Termination—08/24/2007			
20071804	Cenveo, Inc	Ira B. Kristel	Commercial Envelope Manufacturing Co., Inc.
20071848	Mr. Leonardo Del Vecchio	Jim H. Jannard	Oakley Inc.
20071891	GS Global Infrastructure Partners I, L.P	Trust of Fred R. Smith and Ouida M. Smith.	FRS Capital Corp.
20071904	Time Warner Inc	Tacoda, Inc	Tacoda, Inc.
20071935	Veolia Environnement S.A	Allied Waste Industries, Inc	Allied Services, LLC, Allied Waste Transportation, Inc., Awin Leasing, Inc., BFI Waste Services, LLC, Blue Ridge Landfill General Partnership, E Leasing Company, LLC, Golden Waste Disposal, Inc., H. Leasing Company, LLC, Local Sanitation of Rowen County, L.L.C., Packerton Land Company, L.L.C., Wayne County Landfill IL, Inc.
20071937	Richard L. Duobossois	DHP Acquisition Corp	DESA Europe B.V., DESA Heating, LLC, DESA Industries of Canada, Inc., DESA LLC, DESA, LLC, DESA Speacialty, LLC, DESA (UK) Limited, Heath Company Limited, HIG–DHP Barbados, Ltd.
20071952	MMI Investments, L.P	The Brink's Company	The Brink's Company.
20071957	Castlerigg International Limited	Plains Exploration & Production Company.	Plains Exploration & Production Company.
20071965	Compagnie Generale des Etablissements Michelin.	Cooper Tire & Rubber Company	Oliver Rubber Company.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—08/27/2007			
20071641	Ceradyne, Inc	EaglePicher Corporation	EaglePicher Boron, LLC.
20071873	Great Plains Energy Incorporated	Aquila, Inc	Aquila, Inc.
20071919	Black Hills Corporation	Aquila, Inc	Aquila, Inc.
20071951	Pella Corporation	EFCO Corporation	EFCO Corporation.
20071984	AT&T Inc	Deutsche Telekom AG	AT&T Mobility LLC, T-Mobile USA, Inc.
20071985	Deutsche Telekom AG	AT&T Inc	AT&T Mobility LLC.
20071989	RoundTable HealthCare Partners II, L.P	Michael C. Bieker	MarketLab, Inc.
20071991	Bain Capital Fund IX, L.P	American Standard Companies Inc	American Standard Philippines L.L.C., American Standard B&K Mexico, S. de R.L. de C.V., American Standard B&K (Thailand) Public Company Limited, American Standard Consulting (Shanghai) Co. Ltd., American Standard Foreign Trading Limited, American Standard Korea, Inc., American Standard Philippines II L.L.C., American Standard (U.K.) Co., A–S Thai Holdings Ltd., CAPP Holdings Limited, Ceramic Sanitaryware Pte. Ltd., Edwards Logistics Limited, Egyptian American Industrial Plastics Co., S.A.E., Ideal Standard Beteiligungus-GmbH, Ideal Standard Bulgaria AD, Ideal Standard do Brasil Industia e Comercio, Ideal Standard Equipamentos Sanitarios LDA., Ideal Standard Financial Services SPRL, Ideal Standard GmbH, Ideal Standard Group, S. de R.L. de C.V., Ideal Standard Holding Italia S.r.l., Ideal Standard Industries France SAS, Ideal Standard Polska Sp. Z.o.o., Ideal Standard Porcher (U.K.) Limited, Ideal Standard S.A.I., Ideal Standard Scandinavia A/S, Ideal Standard S.L.U., Ideal Standard s.r.o, Ideal Standard (Thailand) Ltd., Ideal Standard Verwaltungs GmbH, Ideal Standard-Vidima AD, Jado Iberia-Produtos Metalurgicos, S.A., PT American Standard Indonesia, SAU Corp., SCI Saint Didier, Sorosa, Venborgh Holding B.V., Wabco Standard French Holdings SAS, Wabco Wedneday Ltd.
20071996	Perot Systems Corporation	J.J. Wild Holdings, Inc	J.J. Wild Holdings, Inc.
20071997	Security Benefit Mutual Holding Company.	2003 Dynamic Irrevocable Trust	Rydex Holdings, Inc.
20071998	Security Benefit Mutual Holding Company.	The Skip Viragh Foundation, Inc	Investment Capital Technologies, LLC.
20072000	The Bear Stearns Companies Inc	Deb Shops, Inc	Deb Shops, Inc.
20072001	Schneider Electric SA	Davis McDonald	Pelco.
20072002	International Business Machines Corporation.	Princeton Softech, Inc	Princeton Softech, Inc.
20072003	Sageview Capital Master, L.P	Sally Beauty Holdings, Inc	Sally Beauty Holdings, Inc.
20072004	General Electric Company	NRDC Equity Partners Fund III, LLC	Lord & Taylor LLC.
20072005	Andrew Intrater	Ares Corporate Opportunities Fund II, L.P.	White Energy, Inc.
20072006	TCV VI, L.P	TradingScreen Inc	TradingScreen Inc.
20072007	Merck & Co., Inc	ev3 Inc	ev3 Inc.
20072010	Swedish Match AB	Cigars International Holding Company, Inc.	Cigars International Holding Company, Inc.
20072017	Leandro P. Rizzuto	Allegro Mfg. Inc	Allegro Mfg. Inc.
20072020	GSI Commerce, Inc	J. Michael Cline	Accretive Commerce, Inc.
20072021	Azim H. Premji	Infocrossing, Inc	Infocrossing, Inc.
20072023	Koch Industries, Inc	Smurfit-Stone Container Corporation	Smurfit-Stone Container Corporation.
Transactions Granted Early Termination—08/28/2007			
20071993	Highland Crusader Fund II, Ltd	PDL BioPharma, Inc	PDL BioPharma, Inc.
20072016	News Corporation	Dow Jones & Company, Inc	Dow Jones & Company, Inc.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—08/29/2007			
20071983	Sageview Capital Master, L.P	WENDEL Investissement	WENDEL Investissement.
Transactions Granted Early Termination—08/30/2007			
20071913	Star Atlantic Waste Holdings, L.P	American International Group, Inc	ADStar Waste Holdings Corp.
Transactions Granted Early Termination—08/31/2007			
20071916	MFG HOLDINGS SA	DSI International Sarl	DSI Holdings GmbH.
20071944	Ram Holdings Company, LLC	United Rentals, Inc	United Rentals, Inc
20071964	Amedisys, Inc	IntegriCare, Inc	IntegriCare, Inc.
20071978	Hejoassu Administracao S.A	The Brian Mahoney 2007 Grantor Retained Annuity Trust.	American Gunite, Inc., American Gunite Management Co., Inc., Champion Truck Leasing, Inc., Prestige Gunite, Inc., Prestige Gunite Management Company, North Carolina, Inc., Prestige Gunite-NC, Inc., Prestige Gunite of Ft. Myers, Inc., Prestige Gunite of Ft. Pierce, Inc., Prestige Gunite of Melbourne, Inc., Prestige Gunite of Ocala, Inc., Prestige Gunite of Orlando, Inc., Prestige Gunite of Ormond Beach, Inc., Prestige Gunite of Pt. Charlotte, Inc., Prestige Gunite of Tampa, Inc., Prestige Gunite of West Palm Beach, Inc., Prestige Gunite Management Company South, Inc., Prestige Mobile Concrete, Inc., Prestige Mobile Concrete of Orlando, Inc.
20071979	Hejoassu Administracao S.A	Mr. Beat Kahli	K&M Properties of Florida, LLC, K&M Properties of North Carolina, LLC, Prestige AB Block of Ft. Pierce, LLC, Prestige AB Block Plant, LLC, Prestige/AB Management Co., LLC, Prestige AB Management Co. of North Carolina, LLC, Prestige/AB Ready Mix, LLC, Prestige/AB Ready Mix of Alafaya, LLC, Prestige/AB Ready Mix of Davenport, LLC, Prestige/AB Ready Mix of Daytona, LLC, Prestige/AB Ready Mix of Ft. Pierce, LLC, Prestige/AB Ready Mix of Greensboro, LLC, Prestige/AB Ready Mix of Kissimmee, LLC, Prestige/AB Ready Mix of Melbourne, LLC, Prestige/AB Ready Mix of North Carolina, LLC, Prestige/AB Ready Mix of Winston-Salem, LLC.
20071995	Castlerigg International Limited	Sybase, Inc	Sybase, Inc.
20072011	Strength Capital Partners II, L.P	Charles I. Lunsford	Smith Mountain Industries, Inc.
20072012	Strength Capital Partners II, L.P	Harren Investors, L.P	Smith Mountain Industries, Inc.
20072024	Spartech Corporation	Mason Wells Leveraged Buyout Fund I, LP.	Creative Forming, Inc.
20072029	Ulysses L. Bridgeman, Jr	Brinker International, Inc	Brinker Indiana, Inc., Brinker Ohio, Inc., Brinker Restaurant Corporation, Chili's of Minnesota, Inc.
20072033	DXP Enterprises, Inc	Dennis P. Circo	Precision Industries, Inc.
20072034	Citrix Systems, Inc	XenSource, Inc	XenSource, Inc.
20072036	KeyCorp	Tuition Management Systems, Inc	Tuition Management Systems, Inc.
20072038	Informa plc	William Cohen	The Haworth Press, Inc.
20072041	RCN Corporation	NEON Communications Group, Inc	NEON Communications Group, Inc.
20072048	Capital One Financial Corporation	Oak Investment Partners X, L.P	NetSpend Holdings, Inc.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative or Renee Hallman, Contact 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. 07–4619 Filed 9–18–07; 8:45 am]

BILLING CODE 6750–02–M

FEDERAL TRADE COMMISSION

[File No. 051 0234]

American Renal Associates, Inc.; Analysis of Agreement Containing Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''American Renal Associates, File No. 051 0234,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov*.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Martha Oppenheim (202) 326-2941, Bureau of Competition, Room NJ-7264, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 7, 2007), on the World Wide Web, at *http://www.ftc.gov/os/2007/09/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from American Renal Associates, Inc., and affiliates including, but not limited to, ARA-East Providence Dialysis LLC, ARA-Johnston Dialysis LLC, ARA-Fall River Dialysis LLC, and Dialysis Center of West Warwick LLC; and Fresenius Medical Care Holdings, Inc. and affiliates, including Renal Care Group, Inc. and Bio-Medical Applications of Rhode Island, Inc. Under the terms of the Consent Agreement, ARA and Fresenius are prohibited from agreeing with other dialysis clinic operators to close any clinics, or allocate any dialysis service markets. ARA is further required to notify the Commission of acquisitions of dialysis clinic assets in the Warwick/ Cranston, Rhode Island, area.

The Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement or make it final.

Pursuant to an Asset Purchase Agreement dated August 3, 2005, ARA proposed to acquire five Fresenius clinics in the Providence, Rhode Island/ Fall River, Massachusetts area, and pay Fresenius to close another three competing clinics, for approximately $4.4 million. ARA's agreement to pay Fresenius to close its clinics is a *per se* violation of the antitrust laws. In addition, the Commission's Complaint alleges, as summarized below, that the Asset Purchase Agreement, if consummated, would violate Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, by reducing dialysis capacity; allocating dialysis customers, territories, or markets; and lessening competition in the market for the provision of outpatient dialysis services in the Warwick/Cranston area.

II. The Parties

American Renal Associates, Inc., which is headquartered in Danvers, Massachusetts, operates 65 dialysis centers in 15 states and the District of Columbia. ARA is the sixth-largest provider of outpatient dialysis services in the United States, serving 2,300 dialysis patients, with 2004 revenues exceeding $80 million. In 2005, ARA owned six clinics in Rhode Island, which were located in Cranston, East Providence, Johnston, Pawtucket, Providence, and Tiverton, and one in nearby Fall River, Massachusetts.

Fresenius Medical Care Holdings, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal place of business located at 95 Hayden Avenue, Lexington, Massachusetts 02420-9192. Fresenius is the parent of entities that are parties to the Consent Agreement, including Renal

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

Care Group, Inc. and Bio-Medical Applications of Rhode Island, Inc.

III. The Asset Purchase Agreement

ARA and Fresenius entered into an Asset Purchase Agreement dated August 3, 2005, under which Fresenius agreed to sell five clinics located in Rhode Island—the Wakefield, Westerly, Woonsocket, Warwick, and West Warwick clinics—to ARA for $2,759,000. The agreement also required Fresenius to close its clinics in East Providence and North Providence, Rhode Island, and in Fall River, Massachusetts, in exchange for ARA's payment of $1,641,000. The parties terminated this agreement on March 13, 2006, after the FTC staff raised antitrust concerns.

IV. The Complaint

A. Agreement Between Competitors to Close Clinics

The Commission's complaint charges that first and foremost, the agreement between Fresenius and ARA—competitors in the provision of outpatient dialysis services—to close three Fresenius clinics was a horizontal agreement to eliminate competition and to reduce dialysis capacity in the three affected areas. Each of the Fresenius clinics to be closed was located close to a competing ARA outpatient dialysis clinic. The parties memorialized their agreement in a written contract, listing each Fresenius clinic to be closed and the specific amount of money to be paid by ARA for closing each clinic, and allocating each amount to the ARA clinic closest to the clinic to be closed. The parties further agreed that Fresenius would not reopen any outpatient dialysis clinics within 10 to 12 miles of the closed facilities for at least five years, and would attempt to enforce the non-compete provisions of its agreements with the medical directors of the closed facilities for ARA's benefit, preventing those physicians from serving as medical directors for any potential new entrant.

Agreements to pay a competitor to exit a market, such as the one negotiated by ARA and Fresenius, are per se unlawful. Indeed, the parties offered no competitive justification for their conduct, and it is unlikely that there is any plausible justification for such an agreement. Such a naked restraint, like a market division agreement or price fixing, is a per se violation of the antitrust laws.

B. Agreement to Eliminate Competition by Acquiring Clinics

The Commission also charges that ARA's proposed acquisition of Fresenius's two Warwick, Rhode Island, facilities would have substantially reduced competition for outpatient dialysis services by eliminating competition between these Warwick clinics and ARA's nearby Cranston, Rhode Island, clinic. Outpatient dialysis services is the relevant product market in which to assess the effects of the clinic acquisition portion of the asset purchase agreement. End stage renal disease (ESRD) is a chronic disease characterized by a near total loss of function of the kidneys, which in healthy people remove toxins and excess fluid from the blood. ESRD may be treated through dialysis, a process whereby a person's blood is filtered by machines that act as artificial kidneys. Most ESRD patients receive dialysis treatments in an outpatient dialysis clinic three times per week, in sessions lasting between three and five hours. The only alternative to outpatient dialysis treatments for ESRD patients is a kidney transplant. However, the wait-time for donor kidneys—during which ESRD patients must receive dialysis treatments—can exceed five years. Additionally, many ESRD patients are not viable transplant candidates. As a result, many ESRD patients have no alternative to ongoing dialysis treatments.

The Commission's complaint also alleges that the relevant geographic market in which to assess the competitive effects of the clinic acquisition portion of the asset purchase agreement is the Cranston and Warwick area in Rhode Island. The relevant geographic market for the provision of outpatient dialysis services is defined by the distance ESRD patients are willing and able to travel to receive dialysis treatments, and is thus local in nature. Because ESRD patients often suffer from multiple health problems and may require assistance traveling to and from the dialysis clinic, and because of the high frequency of treatments, these patients are unwilling and unable to travel long distances for dialysis treatment. The time and distance a patient will travel in a particular location are significantly affected by local traffic patterns; whether an area is urban, suburban, or rural; local geography; and a patient's proximity to the nearest dialysis clinic. The size and dimensions of relevant geographic markets are also influenced by a variety of other factors including population density, roads, geographic features, and political boundaries.

With respect to the clinic acquisition portion of the asset purchase agreement, the Commission's complaint alleges that the market for outpatient dialysis services in the Warwick/Cranston area is highly concentrated. The market has only two dialysis providers, ARA and Fresenius, and the transaction as originally proposed would result in a monopoly in the Warwick/Cranston area. The evidence shows that health plans and other private payers who pay for dialysis services used by their members benefit from direct competition between ARA and Fresenius when negotiating the rates of the dialysis provider. As a result, the proposed combination likely would result in higher prices and reduced incentives to improve service or quality in the Warwick/Cranston outpatient dialysis services market defined in the complaint. Also, the complaint alleges that in this market, entry on a level sufficient to deter or counteract the likely anticompetitive effects of the proposed transaction is not likely to occur in a timely manner. The primary barrier to entry is the difficulty associated with locating nephrologists with established patient pools who are willing and able to serve as medical directors. Federal law requires each dialysis clinic to have a physician medical director. As a practical matter, having a nephrologist serve as medical director is essential to the success of a clinic because medial directors are the primary source of referrals.

V. The Consent Agreement

The proposed relief in this case is narrowly tailored to address both the agreement to close clinics and the attempted acquisition of clinics in the Warwick/Cranston area. The order would prohibit ARA and Fresenius for ten years from agreeing with any person to close a dialysis clinic, or allocate any dialysis customer, territory, or market. The consent order also would require ARA to give the Commission prior notice before acquiring any interest in a dialysis clinic in the Warwick/Cranston area because there is a risk that ARA remains interested in expanding in the area, but any such further acquisition likely would fall below Hart-Scott-Rodino Act premerger notification thresholds.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Decision and Order, or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–18378 Filed 9–18–07: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0937–0200; 30-day notice]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received within 30 days of this notice directly to the OS OMB Desk Officer all comments must be faxed to OMB at (202) 395–6974.

Title of the Collection—HHS Payment Management System Forms -Extension-OMB No. 0937–0200—Assistant Secretary for Administration and Management (ASAM) -Program Support Center (PSC)—Division of Payment Management (DPM).

Abstract: The Division of Payment Management (DPM) is requesting a three year extension of the HHS Payment Management System Forms. Treasury regulations at 31 CFR part 205 and OMB Circulars A–102 and A–110 require advances of Federal funds to be scheduled as closely as possible to the grantee's disbursement needs and payment methods should allow for monthly, bi-weekly or more frequent payments in support of this requirement. The PSC–270 is used by grantees to obtain grant funds. The PSC–272 form is used to monitor federal cash advances to grantees and obtain Federal cash disbursement data. The forms are designed to provide essential cash management information, assist the grantee in meeting accountability requirements, and ensure compatibility between data in the Payment Management System (PMS) operated by DPM and the grantee organization's records.

The PSC–270 form is used monthly by approximately 210 HHS grantees to obtain grant funds and is used in lieu of the SF–270. The computerized PSC–272 form is utilized quarterly by approximately 22,240 grantees of grant awards from HHS and other Federal agencies that are paid through DPM. The forms are completed by State, local and tribal governments, profit and nonprofit businesses and institutions receiving grants from HHS and other Federal agencies serviced by the Division of Payment Management.

ESTIMATED ANNUALIZED BURDEN HOURS

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response (in hours)	Total burden hours
PSC–272	Quarterly	22,240	4	3	266,880
PSC–270	Monthly	210	12	15/60	630
Total					267,510

Dated: 09/10/2007.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–18401 Filed 9–18–07; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Task Force on Community Preventive Services

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Task Force on Community Preventive Services.

Times and Dates: 8 a.m.–6 p.m. EDT, October 17, 2007. 8 a.m.–1 p.m. EDT, October 18, 2007.

Place: Centers for Disease Control and Prevention, Roybal Building 19, 1600 Clifton Road, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish the *Guide to Community Preventive Services (Community Guide)*, which consists of systematic reviews of the best available scientific evidence and associated recommendations regarding and what works in the delivery of essential public health services.

Topics include: reducing excessive alcohol consumption; improving adolescent health; reducing risky adolescent sexual behavior; worksite health promotion—influenza vaccination; controlling obesity; and updating the *Community Guide's* vaccine-preventable diseases review. Agenda items are subject to change as priorities dictate.

Persons interested in reserving a space for this meeting should call Tony Pearson-Clarke at 404.498.0972 by close of business on October 5, 2007.

FOR FURTHER INFORMATION CONTACT: Tony Pearson-Clarke, Community Guide Branch, Coordinating Center for Health Information and Service, National Center for Health Marking, Division of Health Communication and Marketing, 1600 Clifton Road, M/S E–69, Atlanta, GA 30333, telephone: 404.498.0972.

Dated: September 11, 2007.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–18411 Filed 9–18–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: NIOSH Education and Research Center, Program Announcement Number (PAR) 06–485

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Times and Dates: 8 a.m.—5:30 p.m., February 21, 2008 (Closed). 8 a.m.—5:30 p.m., February 22, 2008 (Closed).

Place: Marriott Marina del Rey, 4100 Admiralty Way, Marina del Rey, California 90292, Telephone (310) 301–3000.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Purpose: The work groups convening at specific sites listed below advise and make recommendations to the Disease, Disability, and Injury Prevention and Control SEP: NIOSH Education and Research Center, PAR 06–485. Specifically, the SEP makes recommendations regarding policies, strategies, and funding.

Times, Dates, and Places of the Work Group Meetings:

8 a.m.–5:30 p.m	October 4–5, 2007 (Closed).	Harvard University, School of Public Health, 677 Huntington Avenue, Kresge Building Room 110, Boston, MA.
8 a.m.—5:30 p.m	October 18–19, 2007 (Closed).	The University of Iowa, Rooms 123 and 125 IREH, Iowa City, IA 52242, Telephone (319) 335–4415.
8 a.m.—5:30 p.m	November 15–16, 2007 (Closed).	The University of Illinois at Chicago, Marriott at Medical District/UIC, 625 South Ashland Ave. at Harrison Street, Chicago, IL 60607, Telephone (312) 491–1234.
8 a.m.—5:30 p.m	December 6–7, 2007 (Closed).	The University of Michigan, Bell Tower Hotel, 300 S. Thayer St., Ann Arbor, MI, 48104, Telephone (734) 769–3010.
8 a.m.—5:30 p.m	January 10–11, 2007 (Closed).	The University of South Florida, College of Public Health, Room 2016, 13201 Bruce Downs Blvd., Tampa, FL 33620, Telephone (813) 794–1120.

Matters To Be Discussed: The SEP meeting will include the review, discussion, and evaluation of research grant applications in response to ''NIOSH Education and Research Center,'' PAR 06–485.

For Further Information Contact: Dr. M. Chris Langub, Designated Federal Officer, 1600 Clifton Road NE., MS E74, Atlanta, GA 30333, Telephone 404.498.2543.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: September 13, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–18483 Filed 9–18–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; The Board of Scientific Counselors Meeting (BSC), National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention announces the following meeting of the aforementioned committee:

Time and Date: 9 a.m.–3 p.m., October 11, 2007.

Place: Holiday Inn Capitol, 550 C Street, SW., Washington, DC. 20024.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors shall provide guidance to the Director, National Institute for Occupational Safety and Health (NIOSH) on research and prevention programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board shall evaluate the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Matters to be Discussed: Agenda items include a report from the Director of NIOSH; Update on Enhancing the Utility of NIOSH Information Products; NIOSH Response to the National Academies of Science Program Reviews; Occupational Safety and Health Training Recommendations: Workgroup Update; Presentation on NIOSH WorkLife Initiatives and Future Meetings and Closing Remarks.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Roger Rosa, Executive Secretary, BSC, NIOSH, CDC, 395 E Street, SW., Suite 9200, Patriots Plaza Building, Washington, DC 20201, telephone (202) 245–0655, fax (202) 245–0664.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 13, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–18485 Filed 9–18–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH, or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting for the aforementioned committee and subcommittee:

Subcommittee Meeting Time and Date: 9 a.m.–11:30 a.m., October 3, 2007.

Board Meeting Times and Dates: 1 p.m.–4:30 p.m., October 3, 2007. 9:30 a.m.–5 p.m., October 4, 2007. 8:30 a.m.–2:30 p.m., October 5, 2007.

Public Comment Times and Dates: 5 p.m.–6 p.m., October 3, 2007.

7:30 p.m.–8:30 p.m., October 4, 2007.

Place: Holiday Inn Select, 1801 N. Naper Blvd, Naperville, Illinois 60563. Telephone 630.505.4900, Fax 630.505.1984.

Status: Open to the public, limited only by the space available. The meeting space accommodates approximately 75 to 100 people.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2009.

Purpose: This Advisory Board is charged with (a) Providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Discussed: The topics for the Subcommittee meeting will be to Review the Dose Reconstruction and Future Subcommittee Plan Actions. The agenda for the Advisory Board meeting includes Discussion on NIOSH Web site; Update on Science Issues; Discussion of Board Procedures; Discussion of the overall tracking system for Board activities; SEC Petitions to be considered for Y–12, Hanford, Sandia National Lab-Livermore, Nuclear Materials and Equipment Corporation (NUMEC); Work Group Updates; Planning for Board Future Activities; SEC Petitions Updates including Blockson Chemical, Fernald, Chapman Valve, Dow Chemical, and Bethlehem Steel; Update on Rocky Flats Follow Up Actions; Plans to Procure Board Contractors for FY09, and Agency Updates.

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

For Further Information Contact: Dr. Lewis V. Wade, Executive Secretary, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone 513.533.6825, Fax 513.533.6826.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: September 12, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–18417 Filed 9–18–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center For Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Initial Review Group, Clinical, Research Review Committee. CRRC–Parent Meeting.

Date: October 16, 2007.

Time: 1 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mohan Viswanathan, PhD, Deputy Director, National Center For Research Resources, OR, National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1084, MSC 4874, Bethesda, MD 20892–4874, 301–435–0829, *mv10f@nih.gov*.

Name of Committee: National Center for Research Resources Initial Review Group, Research Centers in Minority Institutions and Institutional Development Award Review Committee. RIRG–M Parent Meeting.

Date: October 23–24, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Executive Meeting Center Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Linda C. Duffy, PhD, Scientific Review Administrator, Office of Review, National Center For Research Resources, National Institutes of Health, 6701 Dem. Blvd., 1 Dem. Plaza, Rm. 1082, MSC 4874, Bethesda, MD 20892–4874, 301–435–0810, *duffy@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS).

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4630 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Human Genome Research Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Human Genome Research Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Human Genome Research Institute.

Date: November 6–8, 2007.

Open: November 6, 2007, 6:30 p.m. to 8 p.m.

Agenda: To discuss matters of program relevance.

Place: Eisenhower Hotels, Conference Center and Resort, 2634 Emmitsburg Road, Gettysburg, PA 17325.

Closed: November 7, 2007, 8:30 a.m. to adjournment on November 8, 2007.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Eisenhower Hotels, Conference Center and Resort, 2634 Emmitsburg Road, Gettysburg, PA 17325.

Contact Person: Claire Kelso, Intramural Program Specialist, Division of Intramural Research, Office of the Scientific Director. National Human Genome Research Institute, 50 South Drive, Building 50, Room 5222, Bethesda, MD 20892–8002, 301 435–5802, *claire@nhgri.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS).

Dated: September 12, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4624 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Prevention of Dementia.

Date: October 4, 2007.

Time: 3:20 p.m. to 3:50 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda, 5151 Pooks Hill Road, Bethesda, MD 20814. (Telephone Conference Call).

Contact Person: Louise L. Hsu, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–7705, *hsul@exmur.nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Epigenetics and Aging.

Date: October 18–19, 2007.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Elaine Lewis, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4621 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, Hearing and Balance.

Date: October 12, 2007.

Time: 8:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, Chemical Senses.

Date: October 15, 2007.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Administrator, Division of Extramural Activities NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communication

Disorders Special Emphasis Panel, Voice, Speech and Language.

Date: October 16, 2007.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, Trial Planning Grant Program.

Date: October 19, 2007.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Stanley C. Oaks, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NID, Executive Plaza South, Room 400C, 6120 Executive Blvd—MSC 7180, Bethesda, MD 20892–7180, 301–496–8683, *so14s@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, CDRC Conflicts.

Date: October 25, 2007.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shiguang Yang, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4622 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee, CDRC.

Date: October 17–18, 2007.

Time: October 17, 2007, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Time: October 18, 2007, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sheo Singh, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4623 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Health, Behavior, and Context Subcommittee.

Date: October 15, 2007.

Time: 7:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Michele C. Hindi-Alexander, PhD, Division of Scientific Review, National Institutes of Health. National Institute for Child Health and Human Development. 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20812–7510, (301) 435–8382, *hindialm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4625 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Data Coordinating Centers Special Emphasis Panel.

Date: October 11, 2007.

Time: 1:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Rita Anand, PhD, Scientific Review Administrator, Division of

Scientific Review. National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd. Room 5B01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4626 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Cooperative Research Partnership for Biodefense.

Date: October 15–17, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel, Executive Meeting Center Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thames E. Pickett, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities. National Institutes of Health/ NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *pickettte@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Cooperative Research Partnership for Biodefense.

Date: October 22–24, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel, Executive Meeting Center Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thames E. Pickett, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities. National Institutes of Health/ NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *pickettte@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4629 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Integrative Physiology of Obesity and Diabetes Study Section, October 4, 2007, 8 a.m. to October 5, 2007, 5 p.m., Embassy Suites DC Convention Center, 900 10th Street, NW., Washington, DC 20001 which was published in the **Federal Register** on September 10, 2007, 72 FR 51649–51651.

The meeting will be held one day only October 4, 2007. The meeting time and location remain the same. The meeting is closed to the public.

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4627 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Integrative and Clinical Endocrinology and Reproduction Study Section, September 26, 2007, 8 a.m. to September 27, 2007, 4 p.m., Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814 which was published in the **Federal Register** on August 10, 2007, 72 FR 45057–45058.

The meeting will be held one day only September 26, 2007, from 8 a.m. to 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4628 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AED.

Date: October 2–3, 2007.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: George Ann Mckie, PhD, DVM, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 1124, MSC 7846, Bethesda, MD 20892, 301–435–1049, *mckiegeo@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Viruses.

Date: October 5–6, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fouad A. El-Zaatari, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814–9692, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, BDCN N (02) M: Member Conflict Special Emphasis Panel.
Date: October 5, 2007.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.
Contact Person: Suzan Nadi, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neurophysiology, Devices and Neuroprosthetics.
Date: October 8–9, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Rene Etcheberrigaray, MD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *etcheber@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Therapeutics and Biology Study Section.
Date: October 8–9, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bo Hang, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–435–5879, *hongb@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Tumor Progression and Metastasis Study Section.
Date: October 8–9, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.
Contact Person: Manzoor Zarger, MS, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Tumor Cell Biology Study Section.
Date: October 8–9, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817) Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Biological Rhythms and Sleep Study Section.
Date: October 8, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael Selmanoff, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 3134, MSC 7844, Bethesda, MD 20892–7844, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Biobehavioral Regulation, Learning and Ethology Study Section.
Date: October 8–9, 2007.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *roberlu@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Biomarkers Study Section.
Date: October 9–10, 2007.
Time: 7:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.
Contact Person: Mary Bell, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7804, Bethesda, MD 20892, (301) 451–8754, *bellmar@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group, Gastrointestinal Mucosal Pathobiology Study Section.
Date: October 9, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Peter J. Perrin, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–07–105 Shared Instrumentation.
Date: October 9–10, 2007.
Time: 8 a.m. to 9 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting)
Contact Person: Ross D. Shonat, PhD, Scientific Review Officer, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 3022A, MSC 7849, Bethesda, MD 20892, 301–435–2786, *shonatr@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Central Visual Processing Study Section.
Date: October 9–10, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Michael A. Steinmetz, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, 301–435–1247, *steinmem@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurobiology of Motivated Behavior Study Section.
Date: October 9–10, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To Review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Edwin C. Clayton, PhD, Scientific Review Administrator Intern, Center for Scientific Review. National Institutes of Health, 6701Rockledge Drive, Room 5095C, MSC 7844, Bethesda, MD 20892, (301) 402–1304, *claytone@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neuroendocrinology, Neuroimmunology, and Behavior Study Section.
Date: October 9–10, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To Review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda, Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael Selmanoff, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3134, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Sensorimotor Integration Study Section.
Date: October 9, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for

Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.*bishopj@csr.nih.gov.*

Name of Committee: Respiratory Sciences Integrated Review Group, Respiratory Integrative Biology and Translational Research Study Section.

Date: October 9–10, 2007.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Bacterial Pathogenesis Study Section.

Date: October 9–10, 2007.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 S. Broadway, Baltimore, MD 21231.

Contact Person: Richard G. Kostriken, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group, Epidemiology of Cancer Study Section.

Date: October 9–10, 2007.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Denise Wiesch, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *wieschd@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Atherosclerosis and Inflammation of the Cardiovascular System Study Section.

Date: October 9–10, 2007

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Savoy Suites of Georgetown, 2505 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkus@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bacterial Pathogenesis.

Date: October 9, 2007.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 S. Broadway, Baltimore, MD 21231.

Contact Person: Marian R. Wachtel, PhD, Scientific Review Administrator, Center for Scientific Review. National Institutes of Health, 6701 Rockledge Drive, Room 3208, MSC 7858, Bethesda, MD 20892, 301–435–1148, *wachtelm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 12, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4631 Filed 9–18–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1725–DR]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1725–DR), dated September 7, 2007, and related determinations.

EFFECTIVE DATE: September 7, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 7, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of North Dakota resulting from severe storms and tornadoes on July 15, 2007, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

If Other Needs Assistance under section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Connee Lloyd, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the State of North Dakota have been designated as adversely affected by this declared major disaster:

Cass and Steele Counties for Public Assistance.

All counties and Tribes within the State of North Dakota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(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,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–18396 Filed 9–18–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1726–DR]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1726–DR), dated September 7, 2007, and related determinations.

EFFECTIVE DATE: September 7, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 7, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of North Dakota resulting from severe storms and a tornado during the period of August 26–27, 2007, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

If Other Needs Assistance under section 408 of the Stafford Act is later warranted, Federal funding under that program also will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Connee Lloyd, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following area of the State of North Dakota has been designated as adversely affected by this declared major disaster:

Grand Forks County for Public Assistance.

All counties and Tribes within the State of North Dakota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(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,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–18398 Filed 9–18–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1720–DR]

Ohio; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Ohio (FEMA–1720–DR), dated August 27, 2007, and related determinations.

EFFECTIVE DATE: September 11, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Ohio is hereby amended to include the Public Assistance program for 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 August 27, 2007.

Allen, Crawford, Hancock, Hardin, Putnam, Richland, and Wyandot Counties for Public Assistance (already designated for Individual 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,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–18399 Filed 9–18–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1712–DR]

Oklahoma; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–1712–DR), dated July 7, 2007, and related determinations.

EFFECTIVE DATE: September 11, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma 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 July 7, 2007.

Custer, Hughes, Jefferson, McIntosh, and Pawnee Counties for Public Assistance.

Payne County for Public Assistance (already designated for Individual Assistance.)

Kiowa, Oklahoma, and Pottawatomie Counties for Public Assistance (already designated for Individual Assistance and emergency protective measures [Category B], limited to direct Federal assistance under the Public Assistance program.)

(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,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–18400 Filed 9–18–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2421–07; DHS Docket No. USCIS–2007–0049]

RIN 1615–ZA58

Automatic Extension of Employment Authorization and Related Documentation for Liberians Provided Deferred Enforced Departure

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: This notice announces an 18-month automatic extension of employment authorization and Employment Authorization Documents for Liberians (and persons without nationality who last habitually resided in Liberia) who have been provided Deferred Enforced Departure (DED) in accordance with the Memorandum from President George W. Bush, to Secretary of Homeland Security, Michael Chertoff, dated September 12, 2007. In addition, this notice informs the affected Liberians and their employers, or prospective employers, that a copy of this notice presented in conjunction with an Employment Authorization Document (EAD) expiring on September 30, 2007, that was previously issued to the person as a beneficiary of Temporary Protected Status (TPS), may be accepted as evidence of a covered individual's continued employment authorization through March 31, 2009. This notice further informs Liberians covered by DED and their employers how they may determine which EADs are automatically extended. Finally, this notice provides instructions for those Liberians who have been provided DED and who would like to apply for permission to travel outside the United States during the 18-month DED period.

DATES: The 18-month automatic extension of employment authorization for Liberians who are eligible for DED, including the extension of their EADs, as specified in this notice, is effective as of 12:01 a.m. October 1, 2007. This automatic extension will expire on March 31, 2009.

FOR FURTHER INFORMATION CONTACT: Shelly Hock, Status and Family Branch, Office of Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529, telephone (202) 272–1533. This is not a toll-free call. Further information will also be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.*

Note: The phone number provided here is solely for questions regarding this notice and the information it contains. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online available at the USCIS Web site listed above, or applicants may call the USCIS National Customer Service Center at 1–800–375–5283.

SUPPLEMENTARY INFORMATION:

Extension of Employment Authorization and EADs

Who is eligible for an 18-month automatic extension of employment authorization through March 31, 2009?

The Department of Homeland Security (DHS) is granting an 18-month extension of employment authorization and the EADs specified in this notice to Liberians who are provided DED in accordance with President Bush's Memorandum to Secretary of Homeland Security, Michael Chertoff, dated September 12, 2007 (''Presidential Memorandum''). As described in that Presidential Memorandum, such individuals who are nationals of Liberia (or persons having no nationality who last habitually resided in Liberia) who have TPS status as of September 30, 2007. In accordance with his constitutional authority to conduct the foreign relations of the United States, the President has directed that such Liberians, who are eligible as described in the Presidential Memorandum, be provided DED for an 18 month period after their TPS status ends. In addition, the President directed Secretary Chertoff and DHS to implement the necessary steps to authorize employment for 18 months from October 1, 2007, for Liberians (and persons without nationality who last resided in Liberia) who are eligible for DED in accordance with the Presidential Memorandum. If TPS for an individual was withdrawn or denied as of September 30, 2007, he or she will not be eligible to receive DED or the automatic extension of employment authorization.

Which EADs are automatically extended to March 31, 2009?

This automatic extension is limited to EADs issued to Liberians (or persons without nationality who last habitually resided in Liberia) on Form I–766, Employment Authorization Document, bearing an expiration date of September 30, 2007. These EADs must also bear the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.'' These are the same EADs issued in conjunction with the individual's TPS status that terminates as of 12:01 a.m. October 1, 2007 (71 FR 55000 (September 20, 2006)).

How may employers determine whether an EAD has been automatically extended for 18 months through March 31, 2009, and is therefore acceptable for completion of the Form I–9?

A Form I–766 (EAD) issued to a Liberian national (or person with no nationality who last habitually resided in Liberia) bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' and having an expiration date of September 30, 2007, on the face of the card, is *acceptable for completion of the Form I–9.* This notice provides an 18 month automatic extension of such EADs until March 31, 2009. Employers should not request proof of Liberian citizenship.

Employers should accept an EAD as a valid ''List A'' document and not ask for additional Form I–9, Employment Eligibility Verification, documentation if presented with an EAD that has been extended pursuant to this **Federal Register** Notice, and the EAD reasonably appears on its face to be genuine and to relate to the employee. This does not

affect the right of an applicant for employment or an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Note to Employers

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those setting forth re-verification requirements, *see* 8 CFR 274a.2(b)(1)(vii). For questions, employers may call the USCIS Office of Business Liaison Employer Hotline at 1–800–357–2099. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155. Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

What documents may a qualified individual show to his or her employer as proof of employment authorization and identity when completing Form I–9?

Through March 31, 2009, Liberians (and persons having no nationality who last habitually resided in Liberia) who are eligible for DED, as described in the Presidential Memorandum, may present a copy of this **Federal Register** Notice regarding the automatic extension of employment authorization documentation, along with their Form I–766 (EAD) bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category,'' and having an expiration date of September 30, 2007, on the face of the card. In the alternative, any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I–9 may be presented as proof of identity and employment eligibility.

Can an individual apply for an EAD if that individual is eligible for DED in accordance with the Presidential Memorandum, but he or she does not posses an EAD issued in conjunction with a prior grant of TPS?

Yes. Individuals granted TPS for Liberia, who did not request or receive an EAD, or had their EAD lost, stolen or mutilated and who would like a replacement EAD, may apply for an EAD. Such persons may file USCIS Form I–765, Application for Employment Authorization Document, during the duration of the period that they are eligible for DED. Applicants for EADs must also carefully follow the instructions accompanying the Form I–765. Please submit Form I–765 and supporting documentation to: Vermont Service Center, Attn: I–765, 75 Lower Welden St., St. Albans, VT 05479–0001.

On the Form I–765, the individual must indicate that he or she was a beneficiary of Liberian TPS that expires as of October 1, 2007, and is now eligible for DED. The individual should also include a copy of his or her latest Form I–797, Notice of Action, showing that he or she was previously approved for TPS, if such copy is available. If biometrics are required to produce the secure EAD, the individual may be scheduled for an appointment at a USCIS Application Support Center. The EAD that is issued will contain an expiration date of March 31, 2009. This EAD bearing a March 31, 2009, expiration date may also be presented to employers as a valid document for I–9 purposes.

May I request an interim EAD at my local district office?

No. USCIS will not be issuing interim EADs to individuals eligible for DED under the Presidential Memorandum at local district offices.

May an individual who is covered by DED under the Presidential Memorandum travel outside of the United States and be permitted to return during the 18 month DED period?

Individuals eligible for DED who would like to travel outside of the United States must apply for and receive advance parole by filing Form I–131, Application for Travel Document, with required fees. *See* 8 CFR 223.2(a). The determination whether to grant advance parole is within the discretion of DHS and is not guaranteed in all cases.

Dated: September 14, 2007.

Emilio T. Gonzalez,

Director, U.S. Citizenship and Immigration Services.

[FR Doc. 07–4645 Filed 9–14–07; 3:10 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–190–0777–XG]

Notice of Emergency Closure of Selected Public Lands in Monterey County, California

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of Emergency Closure of Selected Public Lands to the Establishment of Geocaches.

SUMMARY: In accordance with 43 CFR 8364.1(a), notice is hereby given that the Bureau of Land Management (BLM) Hollister Field Office will immediately close selected public lands to the establishment of new geocaches on Fort Ord Public Lands (FOPL) within Monterey County, California. Existing geocaches will be evaluated and BLM will determine whether or not they need to be removed. Specifically, this closure pertains to public lands located within the 7,200-acre Fort Ord Public Lands in T.14, 15, & 16 S., R. 2 E., in Monterey County, California. The public is currently prohibited from engaging in off-trail recreation use as established in an Emergency Closure of Public Lands notice dated December 5, 1996 (Volume 61, Number 235).

This action is necessary to prevent geocachers from establishing new geocaches on the Fort Ord Public Lands that may expose themselves, and others, to munitions sites. The action is also intended to reduce off-trail use that can have considerable adverse effects on soil, vegetation, wildlife, endangered species, and authorized uses on the public lands.

DATES: The emergency closure is effective immediately and will remain in effect until formal geocaching policy governing the Fort Ord Public Lands (FOPL) has been completed for this area in accordance with Title 43 Code of Federal Regulations 8364.1, or until the Authorized Officer determines it is no longer needed.

ADDRESSES: Maps of the closure area may be obtained from the Hollister Field Office, 20 Hamilton Ct, Hollister, CA 95023, Phone 831–630–5000.

FOR FURTHER INFORMATION CONTACT: Rick Cooper, Field Manager, Hollister Field Office, 20 Hamilton Ct, Hollister, CA 95023. (831) 630–5000. E-mail: *Rick_Cooper@ca.blm.gov* or Eric Morgan, Fort Ord Project Manager, 831–394–8314. E-mail: *Eric_Morgan@ca.blm.gov*.

SUPPLEMENTARY INFORMATION: The Hollister Field Office initiated an

Environmental Assessment (NEPA #CA–190–07–54) on August 29, 2007. Notification of the proposed action and analysis has been prominently posted in the Hollister Field Office public area and on the Field Office web page during its undertaking.

The 2007 Hollister Resource Management Plan designated non-motorized use on FOPL as ''Limited'' to designated (i.e. signed and shown on trail maps) routes and trails. This planning decision was preceded by an Emergency Closure in 1996 regarding the same on December 5, 1996 (Volume 61, Number 235). Unauthorized off-trail use has been increasing over the past years and has risen to a point that up to 60 existing geocaches are currently located away from trails on FOPL. Hundreds of recreationists visit geocache sites every week. Geocaching is not only extensively popular in the United States but occurs across the world. Geocaching activities on FOPL have the potential to expose visitors to dangerous munitions and are creating new trails that can cause considerable adverse impacts to soils, vegetation, wildlife, endangered species, and authorized uses on the public lands.

During the closure, informational signs and maps of the emergency closure will be clearly posted at main entry points to all locations affected by this Notice. BLM will contact the northern California Geocacher Approver and explain the problems and strategies and request that they post the following message on all the existing geocaches web-pages. Effective immediately the BLM is currently developing a geocaching policy governing the Fort Ord Public Lands that is protective of the environment and is attentive to public safety. As such, the BLM has instituted an immediate prohibition on the establishment of new geocaches on the FOPL and is evaluating existing caches (such as this one) to determine if there are any immediate issues concerning public safety and the protection of sensitive natural and historic resources. The BLM reminds geocachers that our current regulations prohibit off-trail recreation use at Fort Ord and that public lands are open to non-motorized trail users only from dawn to dusk. The current roads and trails network for non-motorized use can be seen on the web at Google Earth: *http://www.palmconsulting.net/beta/GE1D4.kmz.* If a person wishing to visit the area does not have Google Earth or internet access, maps of the closure area are available at the Hollister Field Office. The geocaching policy that BLM is developing will take into consideration that these lands were once a former military base and that dangerous munitions and explosives still may reside in public use areas. Visitors that remain on our designated trail systems are not in harm's way from encountering such items. If anything is encountered that appears to be a remnant of former military use of the lands (especially anything metallic) and could be a dangerous munition, please way mark the site location and call the Presidio of Monterey Policy Department at 831–242–7851 or Army munitions expert, Lyle Shurtleff at 831–242–7919. For additional information, feel free to contact Eric Morgan, Fort Ord Manager at 831–394–8314. Thanks for your attention to these matters.

Penalties: Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8364.1, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: August 30, 2007.

Rick Cooper,

Field Manager, Hollister Field Office.

[FR Doc. E7–18450 Filed 9–18–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–921–07–1320–EL–P; NDM 96918]

Notice of Invitation—Coal Exploration License Application NDM 96918

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Members of the public are hereby invited to participate with Dakota Westmoreland Corporation in a program for the exploration of coal deposits owned by the United States of America in lands located in Mercer County, North Dakota, encompassing 640.00 acres.

FOR FURTHER INFORMATION CONTACT: Stephen Van Matre, Mining Engineer, or Connie Schaff, Land Law Examiner, Branch of Solid Minerals (MT–921), Bureau of Land Management (BLM), Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5082 or (406) 896–5060, respectively.

SUPPLEMENTARY INFORMATION: The lands to be explored for coal deposits are described as follows:

T.143N., R.88W., 5th P.M.

14: S½NW¼

20: NW¼NW¼, S½NW¼, N½SW¼, NW¼SE¼

22: S½

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, BLM, 5001 Southgate Drive, Billings, Montana 59101–4669, and Dakota Westmoreland Corporation, P.O. Box 39, Beulah, North Dakota 58523. Such written notice must refer to serial number NDM 96918 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the *Bismarck Tribune* newspaper, whichever is later. This Notice will be published once a week for two (2) consecutive weeks in the *Bismarck Tribune*, Bismarck, North Dakota.

The proposed exploration program is fully described, and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. The exploration plan, as submitted by Dakota Westmoreland Corporation, is available for public inspection at the BLM, 5001 Southgate Drive, Billings, Montana, during regular business hours (9 a.m. to 4 p.m.), Monday through Friday.

Dated: September 12, 2007.

Edward L. Hughes,

Acting Chief, Branch of Solid Minerals.

[FR Doc. E7–18437 Filed 9–18–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Fowler Museum of Cultural History, University of California, Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of Fowler Museum of Cultural History (Fowler Museum at UCLA), University of California, Los Angeles, Los Angeles, CA. The human remains and associated funerary objects were removed from site 4–LAN–192, Los Angeles County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and

associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Fowler Museum at UCLA professional staff in consultation with representatives of Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California; Cahuilla Inter–Tribal Repatriation Committee, a non–federally recognized Indian group; and Kitanemuk Indians, a non–federally recognized Indian group.

In 1968, human remains representing a minimum of nine individuals were removed from the Lovejoy Springs site (4–LAN–192) in Los Angeles County, CA, by James Toney during a salvage of a mortuary area being destroyed by development. The collection was accessioned by the University of California, Los Angeles in 1969. No known individuals were identified. The 3,364 associated funerary objects are 1 projectile point, 1 quartz flake, 4 worked bird bone fragments, 2,135 olivella saucer beads, 1,101 olivella spire lopped beads, and 122 olivella beads.

Lovejoy Springs is located within the traditional territory of the Serrano. The artifacts are consistent with others documented as associated with the indigenous inhabitants of the area. The beads and projectile point associated with the burials date to Middle Period Phase 2a (circa 50 B.C. – A.D. 400). The pictograph styles of the area near the burials suggest an association with traditional Serrano linguistic groups. It is reasonably believed by archeologists that Serrano/Takic speakers have continuously occupied the San Bernardino Mountains and the area north of the San Bernardino Mountains since at least 1,000 B.C. Tribal representatives from San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California identified this site as from within the traditional territory of the Serrano people. Descendants of the Serrano are members of the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of the Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; and Torres Martinez Band of Cahuilla Mission Indians of California.

Officials of the Fowler Museum at UCLA have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of nine individuals of Native American ancestry. Officials of the Fowler Museum at UCLA also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 3,364 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Fowler Museum at UCLA have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of the Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; and Torres Martinez Band of Cahuilla Mission Indians of California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Wendy Teeter, Curator of Archaeology, Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, before October 19, 2007. Repatriation of the human remains and associated funerary objects to the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of the Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; and Torres Martinez Band of Cahuilla Mission Indians of California may proceed after that date if no additional claimants come forward.

Fowler Museum at UCLA is responsible for notifying the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of the Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; Torres Martinez Band of Cahuilla Mission Indians of California; Cahuilla Inter–Tribal Repatriation Committee, a non–federally recognized Indian group; and Kitanemuk Indians, a non–federally recognized Indian group that this notice has been published.

Dated: August 29, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–18488 Filed 9–18–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Kansas State Historical Society, Topeka, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Kansas State Historical Society, Topeka, KS that meet the definitions of ''sacred objects'' and

''objects of cultural patrimony'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The two cultural items are a ceremonial wooden bowl (KSHS catalog number 56.32.12) and a woven bag (KSHS catalog number 56.32.39).

On April 23, 1956, the cultural items were sold to the Kansas State Historical Society by the Logan Museum of Anthropology, Beloit College, Beloit, WI. Both cultural items were from the Heath Collection and identified as Ottawa. The Ottawa people are also called Odawa. Albert Green Heath was known to have collected cultural items from the Odawa at Little Traverse Bay, MI. Descendants of the Ottawa or Odawa are members of the Little Traverse Bay Bands of Odawa Indians, Michigan.

Tribal representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan have identified the two cultural items as being needed by traditional Odawa religious leaders for the practice of a traditional Native American religion by their present–day adherents. Furthermore, tribal representatives also have identified the two cultural items as having ongoing historical, traditional, and cultural importance central to the culture itself, and indicated that the cultural items could not have been alienated by any single individual.

Officials of the Kansas State Historical Society have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the two cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present–day adherents. Officials of the Kansas State Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the two cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Lastly, officials of the Kansas State Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects/objects of cultural patrimony and the Little Traverse Bay Bands of Odawa Indians, Michigan.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred objects/objects of cultural patrimony should contact Robert Hoard, NAGPRA Coordinator, Kansas State Historical Society, 6425 SW Sixth Avenue, Topeka, KS 66542, telephone (785) 272–8681 (extension 269), before October 19, 2007. Repatriation of the sacred objects/objects of cultural patrimony to the Little Traverse Bay Bands of Odawa Indians, Michigan may proceed after that date if no additional claimants come forward.

The Kansas State Historical Society is responsible for notifying the Little Traverse Bay Bands of Odawa Indians, Michigan tribe that this notice has been published.

Dated: September 5, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–18484 Filed 9–18–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Slater Museum of Natural History, University of Puget Sound, Tacoma, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Slater Museum of Natural History, University of Puget Sound, Tacoma, WA. The human remains were removed from Siskiyou County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Slater Museum of Natural History, University of Puget Sound professional staff and a consultant in consultation with representatives of the Klamath Tribes, Oregon and Modoc Tribe of Oklahoma.

In 1925, human remains representing a minimum of one individual were removed from near Lower Klamath Lake, Siskiyou County, CA, by Stanley G. Jewett. Mr. Jewett donated the human remains to the museum in 1955. No known individual was identified. No associated funerary objects are present.

In July 1925, human remains representing a minimum of one individual were removed from Tule Lake, Siskiyou County, CA, by Mr. Jewett. Mr. Jewett donated the human remains to museum in 1955. No known individual was identified. No associated funerary objects are present.

The individuals are most likely of Native American ancestry as indicated by morphological features. The geographical location where the human remains were recovered is consistent with the historically documented territory of the Klamath tribes. The Klamath Tribes, Oregon and Modoc Tribe of Oklahoma have a shared ancestry. Following the conclusion of the Modoc wars, the Modoc people were relocated to Oklahoma. In 1888, the Modoc reservation was established. In 1909, the Modoc were granted permission to return to Oregon. Those who returned became part of the Klamath Tribes, Oregon. The Klamath Tribes, Oregon and Modoc Tribe of Oklahoma have formally agreed that repatriations of human remains from the historically documented territory of the Klamath tribes should go to the Klamath Tribes, Oregon for reburial.

Based on provenience, historical documentation, and tribal consultation, officials of the Slater Museum of Natural History, University of Puget Sound reasonably believe that the human remains share a common ancestry with members of the Klamath and Modoc tribes. Descendants of the Klamath and Modoc tribes are members of the Klamath Tribes, Oregon and Modoc Tribe of Oklahoma.

Officials of the Slater Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Slater Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Klamath Tribes, Oregon and the Modoc Tribe of Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Peter Wimberger, Slater Museum of Natural History, 1500 N. Warner, Tacoma, WA 98416, (253) 879–2784, before October 19, 2007.

Repatriation of the human remains to the Klamath Tribes, Oregon may proceed after that date if no additional claimants come forward.

The Slater Museum of Natural History, University of Puget Sound is responsible for notifying the Klamath Tribes, Oregon and Modoc Tribe of Oklahoma that this notice has been published.

Dated: August 29, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–18481 Filed 9–18–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Slater Museum of Natural History, University of Puget Sound, Tacoma, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Slater Museum of Natural History, University of Puget Sound, Tacoma, WA. The human remains were removed from Hood River, Hood River County, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Slater Museum of Natural History, University of Puget Sound professional staff and a consultant in consultation with representatives of the Confederated Tribes of the Warm Springs Reservation of Oregon and Confederated Tribes and Bands of the Yakama Nation, Washington.

Human remains representing a minimum of two individuals were removed from Hood River, Hood River County, OR, by an unknown person on an unknown date. The human remains were brought to the museum by Howard Richardson on February 7, 1939. No known individual was identified. No associated funerary objects are present.

The individuals are most likely of Native American ancestry as indicated by morphological features. The geographical location where the human remains were recovered is consistent with the historically documented territory of the tribes now represented by the Confederated Tribes of the Warm Springs Reservation of Oregon. The Indian Claims Commission Final Decision places Hood River within the territories of the Confederated Tribes of the Warm Springs Reservation of Oregon. Furthermore, based on information provided during consultation with tribal representatives, there is a reasonable belief that the human remains share a common ancestry with members of tribes now represented by the Confederated Tribes of the Warm Springs Reservation of Oregon.

Officials of the Slater Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Slater Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Warm Springs Reservation of Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Peter Wimberger, Slater Museum of Natural History, 1500 N. Warner, Tacoma, WA 98416, (253) 879–2784, before October 19, 2007. Repatriation of the human remains to the Confederated Tribes of the Warm Springs Reservation of Oregon may proceed after that date if no additional claimants come forward.

The Slater Museum of Natural History is responsible for notifying the Confederated Tribes of the Warm Springs Reservation of Oregon and Confederated Tribes and Bands of the Yakama Nation, Washington that this notice has been published.

Dated: August 29, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–18482 Filed 9–18–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains and associated funerary objects were removed from Douglas and Kittitas Counties, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Burke Museum professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group.

In 1920, human remains representing a minimum of one individual were removed from ''the Vulcan Burial,'' also designated as the ''Hall Site #9,'' in the area surrounding Vulcan (the vicinity of 45–DO–6) in either Douglas or Kittitas County, WA, during a museum expedition led by F. S. Hall. The human remains were accessioned by the Burke Museum in 1920 (Burke Accn. #1860). No known individual was identified. The 15 associated funerary objects are 1 lot of ochre, 1 lot of shell beads, 1 lot of stone beads, 1 lot of abalone shell fragments, 1 lot of burned organic material, 1 lot of shell beads, 1 utilized flake, 2 modified bone fragments, 1 turquoise pendant, and 5 coprolites.

In 1921, human remains representing a minimum of two individuals were

removed from 45–KT–10, also designated as Hall Site 5, Kittitas County, WA, during a museum expedition lead by F. S. Hall, who was assisted by Earl O. Roberts and M. Mohr. The collection was accessioned by the Burke Museum in 1920 (Burke Accn. #1860). No known individuals were identified. The 93 funerary objects are 6 lots of bone (bird and mammal), 8 bracelet fragments (bone or antler), 1 bone comb, 47 chipped stone tools, 4 harpoon valves, 7 metal fragments, 8 modified bone fragments, 6 bone points, 2 lots of shell, 2 shell pendants, 1 tooth, and 1 bird whistle.

In 1920, human remains representing a minimum of four individuals were removed from Hall Area V, between Wenatchee and Vantage Ferry, Kittitas County, WA, during a museum expedition lead by F. S. Hall, and assisted by Earl O. Roberts and M. Mohr. The human remains were accessioned by the Burke Museum in 1920 (Burke Accn. #1860). No known individuals were identified. The 28 funerary objects are 4 modified antler fragments, 1 lot of organic matter, 1 lot of dentalium shells with cedar, 1 lot of dentalium shells and leather, 1 lot of burned bone and organic matter, 1 bone tool, 2 lots of copper ore fragments (1 with leather fragments), 1 modified bone, 1 lot of decorated bone fragments (possibly pendant fragments), 1 lot of shell fragments, 5 lots of shell, 1 antler wedge, 2 fiber fragments, 1 cordage fragment, 1 bird bone, 1 tooth, and 3 wood fragments.

Early and late published ethnographic documentation indicates that the sites described above are the aboriginal territory of the Moses–Columbia or Sinkiuse, and the Yakima (Daugherty 1973, Miller 1998, Mooney 1896, Ray 1936, Spier 1936). Descendents of the Moses–Columbia, Sinkiuse, and Yakima are members of the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington. Furthermore, information provided by the two tribes during consultation indicates that the aboriginal ancestors occupying this area were highly mobile and traveled the landscape for gathering resources as well as trade, and are part of the more broadly defined Plateau communities. Descendents of these Plateau communities are now widely dispersed and enrolled in the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group.

Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of seven individuals of Native American ancestry. Officials of the Burke Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 136 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; and Nez Perce Tribe of Idaho. Furthermore, officials of the Burke Museum have determined that there is a cultural relationship between the human remains and associated funerary objects and the Wanapum Band, a non–federally recognized Indian group.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–2282, before October 19, 2007. Repatriation of the human remains and associated funerary objects to the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; and Nez Perce Tribe of Idaho for themselves and on behalf of the Wanapum Band, a non–federally recognized Indian group, may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group that this notice has been published.

Dated: August 30, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–18486 Filed 9–18–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Army Corps of Engineers, Portland District, Portland, OR and University of Oregon Museum of Natural and Cultural History, Eugene, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects for which the University of Oregon Museum of Natural and Cultural History, Eugene, OR, and U.S. Department of Defense, Army Corps of Engineers, Portland District, Portland, OR, have joint responsibility. The human remains and associated funerary objects were removed from sites on Army Corps of Engineers land within the John Day Dam project area, Klickitat County, WA and Gilliam County, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of Oregon Museum of Natural and Cultural History and U.S. Army Corps of Engineers, Portland District professional staff in consultation with representatives of the Confederated Tribes of the Warm Springs Reservation of Oregon.

Native American cultural items described in this notice were excavated under Antiquities Act permits by the University of Oregon, Eugene, OR, on Army Corps of Engineers project lands. Following excavations at the sites described below, and under the provisions of the permits, the University

of Oregon was allowed to retain the collections for preservation.

In l959, human remains representing a minimum of eight individuals were removed from site 45–KL–18, also known as the Fountain Bar site, Klickitat County, WA, during an excavation by the University of Oregon prior to construction of the John Day Dam. No known individuals were identified. The 105 associated funerary objects are 1 net sinker, 3 projectile points, 1 preform, 1 chopper, 1 flaked cobble, 1 burin, 5 worked flakes, 5 uncategorized flakes, 3 pebbles, 1 worked antler, 3 dentalia, 6 lots of dentalia (i.e. 4 dentalium vials, 2 boxes of dentalia), 6 shell beads, 1 strand of shell beads, 3 shell pendants, 1 graphite pendant, 3 large disk beaks, 1 vial of large disk beads, 3 small disk beads, 2 small disk bead strands, 33 glass beads, 10 steatite beads, 1 large bead strand, 3 vials of large beads, 1 vial of small beads, 4 vials of assorted beads, 1 individual bead, and 1 vial of yellow ochre.

Site 45–KL–18 extends from the mouth of Rock Creek for more than two miles eastward along the now–inundated, north side shoreline of the Columbia River. The site is described as a severely–looted, vandalized and eroded lithic scatter and cemetery. Although no dates of occupation were obtained by the researchers, the burials were characterized as prehistoric. Based on the associated funerary objects, the human remains have been determined to be Native American.

In l959, human remains representing a minimum of six individuals were removed from the Harrison Site (35–GM–1), on the east bank of the John Day River at its confluence with the Columbia River, Gilliam County, OR, by University of Oregon in conjunction with studies undertaken prior to construction of the John Day Dam. No known individuals were identified. The 12 associated funerary objects are 5 stone drills, 1 bolas stone, 2 flakes, 3 red ochre pieces, and 1 soapstone item.

The Harrison Site is described as a camp site with a burial area and petroglyphs. Prior to federal acquisition of this property, the original landowners excavated much of the site area. No dates of site occupation were obtained by the researchers. Based on the associated artifacts, the human remains have been determined to be Native American.

The sites described above are within the traditional lands of the present–day Confederated Tribes of the Warm Springs Reservation of Oregon. The Confederated Tribes of the Warm Springs Reservation of Oregon are composed of three Wasco bands, four Warm Springs bands, and Northern Paiutes. The Columbia River–based Wasco were the easternmost group of Chinookan–speaking Indians. The Sahaptin–speaking Warm Springs bands lived farther east along the Columbia River and its tributaries. Northern Paiutes, who spoke a Uto–Aztecan language, historically occupied much of southeastern Oregon.

Officials of the U.S. Army Corps of Engineers, Portland District have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least 14 individuals of Native American ancestry. Officials of the U.S. Army Corps of Engineers, Portland District have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 117 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the U.S. Army Corps of Engineers, Portland District have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes of the Warm Springs Reservation of Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Daniel Mulligan, NAGPRA Coordinator, Environmental Resources Branch, U.S. Army Corps of Engineers, Portland District, P. O. Box 2946, Portland, OR 97208–2946, telephone (503) 808–4768, before October 19, 2007. Repatriation of the human remains and associated funerary objects to the Confederated Tribes of the Warm Springs Reservation of Oregon may proceed after this date if no additional claimants come forward.

The U.S. Army Corps of Engineers, Portland District is responsible for notifying the Confederated Tribes of the Warm Springs Reservation of Oregon that this notice has been published.

Dated: August 30, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–18487 Filed 9–18–07; 8:45 am]

BILLING CODE 4312–50–S

INTERNATIONAL TRADE COMMISSION

[Inv. No. 332–488]

Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Beef Exports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on August 7, 2007, of a request from the United States Senate Committee on Finance (Committee) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission instituted investigation No. 332–488, *Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Beef Exports.*

DATES: *October 15, 2007:* Deadline for filing requests to appear at public hearing.

October 22, 2007: Deadline for filing pre-hearing briefs and statements.

November 15, 2007: Public hearing.

November 23, 2007: Deadline for filing post-hearing briefs and statements.

February 29, 2008: Deadline for all other submissions.

June 6, 2008: Transmittal of Commission report to the Senate Committee on Finance.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Project leader John N. Giamalva (202–205–3329 or *john.giamalva@usitc.gov*) or deputy project leader Joe Kowalski (202–205–3323 or *joseph.kowalski@usitc.gov*) for information specific to this investigation. For more information on legal aspects of the investigation, contact William Gearhart of the Commission's Office of the General Counsel at 202–205–3091 or *william.gearhart@usitc.gov.* The media should contact Margaret O'Laughlin, Office of External Relations at 202–205–1819 or *margaret.olaughlin@usitc.gov.* Hearing impaired individuals are advised that information on this matter

can be obtained by contacting the TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ONLINE) at *http://edis.usitc.gov.* Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: As requested by the Committee, the Commission will conduct an investigation under section 332(g) and prepare a report regarding the effects of animal health, sanitary, and food safety measures on beef trade between the United States and its major trading partners. The Commission's report will cover the period 2002–2007, to the extent data are available.

As requested by the Committee, the Commission will include the following information in its report, to the extent possible: (1) An overview of the U.S. and global markets for beef, including production, consumption, exports, and imports; (2) information on animal health, sanitary, and food safety measures facing U.S. and other major beef exporters in major destination markets; (3) information on other barriers to U.S. beef exports in major destination markets, including high tariffs, quotas, and import licensing and distribution systems; and (4) a qualitative and, to the extent possible, quantitative analysis of the economic effects of foreign animal health, sanitary, and food safety measures on U.S. beef exports. The Commission expects to deliver the report to the Committee by June 6, 2008.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on November 15, 2007. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., October 18, 2007, in accordance with the requirements in the ''Written Submissions'' section below. In the event that, as of the close of business on October 18, 2007, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after October 15, 2007, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements and briefs concerning this investigation. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary. Pre-hearing briefs and statements should be filed not later than 5:15 p.m., October 22, 2007; and post-hearing briefs and statements should be filed not later than 5:15 p.m., November 23, 2007. All other submissions should be filed not later than 5:15 p.m., February 29, 2008. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf).* Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

In its request letter, the Committee states that it intends to make the Commission's report available to the public, in its entirety, and asked that the Commission not include any confidential business information in the report it sends to the Committee. Consequently, the report that the Commission sends to the Committee will not contain any such information. Any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the individual or firm supplying the information.

Issued: September 13, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–18407 Filed 9–18–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–493]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2007 Review of Additions and Removals

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on September 6, 2007 of a request from the United States Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332 (g)), the Commission instituted investigation No. 332–493, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2007 Review of Additions and Removals.*

DATES: *September 25, 2007:* Deadline for filing requests to appear at the public hearing.

September 26, 2007: Deadline for filing pre-hearing briefs and statements.

October 16, 2007: Public hearing.

October 24, 2007: Deadline for filing post-hearing briefs and statements and other written submissions.

December 19, 2007: Transmittal of report to USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Information may be obtained from Cynthia B. Foreso, Project Leader, Office of Industries (202–205–3348 or *cynthia.foreso@usitc.gov)* or Eric Land, Deputy Project Leader, Office of

Industries (202–205–3349 or *eric.land@usitc.gov).* For more information on legal aspects of the investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ONLINE) at *http://www.usitc.gov/secretary/edis.htm.* Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: As requested by the USTR, in accordance with section 503(a)(1)(A), 503(e), and 131(a) of the Trade Act of 1974, as amended (19 U.S.C. 2463(a)(1)(A), 19 U.S.C. 2151(a)), and pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties for all beneficiary developing countries under the GSP program on articles provided for in HTS subheadings 2613.10.00, 2613.90.00, 2917.12.10, 3204.17.90, 4412.39.5030, 7601.10.30, 7601.20.30, 7604.21.00, and 8111.00.4910. Also, as requested by USTR, pursuant to section 332(g) of the Tariff Act of 1930, the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the removal from eligibility for duty-free treatment under the GSP program of articles provided for in HTS subheadings 2931.00.90 from India and 3920.62.00 from Brazil. As requested by the USTR, the Commission will provide its advice no later than December 19, 2007. The USTR indicated that those sections of the Commission's report and related working papers that contain the Commission's advice will be classified as ''confidential.''

Public Hearing: A public hearing in connection with this investigation will be held beginning at 9:30 a.m. on October 16, 2007 at the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on September 25, 2007, in accordance with the requirements in the ''Submissions'' section below.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements or briefs concerning these investigations. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. Pre-hearing briefs and statements should be filed not later than 5:15 p.m., September 26, 2007; and post-hearing briefs and statements and all other written submissions should be filed not later than 5:15 p.m., October 24, 2007. All written submissions must conform with the provisions of section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or a copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf).* Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of these investigations in the report it sends to the USTR. As requested by the USTR, the Commission will publish a public version of the report, which will exclude portions of the report that the USTR has classified as confidential as well as any confidential business information.

Issued: September 12, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–18408 Filed 9–18–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under 21 U.S.C. 952(a) authorizing the importation of such substances, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on October 10, 2006, Lannett Company Incorporated, 9001 Torresdale Avenue, Philadelphia, Pennsylvania 19136, made application by letter and subsequent renewal on February 19, 2007 to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Methylphenidate (1724)	II
Morphine (9300)	II

The company plans to import the basic classes of controlled substances for analytical testing on a formulated product for submission to U.S. Food and Drug Administration (FDA) for generic product approval.

Any manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of

controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than October 19, 2007.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–43746), all applicants for registration to import a basic class of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: September 12, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–18497 Filed 9–18–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 24, 2007, Research Triangle Institute, Kenneth H. Davis Jr., Hermann Building, P.O. Box 12194, East Institute Drive, Research Triangle, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The Institute will manufacture small quantities of cocaine and marihuana derivatives for use by their customers in analytical kits, reagents, and reference standards as directed by NIDA.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 Jefferson Davis Highway, Alexandria, Virginia 22301; and must be filed no later than November 19, 2007.

Dated: September 12, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–18446 Filed 9–18–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0064]

Federal Advisory Council on Occupational Safety and Health (FACOSH): Announcement of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of meeting.

SUMMARY: The Federal Advisory Council on Occupational Safety and Health (FACOSH) will meet October 11, 2007, in Washington, DC.

DATES: *FACOSH meeting:* FACOSH will meet from 1 p.m. to 4:30 p.m., Thursday, October 11, 2007.

Submission of comments and requests to speak: Comments and requests to speak at the FACOSH meeting must be received by October 4, 2007.

ADDRESSES: *FACOSH meeting:* FACOSH will meet in Room C–5521, Conference Room 4, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Submission of comments and requests to speak: Comments and requests to speak at the FACOSH meeting, identified by OSHA Docket No. 2007–0064, may be submitted by any of the following methods:

Electronically: You may submit materials, including attachments, electronically at: *http://www.regulations.gov*, the Federal eRulemaking Portal. Follow the online instructions for making submissions.

Facsimile: If your submission, including attachments, is not longer than 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Mail, express delivery, hand delivery, messenger or courier service: Submit three copies of your submissions to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2007–0064). Submissions in response to this **Federal Register** notice, including personal information provided, will be posted without change at: *http://www.regulations.gov*. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. Because of security-related procedures, submissions by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office, at the address above, for information about security procedures for making submissions by hand delivery, express delivery, and messenger or courier service. For additional information on submitting comments and requests to speak, see the **SUPPLEMENTARY INFORMATION** section below.

Docket: To read or download submissions, go to *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office at the address above.

FOR FURTHER INFORMATION CONTACT: *For general information:* Diane Brayden,

Director, OSHA, Office of Federal Agency Programs, U.S. Department of Labor, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2122; fax (202) 693–1685; e-mail *ofap@dol.gov. For special accommodations for the FACOSH meeting:* Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

SUPPLEMENTARY INFORMATION: FACOSH will meet Thursday, October 11, 2007, in Washington, DC. All FACOSH meetings are open to the public.

FACOSH is authorized by section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), 5 U.S.C. 7902, and Executive Order 12196 to advise the Secretary of Labor on all matters relating to the occupational safety and health of Federal employees. This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the Federal workforce and how to encourage the establishment and maintenance of effective occupational safety and health programs in each Federal Department and Agency.

The tentative agenda for the FACOSH meeting includes updates on the:

- FY 2007 performance results of Federal Executive Branch agencies in meeting the four goals of the Presidential Safety, Health, and Return-to-Employment (SHARE) Initiative;
- FY 2006 Secretary of Labor's Report to the President on the overall status of occupational safety and health in the Federal Executive Branch;
- Federal Agency Recordkeeping Subcommittee;
- Federal agency training week being hosted by the OSHA Training Institute on November 6–8, 2007 and results of OSHA's survey of Federal agencies' training resources; and
- Field Federal Safety and Health Councils.

FACOSH meetings are transcribed and detailed minutes of the meetings are prepared. Meeting transcripts and minutes are included in the official record of FACOSH meetings.

Interested parties may submit a request to make an oral presentation to FACOSH by one of the methods listed in the **ADDRESSES** section above. The request must state the amount of time requested to speak, the interest represented (e.g., business or organization name), if any, and a brief outline of the presentation. Requests to address FACOSH may be granted as time permits and at the discretion of the FACOSH chair.

Interested parties also may submit comments, including data and other information, using any of the methods listed in the **ADDRESSES** section above. OSHA will provide all submissions to FACOSH members.

Individuals who need special accommodations and wish to attend the FACOSH meeting should contact Veneta Chatmon, at the address above, at least seven days before the meeting.

Public Participation—Submissions and Access to Official Meeting Record

You may submit comments and requests to speak (1) electronically, (2) by facsimile, or (3) by hard copy. All submissions, including attachments and other materials, must identify the Agency name and the OSHA docket number for this notice (Docket No. OSHA–2007–0064). You may supplement electronic submissions by uploading documents electronically. If, instead, you wish to submit hard copies of supplementary documents, you must submit three copies to the OSHA Docket Office using the instructions in the **ADDRESSES** section above. The additional materials must clearly identify your electronic submission by name, date and docket number.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of submissions. For information about security procedures concerning the delivery of submissions by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Meeting transcripts and minutes as well as submissions in response to this **Federal Register** notice are included in the official record of the FACOSH meeting (Docket No. OSHA–2007–0064). Submissions are posted without change at: *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. Although all submissions are listed in the *http://www.regulations.gov* index, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the *http://www.regulations.gov* Web site to make submissions and to access the docket and exhibits is available at the Web site's User Tips link. Contact the OSHA Docket Office for information about materials not available through the Web site and for assistance in using the Internet to locate submissions and other documents in the docket. Electronic copies of this **Federal Register** notice are available at: *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, is also available at OSHA's Web page at: *http://www.osha.gov.*

Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), 5 U.S.C. 7902, section 1–5 of Executive Order 12196, the Federal Advisory Committee Act (5 U.S.C. App.2) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, this 14th day of September, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E7–18406 Filed 9–18–07; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–066)]

NASA Advisory Council; Science Committee; Planetary Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Sunday, October 7, 2007, 8:30 a.m. to 5 p.m. Eastern Daylight Time.

ADDRESSES: The Rosen Centre Hotel, 9840 International Drive, Orlando, Florida 32819.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452,

fax (202) 358–4118, or *mnorris@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Planetary Science Division Update
—Mars Program Update
—Lunar Architecture Team 2 Study
—Report from Assessment Groups
—Discussion of Forming a Small Bodies Assessment Group

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a visitor's register.

Dated: September 12, 2007.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E7–18379 Filed 9–18–07; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Notice of Meeting of the Subcommittee on ESBWR Design Certification

The ACRS Subcommittee on ESBWR Design Certification will hold a meeting on October 2 and 3, 2007, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss unclassified safeguards and proprietary information pursuant to 5 U.S.C. 552b(c)(3) and (4).

The agenda for the subject meeting shall be as follows:

Tuesday, October 2, 2007—1 p.m. until 5 p.m.

Wednesday, October 3, 2007—8:30 a.m. until 5 p.m.

The Subcommittee will review and discuss the Draft Safety Evaluation with Open Items for several chapters of the ESBWR Design Certification and make a recommendation to the full Committee. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, GE-Hitachi Nuclear Energy Americas LLC, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Charles G. Hammer (telephone 301/415–7363) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: September 12, 2007.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E7–18404 Filed 9–18–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures;

Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 3, 2007, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, October 3, 2007, 8 a.m.–9:30 a.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: September 12, 2007.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E7–18419 Filed 9–18–07; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Public Meetings on Service Standards and Measurement

AGENCY: Postal Regulatory Commission.

ACTION: Notice of meetings.

SUMMARY: On Monday, September 24, 2007, the Commission will host two public meetings related to implementation of the Postal Accountability and Enhancement Act (PAEA) of 2006. Information obtained at these events will assist the Commission in meeting statutory requirements for consultation with the Postal Service on development of modern service standards. At the first meeting, which will be held from 10 a.m. to 12 p.m., representatives of the Mailers Technical Advisory Committee (MTAC) will brief the Commission on final MTAC workgroup recommendations to the Postal Service on service standards and service measurement systems. This meeting will be broadcast live and will be accessible via the Internet from the Commission's Web site (*http://www.prc.gov*). At the second meeting, which will begin at 1:30 p.m., there will be a discussion of retail service measurement and related issues with representatives of the American Postal Workers Union. Both events will be held in the Commission's main conference room and both will be open to the public.

DATES: September 24, 2007.

ADDRESSES: Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, general counsel, Postal Regulatory Commission, 202–789–6820 or *stephen.sharfman@prc.gov*.

(Authority: 39 U.S.C. 3691)

Steven W. Williams,

Secretary.

[FR Doc. E7–18382 Filed 9–18–07; 8:45 am]

BILLING CODE 7719–FW–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 17a–4(b)(11); SEC File No. 270–449; OMB Control No. 3235–0506.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–4(b)(11) (17 CFR 240.17a–4(b)(11)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) describes the record preservation requirements for those records required to be kept pursuant to Rule 17a–3(a)(16), including how such records should be kept and for how long, to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulative rules as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 105 active broker-dealer respondents registered with the Commission incur an average burden of 315 hours per year (105 respondents multiplied by 3 burden hours per respondent equals 315 total burden hours) to comply with this rule.

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 60 days of this publication.

Comments regarding the above information should be directed to: R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or by sending an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 60 days of this notice.

Dated: September 13, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18392 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 15c3–3; SEC File No. 270–087; OMB Control No. 3235–0078.

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'') intends to submit to the Office of Management and Budget a request for extension of the previously approved collections of information discussed below. The Code of Federal Regulations citation to this collection of information is: 17 CFR 240.15c3–3 Customer Protection—Reserves and Custody of Securities.

Rule 15c3–3 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) requires that a broker-dealer that holds customer securities obtain and maintain possession and control of fully-paid and excess margin securities they hold for customers. In addition, the Rule requires that a broker-dealer that holds customer funds make either a weekly or monthly computation to determine whether certain customer funds need to be segregated in a special reserve bank account for the exclusive benefit of the firm's customers. It also requires that a broker-dealer maintain a written notification from each bank where a Special Reserve Bank Account is held acknowledging that all assets in the account are for the exclusive benefit of the broker-dealer's customers, and to provide written notification to the Commission (and its designated examining authority) under certain, specified circumstances. Finally, Rule 15c3–3 was amended in 2001 to add paragraph (o), which only applies to broker-dealers that sell securities futures products to customers. Paragraph (o) requires that such broker-dealers provide certain notifications to customers, and to make a record of any changes of account type.

There are approximately 344 broker-dealers fully subject to the Rule (i.e., broker-dealers that can not claim any of the exemptions enumerated at paragraph (k)), of which approximately 9 make daily, 245 make weekly, and 90 make monthly, reserve computations. On average, each of these respondents require approximately 2.5 hours to complete a computation. Accordingly, Commission staff estimates that the resulting burden totals 45,960 hours annually ((2.5 hours × 240 computations × 9 respondents that calculate daily) + (2.5 hours × 52 computations × 245 respondents that calculate weekly) + (2.5 hours × 12 computations × 90 respondents that calculate monthly)).

A broker-dealer required to maintain the Special Reserve Bank Account prescribed by Rule 15c3–3 must obtain and retain a written notification from each bank in which it has a Special Reserve Bank Account to evidence bank's acknowledgement that assets deposited in the Account are being held by the bank for the exclusive benefit of the broker-dealer's customers. As stated previously, 344 broker-dealers are presently fully-subject to Rule 15c3–3. In addition, 140 broker-dealers operate in accordance with the exemption provided in paragraph (k)(2)(i) which also requires that a broker-dealer maintain a Special Reserve Bank Account. The staff estimates that of the total broker-dealers that must comply with this rule, only 25%, or 121 ((344 + 140) × .25) must obtain 1 new letter each year (either because the broker-dealer changed the type of business it does and became subject to either paragraph (e)(3) or (k)(2)(i) or simply because the broker-dealer established a new Special Reserve Bank Account). The staff estimates that it would take a broker-dealer approximately 1 hour to obtain this written notification from a bank regarding a Special Reserve Bank Account because the language in these letters is largely standardized. Therefore, Commission staff estimates that broker-dealers will spend approximately 121 hours each year to obtain these written notifications.

In addition, a broker-dealer must immediately notify the Commission and its designated examining authority if it

fails to make a required deposit to its Special Reserve Bank Account. Commission staff estimates that broker-dealers file approximately 65 such notices per year. Broker-dealers would require approximately 30 minutes, on average, to file such a notice. Therefore, Commission staff estimates that broker-dealers would spend a total of approximately 33 hours each year to comply with the notice requirement of Rule 15c3–3.

Finally, a broker-dealer that effects transactions in SFPs for customers [1] also will have paperwork burdens associated with the requirement in paragraph (o) of Rule 15c3–3 to make a record of each change in account type.[2] More specifically, a broker-dealer that changes the type of account in which a customer's SFPs are held must create a record of each change in account type that includes the name of the customer, the account number, the date the broker-dealer received the customer's request to change the account type, and the date the change in account type took place. As of December 31, 2006, broker-dealers that were also registered as FCMs reported that they maintained 38,815,092 customer accounts. The staff estimates that 8% of these customers may engage in SFP transactions (38,815,092 accounts × 8% = 3,105,207). Further, the staff estimates that 20% per year may change account type. Thus, broker-dealers may be required to create this record for up to 621,041 accounts (3,105,207 accounts × 20%). The staff believes that it will take approximately 3 minutes to create each record.[3] Thus, the total annual burden associated with creating a record of change of account type will be 31,052 hours (621,041 accounts × (3min/60min)).

Consequently, the staff estimates that the total annual burden hours associated with Rule 15c3–3 would be approximately 77,166 hours (45,960 hours + 121 hours + 33 hours + 31,052 hours).

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 60 days of this publication.

Comments should be directed to: R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 60 days of this notice.

Dated: September 14, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18451 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

[1] Broker-dealers that do not engage in an SFP business with or for customers are not affected by this section of Rule 15c3–3. Broker-dealers that engage in an SFP business must also register with the CFTC as a futures commission merchant (''FCM''). As of January 31, 2007 there were 64 broker-dealers that were also registered as FCMs.

[2] 17 CFR 240.15c3–3(o)(3)(i).

[3] In fact, the staff believes that most firms will have this process automated. To the extent that no person need be involved in the generation of this record, the burden will be very minimal.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27968; 812–13388]

Hercules Technology Growth Capital, Inc.; Notice of Application

September 12, 2007.

AGENCY: Securities and Exchange Commission (The ''Commission'').

ACTION: Notice of an application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicant, Hercules Technology Growth Capital, Inc. (''HTGC''), requests an order that would approve the proposal to issue stock options to directors who are not officers or employees of HTGC (''Non-employee Directors'') under HTGC's amended and restated 2006 Non-employee Director Plan (the ''Amended and Restated 2006 Plan''). The requested order would supersede a prior order issued to HTGC under section 61(a)(3)(B) of the Act (the ''HTGC Options Order'').[1]

FILING DATES: The application was filed on May 24, 2007 and amended on September 10, 2007. HTGC has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 9, 2007, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F. Street, NE., Washington, DC 20549–1090. HTGC, c/o Manuel A. Henriquez, Chairman of the Board, President and Chief Executive Officer, 400 Hamilton Avenue, Suite 310, Palo Alto, California 94301.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873, or Nadya B. Roytblat, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicant's Representations

1. HTGC, a Maryland corporation, is a business development company (''BDC'') within the meaning of section 2(a)(48) of the Act.[2] HTGC is a specialty finance company that provides debt and equity growth capital to technology-related and life-science companies at all stages of development. HTGC's business and affairs are managed under the direction of its board of directors (''Board''). HTGC does not have an external investment adviser within the meaning of section 2(a)(20) of the Act.

2. HTGC requests an order under section 61(a)(3)(B) of the Act that would approve the proposal under the Amended and Restated 2006 Plan to

[1] Hercules Technology Growth Capital, Inc., Investment Company Act release Nos. 27668 (Jan. 19, 2007) (notice) and 27699 (Feb. 15, 2007) (order).

[2] Section 2(a)(48) generally defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

issue stock options to Non-employee Directors to purchase shares of HTGC's common stock, $.001 par value per share (''Common Stock''). The requested order would supersede the HTGC Options Order approving the issuance of stock options to Non-employee Directors to purchase Common Stock under HTGC's 2006 Non-employee Director Plan (the ''Original 2006 Plan'').[3]

3. HTGC currently has a four member Board, one of whom is considered to be an ''interested person'' of HTGC within the meaning of section 2(a)(19) of the Act and three of whom are not interested persons (''Non-interested Directors''). HTGC currently has three Non-employee Directors.[4] The Non-employee Directors are all Non-interested Directors, but it is possible that HTGC may have Non-employee Directors in the future who are interested persons of HTGC.[5]

4. The Board approved the Amended and Restated 2006 Plan on March 7, 2007 and amendments to the Amended and Restated 2006 Plan by unanimous written consent on July 20, 2007.[6] At the annual meeting of stockholders of HTGC held on June 21, 2007, stockholders approved the Amended and Restated 2006 Plan and the separate 2007 amendment and restatement of HTGC's amended and restated 2004 Equity Incentive Plan (such plan, before both amendments and restatements, the ''Original 2004 Plan''; as first amended and restated, the ''First Amended and Restated 2004 Plan''; and as further amended and restated in 2007, the ''Second Amended and Restated 2004 Plan''). Participants under the Second Amended and Restated 2004 Plan are limited to employees of HTGC and do not include Non-employee Directors.

5. A Commission order permits HTGC to issue shares of Common Stock that, at the time of issuance, are subject to certain forfeiture restrictions, and thus are restricted as to their transferability until such forfeiture restrictions have lapsed (the ''Restricted Stock'') to Non-employee Directors under the Amended and Restated 2006 Plan and employees of HTGC and employees of its wholly-owned consolidated subsidiaries under the Second Amended and Restated 2004 Plan (''HTGC Restricted Stock Order'').[7] In light of the HTGC Restricted Stock Order, HTGC believes that it will no longer need to issue options to purchase as many shares of Common Stock as it did under the Original 2006 Plan to adequately compensate Non-employee Directors. As compared to the Original 2006 Plan, the Amended and Restated 2006 Plan would reduce the number of options granted to Non-employee Directors, change the timeframe within which such options are granted, and change the vesting provisions of such options.

6. Under the Amended and Restated 2006 Plan, a maximum of 1,000,000 shares of Common Stock, in the aggregate, may be issued to Non-employee Directors and 40,000 shares of Common Stock may be issued to any Non-employee Director in any calendar year. Each individual initially elected to the Board as a Non-employee Director after the date on which the Commission issues an order on the application (the ''Order Date'') will automatically be granted options to purchase 10,000 shares of Common Stock (the ''Initial Grants''). The options issued under the Initial Grants will vest as to one-half of the 10,000 shares of Common Stock on each of the first two anniversaries of the date of grant. Each Non-employee Director automatically will be granted options to purchase 15,000 shares of Common Stock on the date of such Non-employee Director's reelection to the Board (the ''Periodic Grants''). The options issued under the Periodic Grants will vest as to one-third of the 15,000 shares of Common Stock on each of the three anniversaries of the date of grant. Non-employee Directors who hold office on the Order Date will be granted options for a number of shares of Common Stock equal to the product of (x) the number of years remaining in their then-current term divided by three and (y) 15,000. These options will vest as to 5,000 shares of Common Stock on each anniversary of the date of grant over the remainder of such Non-employee Director's term in office.

7. Under the terms of the Amended and Restated 2006 Plan, the exercise price of an option will not be less than the current market value of, or if no such market value exists, the current net asset value per share of, Common Stock on the date of the issuance of the option.[8] Options granted under the Amended and Restated 2006 Plan will expire ten years from the date of grant and may not be transferred except for disposition by gift, will or intestacy.

8. As of July 31, 2007, HTGC had issued 6,668 shares of Restricted Stock to Non-employee Directors under the Amended and Restated 2006 Plan, had outstanding options to purchase 2,782,513 shares of Common Stock and had outstanding warrants to purchase 382,629 shares of Common Stock. As of that date, all outstanding options to purchase Common Stock consisted entirely of options issued to directors, officers, and employees of HTGC under the Original 2004 Plan and the First Amended and Restated 2004 Plan.[9] As of July 31, 2007, of the outstanding warrants to purchase 382,629 shares of Common Stock, warrants issued to officers and employees of HTGC under the Original 2004 Plan to purchase 10,693 shares of Common Stock were outstanding. The other warrants outstanding as of that date were issued to directors, officers, and employees of HTGC under a warrant agreement dated June 22, 2004 by and between HTGC and American Stock Transfer & Trust Company, as warrant agent (the ''Warrant Agreement''). HTGC has no outstanding warrants and options to purchase its voting securities, other than the warrants and options issued under the Original 2004 Plan, the Warrant Agreement, and the First Amended and Restated 2004 Plan.

9. As of July 31, 2007, HTGC had outstanding 32,414,178 shares of Common Stock.[10] As of that date, the amount of voting securities issued as Restricted Stock under the Amended and Restated 2006 Plan and that would result from the exercise of all outstanding warrants and options would be 3,171,180 shares of Common Stock,

[3] HTGC has not issued any options to Non-employee Directors under the Original 2006 Plan. At a meeting held on May 17, 2007, the Board voted to approve the suspension of the Original 2006 Plan and the grant of any options under the Original 2006 Plan.

[4] Because HTGC has a staggered Board, each director on the Board is elected to a three year term subject to reelection only every three years.

[5] Each Non-employee Director receives an annual fee of $50,000, $1,500 for each committee meeting attended, and reimbursement of reasonable out-of-pocket expenses incurred in attending Board meetings. Each Non-employee Director who serves as chairperson of a Board committee receives an additional $15,000 per year

[6] The Board determined that its amendments to the Amended and Restated 2006 Plan complied with that section of the Amended and Restated 2006 Plan authorizing plan amendments and did not necessitate a stockholder vote pursuant to the provisions of the Act and the rules promulgated thereunder.

[7] Hercules Technology Growth Capital, Inc., Investment Company Act Release Nos. 27815 (May 2, 2007) (notice) and 27838 (May 23, 2007) (order).

[8] Under the Amended and Restated 2006 Plan, ''current market value'' is the closing price of the Common Stock on the NASDAQ Global Market (or if different, on the exchange where the Common Stock is traded) on the date the option is granted.

[9] As of July 31, 2007, HTGC had outstanding options issued to directors, officers, and employees of HTGC under the Original 2004 Plan and the First Amended and Restated 2004 Plan to purchase 1,221,013 shares of Common Stock and 1,561,500 shares of Common Stock, respectively.

[10] The outstanding 32,414,178 shares of Common Stock, as of July 31, 2007, include the 6,668 shares of Restricted Stock issued under the Amended and Restated 2006 Plan. The Common Stock, of which the Restricted Stock is a particular type, constitutes the only voting security of HTGC currently outstanding.

or approximately 9.78% of HTGC's outstanding voting securities. As of July 31, 2007, the amount of voting securities issued as Restricted Stock under the Amended and Restated 2006 Plan and that would result from the exercise of all outstanding warrants and options issued to directors, officers, and employees of HTGC under the Original 2004 Plan and the First Amended and Restated 2004 Plan would be 2,799,874 shares of Common Stock, or approximately 8.66% of HTGC's outstanding voting securities.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3) of the Act. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) The options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of the issuance of the options, or if no market exists, the current net asset value of the voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(a)(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (b)(1) or (b)(2) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) of the Act provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. HTGC represents that the proposal to issue options to Non-employee Directors under the Amended and Restated 2006 Plan meets all of the requirements of section 61(a)(3) of the Act. HTGC states that the Board, including the Non-employee Directors, actively oversees HTGC's affairs and HTGC relies on the judgment and experience of the Board. HTGC states that the Non-employee Directors provide advice on financial and operational issues, credit and underwriting policies, asset valuation, strategic direction, as well as serve on various committees. HTGC states that the professional experiences and expertise of the Non-employee Directors make them valuable resources for management. HTGC states that the options that will be granted to the Non-employee Directors under the Amended and Restated 2006 Plan will provide significant incentives to the Non-employee Directors to remain on the Board and to devote their best efforts to the success of HTGC's business and the enhancement of stockholder value. HTGC states that the options granted under the Amended and Restated 2006 Plan will provide a means for the Non-employee Directors to increase their ownership interests in HTGC, thereby ensuring close identification of their interests with those of HTGC and its stockholders. HTGC asserts that by providing incentives in the form of options under the Amended and Restated 2006 Plan, HTGC would be better able to retain and attract qualified persons to serve as Non-employee Directors.

4. HTGC submits that the proposal to issue options to Non-employee Directors to purchase Common Stock under the Amended and Restated 2006 Plan is fair and reasonable and does not involve overreaching of HTGC or its stockholders. HTGC states that the amount of voting securities issued as Restricted Stock under the Amended and Restated 2006 Plan and that would result from the exercise of all outstanding options and warrants issued to directors, officers and employees of HTGC under the Original 2004 Plan and the First Amended and Restated 2004 Plan would be 2,799,874 shares of Common Stock, or approximately 8.66% of HTGC's outstanding voting securities as of July 31, 2007, which is below the percentage limitations in the Act. In light of the above, HTGC asserts that the granting of options pursuant to the Amended and Restated 2006 Plan will not have a substantial dilutive effect on the net asset value of Common Stock.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18388 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56375A; File No. SR–NASD–2004–183]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.); Notice of Filing of Amendment Nos. 3 and 4 and Order Granting Accelerated Approval of the Proposed Rule, as Amended, Related to Sales Practice Standards and Supervisory Requirements for Transactions in Variable Annuities

September 14, 2007.

Correction

In FR Document No. E7–18022, beginning on page 52403 for Thursday, September 13, 2007, at the third column of page 52410, first full paragraph, beginning on line 24, revise ''120 days'' to read ''180 days''.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18415 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56383; File No. SR–ISE–2007–61]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Specific Performance Commitments for Primary Market Makers

September 11, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 17, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On September 10, 2007, ISE

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE is proposing to amend its rule regarding specific performance commitments for the Exchange's Primary Market Makers (''PMM''). The text of the proposed rule change is available at the Commission's Public Reference Room, at the Exchange, and at *http://www.ise.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 is proposing to amend its rule regarding performance commitments for the Exchange's PMMs. Specifically, the Exchange is proposing to amend its Rule 802(b)(2), which currently requires PMMs to submit specific performance commitments when requesting an allocation of options on indices, foreign currency options and Fund Shares (collectively, ''Index-Based Products''). The initial rationale behind adopting commitments was to require a stronger commitment for certain competitive products like exchange-traded funds and indices and to assist the Exchange's Allocation Committee when choosing between PMMs seeking the same product. With the recent proliferation of ETFs and indices in the marketplace, and as ISE's practice under this rule has developed, the Exchange believes that the rule is overly broad and a deterrent to these products being allocated effectively. For example, if a certain Index-Based Product is of interest to a single PMM, a performance commitment has no effect because the PMM is not in competition with another PMM. As a consequence of the rule, PMMs are sometimes submitting the broadest commitments allowed, contrary to the intent of the rule. Further, this requirement could discourage some PMMs from seeking allocations altogether if they are expected to maintain additional performance commitments. The Exchange notes that none of the other options exchanges have a similar requirement. ISE therefore proposes to amend the rule so that specific performance commitments need only be submitted upon a request by the Exchange, thereby eliminating their submission as a uniform requirement.[3]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[4] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change will strengthen the effectiveness of an existing rule and allow PMMs to seek allocations of more products on the Exchange, thus fostering competition for the benefit of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2007–61 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–ISE–2007–61. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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

[3] ISE notes that relaxing the requirement proposed in this filing does not affect a PMM's other obligations as a market maker on the Exchange under Chapter 8 of the Exchange Rules.

[4] 15 U.S.C. 78f(b)(5).

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–61 and should be submitted on or before October 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18389 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56390; File No. SR–NASDAQ–2007–075]

Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees for the VTE Terminal

September 12, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 30, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by Nasdaq. Nasdaq has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal 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

Nasdaq proposes to modify the pricing for its members using the VTE terminal to connect to the Nasdaq Market Center and to make other clarifying changes to the relevant rule text. Nasdaq proposes to implement the proposed rule change on October 1, 2007. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and *www.nasdaq.com*.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify fees for Nasdaq members using the VTE terminal (formerly the INET terminal), to move the rule text under existing Rule 7034 to Rule 7015, and to make other clarifying changes to the relevant rule text.

The VTE terminal is a former INET protocol that is used by Nasdaq members to connect to, and enter orders in, The Nasdaq Market Center. Since Nasdaq acquired INET, VTE users have paid a $50 monthly fee for access to the terminal via an Internet connection (which is optional) and a $50 monthly minimum commission fee for users executing orders totaling less than 100,000 shares per month. In addition, VTE users pay the exchanges directly for data feeds and services provided by Nasdaq and other exchanges or market centers through VTE at the Commission-approved rate that they would pay to receive the data feeds through other means. The data feeds provide information that is necessary for users to enter orders through VTE.

Nasdaq is increasing the monthly fee for accessing the VTE terminal through the Internet from $50 to $100 per month per user. In addition, Nasdaq is increasing the monthly minimum commission fee for users executing orders totaling less that 100,000 shares per month from $50 to $100 per month per user. Users will continue to be charged directly for Nasdaq and non-Nasdaq data feeds and services at Commission-approved rates by the exchange or market center providing the service.

Based on Nasdaq's operation of the VTE since it was acquired from INET, Nasdaq believes that the pricing changes are warranted in order to appropriately balance the demand for the product with increasing platform, overhead, and technology infrastructure costs.

The proposed rule change also moves the text of Rule 7034 to Rule 7015 ''Access Services'' to further consolidate access services fees in one rule, removes references to access alternatives no longer in use (dedicated FIX server and Brut Workstation), and updates the rule language by replacing references to ''INET Terminal'' with the term ''VTE Terminal'' to reflect the new name of this protocol after Nasdaq system integration.

In addition, the proposed rule change also eliminates from the rule text references to INET and the locations of data centers (because the relevant fees do not vary based on data center location) and INET, and eliminates the reference to and pricing for Instinet Portal (a product now available from INET's former owner, Instinet, which INET was supporting on a transitional basis).

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Section 6(b)(4) of the Act,[6] in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using any facility or system which Nasdaq operates or controls. Nasdaq believes that the fees are reasonably allocated among members based on their usage of the trading systems operated by Nasdaq, and are generally consistent with fees charged by other market centers for comparable services.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

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)(ii) of the Act[7] and

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

subparagraph (f)(2) of Rule 19b–4 thereunder[8] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 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–NASDAQ–2007–075 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2007–075. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2007–075 and should be submitted on or before October 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18390 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56392; File No. SR–NYSE–2007–42]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Rule 103B (''Specialist Stock Allocation'')

September 12, 2007.

On April 20, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 103B (''Specialist Stock Allocation''). On July 20, 2007, NYSE filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on August 8, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

The Exchange proposes to permit member organizations to establish policies and procedures to isolate the activities of the member organization that trade ETFs in a specialist capacity while at the same time registered as a specialist in any of an ETF's component securities. At a minimum, these policies and procedures would have to include information barriers preventing the flow of non-public information between a member organization's ETF specialist and the member organization's specialist in an associated component security. Further, the trading of an ETF and its underlying component securities by the same specialist firm would be pre-conditioned on the review of the Exchange's Division of Member Firm Regulation for the adequacy of the firm's information barriers.[4] Thereafter, the Exchange would periodically evaluate the integrity of information barriers for breaches and weaknesses to ensure that they are adequately designed. In addition, the Exchange will periodically assess its surveillance and examination procedures to determine whether they are adequate in preventing manipulative or improper trading. The Exchange explained that the current rule requiring organizational separation was originally implemented, at least in part, to address the issue of ''wash sales'' in the context of ETF and component securities.[5]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[7] which require that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. This proposal should eliminate certain redundancies and expenses that result from the current rule requiring organizational separation while ensuring that the relevant activities and information of member organizations that trade ETFs and any of an ETF's component securities in a specialist capacity remain isolated and confidential.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–NYSE–2007–42), as modified by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56183 (August 2, 2007), 72 FR 44601 (''Notice'').

[4] *See,* for example, comparable provisions of NYSE Information Memo 91–22 (June 21, 1991), the NASD/NYSE Joint Memo on Chinese Wall Policies and Procedures for procedural structures to assure the effective containment of trading information.

[5] *See* Securities Exchange Act Release No. 44272 (May 7, 2001), 66 FR 26898 (May 15, 2001) (SR–NYSE–2001–07).

[6] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18391 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56437; File No. SR–Phlx–2007–65]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to U.S. Dollar-Settled Foreign Currency Option Charges

September 13, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2007, 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, II and III below, which Items have been substantially prepared by the Exchange. On September 11, 2007, the Phlx submitted Amendment No. 1 to the proposed rule change.[3] The Phlx has designated this proposal as one changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to: (1) Eliminate the $0.04 per contract customer option comparison charge for U.S. dollar-settled foreign currency option transactions; (2) adopt a separate fee schedule for U.S. dollar-settled foreign currency option charges; and (3) make technical changes to the current Summary of Index Option and U.S. Dollar-Settled Foreign Currency Option Charges fee schedule to update the fee schedule accordingly. This proposal is scheduled to become operative for transactions settling on or after September 4, 2007.

The text of the proposed rule change is available on the Exchange's Web site at *www.Phlx.com,* at the Phlx, 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 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 intends to update its fees applicable to U.S. dollar-settled foreign currency options in order to attract business and streamline the Exchange's fee schedule.

The Exchange proposes to eliminate the $0.04 per contract comparison charge for transactions in U.S. dollar-settled foreign currency options applicable to customers. Currently, the comparison charge consists of either a $0.03 per contract charge for Registered Option Traders or a $0.04 per contract charge for Firm (Proprietary and Customer Executions). At this time, the Exchange proposes to eliminate the $0.04 per contract customer comparison charge. The $0.03 per contract charge for Registered Option Traders and the $0.04 per contract for Firm (Proprietary) will continue to apply. The Exchange believes that the elimination of the customer comparison charge may attract additional order flow to the Exchange.

Currently, the Exchange charges fees for transactions in U.S. dollar-settled foreign currency options in the same manner that it charges for index options so therefore, the index option and U.S. dollar-settled foreign currency options are set forth on the same fee schedule. At this time, the Exchange proposes to separate out the fee schedule for the U.S. dollar-settled foreign currency options and to make technical changes to the current Summary of Index Option and U.S. Dollar-Settled Foreign Currency Option Charges fee schedule to update the fee schedule accordingly. The purpose of this proposal is to set forth the U.S. dollar-settled foreign currency option charges in a fee schedule separate from the index option fee schedule to more readily identify the fees for these products and to simplify the Exchange's fee schedule.

No new index options fees are being adopted pursuant to this proposal. In addition, because this proposal merely deletes the $0.04 per contract comparison charge in connection with U.S. dollar-settled foreign currency option transactions, no new U.S. dollar-settled foreign currency option fees are being adopted pursuant to this proposal.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act,[7] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities.[8] The Exchange believes that eliminating the comparison charge for customers is equitable because customer transactions should benefit from reduced fees, which may in turn attract additional customer business to the Exchange for this relatively new product.

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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange made non-substantive typographical corrections to the filing.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on September 11, 2007, the date on which the Phlx filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) thereunder,[10] because it establishes or changes a due, fee or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission.

At any time within 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–Phlx–2007–65 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–Phlx–2007–65. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. 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–2007–65 and should be submitted on or before October 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18416 Filed 9–18–07; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Gulf Opportunity Pilot Loan Program (GO Loan Pilot)

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

ACTION: Notice of extension of waiver of regulatory provisions.

SUMMARY: This notice announces the extension of the ''Notice of waiver of regulatory provisions'' for SBA's GO Loan Pilot until September 30, 2008. Due to the scope and magnitude of the devastation to Presidentially-declared disaster areas resulting from Hurricanes Katrina and Rita, the Agency is extending its full guaranty and streamlined and centralized loan processing available through the GO Loan Pilot to the small businesses in the eligible parishes/counties through September 30, 2008.

DATES: The waiver of regulatory provisions published in the **Federal Register** on November 17, 2005, is extended under this notice until September 30, 2008.

FOR FURTHER INFORMATION CONTACT: Charles Thomas, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416; Telephone (202) 205–6490; *charles.thomas@sba.gov.*

SUPPLEMENTARY INFORMATION: On November 8, 2005, SBA initiated, on an emergency basis, the GO Loan Pilot which was designed to provide expedited small business financial assistance to businesses located in those communities severely impacted by Hurricanes Katrina and Rita. Under this unique initiative, SBA provides its full (85%) guaranty and streamlined and centralized loan processing to all eligible lenders that agree to make expedited SBA 7(a) loans available to small businesses located in, locating to or re-locating in the parishes/counties that have been Presidentially-declared as disaster areas resulting from Hurricanes Katrina and Rita, plus any contiguous parishes/counties.

To maximize the effectiveness of the GO Loan Pilot, on November 17, 2005, SBA published a notice in the **Federal Register** waiving for the GO Loan Pilot certain Agency regulations for the 7(a) Business Loan Program. (70 FR 69645). Since the pilot was designed as a temporary program scheduled to expire on September 30, 2006, and was extended to September 30, 2007, the waiver of certain Agency regulations also is due to expire on September 30, 2007. However, the Agency believes that there is a continuing, substantial need for the specific SBA assistance provided by this pilot in the affected areas. As part of a comprehensive federal initiative to assist in the continuing recovery of these highly devastated communities, the Agency believes it is essential that SBA extend this unique and vital program through September 30, 2008. Accordingly, the SBA is also extending its waiver of the certain Agency regulations identified in the **Federal Register** notice at 70 FR 69645 through September 30, 2008.

SBA's waiver of these provisions is authorized by regulations. These waivers apply only to those loans approved under the GO Loan Pilot and will last only for the duration of the Pilot, which expires September 30, 2008. As part of the GO Loan Pilot, these waivers apply only to those small businesses located in, locating to or re-locating in the parishes/counties that have been Presidentially-declared as disaster areas resulting from Hurricanes Katrina or Rita, plus any contiguous parishes/counties. (A list of all eligible parishes/counties is located at *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_goloan_3.pdf.*)

Authority: 15 U.S.C. 636(a)(24); 13 CFR 120.3.

Michael W. Hager,

Associate Administrator, Office of Capital Access.

[FR Doc. E7–18520 Filed 9–18–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5938]

Culturally Significant Objects Imported for Exhibition Determinations: ''The World of 1607''

ACTION: Notice, correction.

SUMMARY: On March 7, 2007, notice was published on page 10289 of the **Federal Register** (volume 72, number 44) of determinations made by the Department of State pertaining to the exhibit, ''The World of 1607.'' The referenced notice is corrected as to additional objects to be included in the exhibition. Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''The World of 1607'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Jamestown Settlement, Williamsburg, Virginia, from on or about October 5, 2007, until on or about January 25, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 11, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–18456 Filed 9–18–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–29220]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to renew an information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on June 27, 2007. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by October 19, 2007.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2007–29220.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Gillmann, 202–366–0160, Office of Highway Policy Information, Office of Policy and Governmental Affairs, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Heavy Vehicle Travel Information System (HVTIS).

OMB Control Number: 2125–0587 (Expiration Date: November 30, 2007).

Background: Title 49, United States Code, Section 301, authorizes the DOT to collect statistical information relevant to domestic transportation. The FHWA is continuing to develop the HVTIS to house data that will enable analysis of the amount and nature of truck travel at the national and regional levels. The information will be used by the FHWA and other DOT agencies to evaluate changes in truck travel in order to assess impacts on highway safety; the role of travel in economic productivity; impacts of changes in truck travel on infrastructure condition; and maintenance of our Nation's mobility while protecting the human and natural environment. The increasing dependence on truck transport requires that data be available to better assess its overall contribution to the Nation's well-being. In conducting the data collection, the FHWA will be requesting that State Departments of Transportation (SDOT) provide reporting of traffic volume, vehicle classification, and vehicle weight data which they collect as part of their existing traffic monitoring programs, including other sources such as local governments and traffic operations. States and local governments collect traffic volume, vehicle classification data, and vehicle weight data throughout the year using weigh-in-motion devices. The data should be representative of all public roads within State boundaries. The data will allow transportation professionals at the Federal, State, and metropolitan levels to make informed decisions about policies and plans.

Respondents: 52 SDOT, including the District of Columbia and Puerto Rico.

Frequency: It is proposed that total volume and vehicle classification data is reported on a monthly basis to assure timely information that can be compared to monthly reports of economic activity. Based on data collection practices commonly used by the SDOT, it is proposed that truck weight data collected using weigh-in-motion devices and site description data be submitted to FHWA annually.

Estimated Average Burden per Response: Each of the SDOT already collect traffic data for various purposes. In accordance with 23 U.S.C. 303, each State has a Traffic Monitoring System in place so the data collection burden relevant for this notice is the additional burden for each State to provide a copy of their traffic data using the record formats specified in the *Traffic Monitoring Guide.* Automation and online tools continue to be developed in support of the HVTIS and the capability now exists for online submission and validation of total volume data. The estimated average monthly burden is 3.5 hours for an annual burden of 42 hours. The annual reporting requirement is estimated to be 6 hours for the States

and the District of Columbia and Puerto Rico. The combined burden from the monthly and annual reports is 48 hours per respondent.

Estimated Total Annual Burden Hours: Total burden will be 2,496 hours.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, by using the universal resource locator (URL): *http://dms.dot.gov*, 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 12, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–18410 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2007–28637]

Reports, Forms, and Record Keeping Requirements

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

ACTION: Request for public comment on an extension of a currently approved collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before November 19, 2007.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, ground level, 1200 New Jersey Ave., SE., Washington, DC 20590 by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Agency Web Site: http://dms.dot.gov*. Follow the instructions for submitting comments on the Docket Management System.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., *West Building Ground Floor, Room W12–140, Washington, DC 20590*.
- *Hand Delivery/Courier:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays. Telephone: 1–800–647–5527.

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room W12–140 on the ground level of the DOT Building, 1200 New Jersey Avenue, SE., West Building Ground Floor, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Carlita Ballard, NHTSA 1200 New Jersey Ave., SE., Room W43–439, NVS–131, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–0846. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i.) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii.) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii.) How to enhance the quality, utility, and clarity of the information to be collected and;

(iv.) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Procedures for Selecting Lines to be Covered by the Theft Prevention Standard (49 CFR 542)

OMB Control Number: 2127–0539.

Form Number: None.

Affected Public: Motor vehicle manufacturers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: Manufacturers of light duty trucks must identify new model introductions that are likely to be high-theft lines as defined in 49 U.S.C. 33104.

Estimated Annual Burden: 315 hours.

Number of Respondents: 7.

In 1984, Congress enacted the Motor Vehicle Theft Law Enforcement Act (the 1984 Theft Act). As a means to prevent the theft of motor vehicles for their parts, the 1984 Theft Act required vehicle manufacturers to mark the major parts of ''high-theft'' passenger cars and the major replacement parts for those cars. The Anti Car Theft Act of 1992 (ACTA) amended the 1984 Theft Act to extend its provisions to multipurpose passenger vehicles (MPVs) and light duty trucks (LDTs).

The 1984 Theft Act, as amended by ACTA, requires NHTSA to promulgate a theft prevention standard for the designation of high-theft vehicle lines. The specific lines are to be selected by agreement between the manufacturer and the agency. If there is a disagreement of the selection, the statute states that the agency shall select such lines and parts, after notice to the manufacturer and an opportunity for written comment. NHTSA's procedures for selecting high theft vehicle lines are contained in 49 CFR Part 542.

In a final rule published on April 6, 2004, the Federal Motor Vehicle Theft Prevention Standard was extended to include all passenger cars and multipurpose passenger vehicles with a gross vehicle weight rating of 6,000 pounds or less, regardless of whether

they were likely to be high or low theft, and to light duty trucks with major parts that are interchangeable with a majority of the covered major parts of multipurpose passenger vehicles. The final rule became effective September 1, 2006.

As a result of this amendment, determination of high theft status is required only for LDTs manufactured on or after that date. There are seven vehicle manufacturers who produce LDTs. Generally, these manufacturers would not introduce more than one new LDT line in any year. Therefore, NHTSA estimates that the maximum number of responses on or after September 1, 2006 will be seven. As in previous submissions, NHTSA estimates that the average hours per submittal are 45, for a total annual burden of 315 hours. This is a reduction in the previous OMB inventory of 900 hours. NHTSA estimates that the cost associated with the burden hours is $57.06 per hour, for a total cost of approximately $18,000.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: September 13, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–18393 Filed 9–18–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0036]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a presumption of death of a missing veteran.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 19, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0036'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement of Disappearance, VA Form 21–1775.

OMB Control Number: 2900–0036.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–1775 is used to gather information from a claimant to make a decision regarding the unexplained absence of a veteran for over 7 years. The data collected will be used to determine the claimant's entitlement to death benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 28 hours.

Estimated Average Burden Per Respondent: 2 hours 45 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 10.

Dated: August 30, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18457 Filed 9–18–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0521]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to underwrite VA-guaranteed loans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 19, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–2900–0253'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Report and Certification of Loan Disbursement, VA Form 26–1820

b. Request for Verification of Employment, VA Form 26–8497

c. Request for Verification of Deposit, VA Form 26–8497a

OMB Control Number: 2900–0521.

Type of Review: Revision of a currently approved collection.

Abstract: Lenders must obtain specific information concerning a veteran's credit history in order to properly underwrite the veteran's loan. VA loans may not be guaranteed unless the veteran is a satisfactory credit risk. The data collected on the following forms are used to ensure that applications for VA-guaranteed loans are underwritten in a reasonable and prudent manner.

a. VA Form 26–1820 is completed by lenders closing VA guaranteed and insured loans under the automatic or prior approval procedures.

b. VA Form 26–8497 is used by lenders to verify a loan applicant's income and employment information when making guaranteed and insured loans. VA does not require the exclusive use of this form for verification purposes, any alternative verification document would be acceptable provided that all information requested on VA Form 26–8497 is provided.

c. Lenders making guaranteed and insured loans complete VA Form 26–8497a to verify the applicant's deposits in banks and other savings institutions.

Affected Public: Business or other for profit.

Estimated Annual Burden: 75,000 hours.

a. Report and Certification of Loan Disbursement, VA Form 26–1820—50,000 hours.

b. Request for Verification of Employment, VA Form 26–8497—16,667 hours.

c. Request for Verification of Deposit, VA Form 26–8497a—8,333 hours.

Estimated Average Burden Per Respondent:

a. Report and Certification of Loan Disbursement, VA Form 26–1820—15 minutes.

b. Request for Verification of Employment, VA Form 26–8497—10 minutes.

c. Request for Verification of Deposit, VA Form 26–8497a—5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 400,000.

a. Report and Certification of Loan Disbursement, VA Form 26–1820—200,000.

b. Request for Verification of Employment, VA Form 26–8497—100,000.

c. Request for Verification of Deposit, VA Form 26–8497a—100,000.

Dated: September 5, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18460 Filed 9–18–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0317]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 19, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0317'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0317'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Identifying Information Re: Veteran's Loan Records, VA Form Letter 26–626.

OMB Control Number: 2900–0317.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–626 is used to notify a correspondent that additional information is needed to determine if a veteran's loan guaranty benefits are involved and if so, to obtain the necessary information to identify and associate the correspondence with the correct veteran's loan application or record. If such information is not received within one year from the date of such notification, benefits will not be paid or furnished by reason of an incomplete application.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 10, 2007, at page 37578.

Affected Public: Individuals or households.

Estimated Annual Burden: 200 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,400.

Dated: September 11, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18461 Filed 9–18–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0005]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 19, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0005'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0005.''

SUPPLEMENTARY INFORMATION:

Title: Application for Dependency and Indemnity Compensation by Parent(s), (Including Accrued Benefits and Death Compensation, When Applicable), VA Form 21–535.

OMB Control Number: 2900–0005.

Type of Review: Extension of a currently approved collection.

Abstract: Surviving parent(s) of veterans whose death was service connected complete VA Form 21–535 to apply for dependency and indemnity compensation, death compensation, and/or accrued benefits. The information collected is used to determine the claimant's eligibility for death benefits sought.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 10, 2007, at page 37577.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,320 hours.

Estimated Average Burden Per Respondent: 1 hour 12 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,600.

Dated: September 11, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–18462 Filed 9–18–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act Of 1974

AGENCY: Department of Veteran Affairs.

ACTION: Notice of Establishment of New System of Records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records entitled ''General Counsel Legal Automation Workload System (GCLAWS)–VA'' (144VA026).

DATES: Comments on the establishment of this new system of records must be received no later than October 19, 2007. If no public comment is received, the new system will become effective October 19, 2007.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS).

FOR FURTHER INFORMATION CONTACT: Susan Sokoll, Privacy Officer, (202) 273–6558, Office of the General Counsel (026C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed System of Records

The Department of Veterans Affairs (VA) is proposing to establish a system of records to perform legal workload management and administration activities associated with the operation of the Office of General Counsel (OGC). This system will be used for case management, correspondence control, and statistical analysis. Cases are generated from matters brought to OGC for consideration, review, response, analysis, and/or comment. This system of records will contain case tracking for time and personnel, as well as pertinent documents and case facts, which may include data privileged under the attorney-client relationship. These case records will be used to provide statistical and other information in response to legitimate and reasonable requests.

II. Proposed Routine Use Disclosures of Data in the System

VA is proposing to establish the following routine use disclosures of the information that will be maintained in the system.

1. VA may disclose information to Congressional offices in order to respond to inquiries from those offices on behalf of constituents who seek information from the Agency.

VA must be able to respond to inquiries directed to it from Congressional staff offices on behalf of constituents. The fact that the constituents have asked for assistance from their Representative or Senator indicates that they wish the agency to respond to these inquiries. The routine use provides disclosure authority to disclose only the information necessary to respond to the Congressional inquiry on behalf of the record subject.

2. VA may disclose information to the National Archives and Records Administration (NARA) as required to comply with statutory requirements to disclose information to NARA for it to perform its statutory records management activities.

The VA must promulgate this routine use to satisfy the requirements of the Privacy Act for disclosure of information to these agencies without the prior written authorizations of the record subjects for the agencies to perform their duties.

3. VA may disclose information to entities or individuals with which or with whom VA has an agreement or

contract to perform services for the agency for which the recipient entity or individual needs the information in order to perform the specified service.

This routine use is consistent with OMB guidance that agencies promulgate routine uses to address disclosure of Privacy Act-protected information to contractors in order to perform contracts for the agency. OMB Circular A–130, App. I, paragraph 5.a.(1)(b). VA also enters into agreements that are not contracts as defined under Federal procurement law. Consequently, the routine use is drafted to cover those entities also.

4. At VA's initiative, VA may disclose relevant information to law enforcement entities for those entities to investigate, prosecute or otherwise enforce laws, rules, regulations and orders.

This disclosure authority does not apply to disclosures in response to a qualifying request from a law enforcement entity. In those cases, the requesting entity must submit a qualifying law enforcement request for the records under 5 U.S.C. 552a(b)(7).

5. VA may provide Department of Justice (DoJ) with information needed to represent the United States in litigation. VA may also disclose the information for this purpose in proceedings in which DoJ is not representing the Agency.

In determining whether to disclose records under this routine use, VA will comply with the guidance promulgated by the Office of Management and Budget in a May 24, 1985, memorandum entitled ''Privacy Act Guidance—Update'', currently posted at *http://www.whitehouse.gov/omb/inforeg/guidance1985.pdf*.

6. VA may disclose information when necessary to respond to, and if necessary, mitigate damages that might arise from a data breach involving data covered by this system of records. This routine use is necessary for VA to comply with the requirements of 38 U.S.C. 5724, enacted in section 902 of Public Law 109–461, 120 Stat. 3403 (December 22, 2006).

7. VA is promulgating a routine use to disclose information to labor unions when requested by the union under 5 U.S.C. 7114(b) in order to perform the activities listed in section 7114(b). The routine use does not provide any greater access to Privacy-Act-protected information in this system of records under section 7114(b) then the unions would have to the information if it was not protected by the Privacy Act. The routine use simply removes the Privacy Act as a bar to the disclosure of the information at the Agency's discretion.

8. VA is promulgating a trio of routine uses set forth under ''Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses'' (routine uses 8–10) that permit the VA to disclose the information to officials at the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission and the Federal Labor Relations Authority, where officials of those agencies determine, or VA determines, that disclosure is necessary to perform duties imposed by the enabling statutes and regulations of those agencies.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which we collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or will use the information where disclosure is required by law.

The report of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: September 4, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

144VA026

SECURITY CLASSIFICATION:

None.

SYSTEM NAME:

General Counsel Legal Automation Workload System (GCLAWS)–VA

SYSTEM LOCATION:

The system of records is located in the Office of the General Counsel, Professional Staff Group VI (026), U.S. Department of Veterans Affairs (VA), 810 Vermont Avenue, NW., Washington, DC 20420 and in the 22 Regional Counsel offices (Regions and addresses are listed at 38 Code of Federal Regulations § 14.501(f)). Records for all Regions and Washington, DC are stored on a secured server computer at the VA Capitol Regional Data Center in Falling Waters, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans and their beneficiaries, current and former employees, current contractors employed by Department of Veterans Affairs, medical service providers, veterans' claims representatives, and veterans' service organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the name of an individual or business entity, and may contain Social Security Number, partial address (city, state, and zip code), date of birth, veterans' claim number, financial records, and/or medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. Section 501; and Title 38, United States Code, Section 311.

PURPOSE(S):

Case management, correspondence control, and statistical analysis. This system of records contains case tracking for time and OGC personnel, and may contain embedded documents which may be data privileged under the attorney-client relationship. The system will be used to provide statistical and other information in response to legitimate and reasonable requests.

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

1. VA may disclose any information in this system of records 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.

2. VA may disclose any record in this system of records to NARA (National Archives and Records Administration), the GSA (General Services Administration), or both, for which either agency says that it needs the records in order to perform records management activities under authority of 44 U.S.C.

3. VA may disclose information in this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has an agreement or contract to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to

perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

4. VA may disclose on its own initiative any information in this system which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order.

5. VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

6. VA may disclose any information in this system of records to appropriate agencies, entities, and persons under the following circumstances: When (1) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure is made to such agencies, entities, and persons reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

7. The Department may disclose the information listed in 5 U.S.C. 7114(b)(4) to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

8. The Department may disclose information to officials of the Merit Systems Protection Board, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

9. The Department may disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

10. The Department may disclose to the Federal Labor Relations Authority (including its General Counsel) information related to the establishment of jurisdiction, the investigation and resolution of allegations of unfair labor practices, or information in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; to disclose information in matters properly before the Federal Services Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The system of records is stored on a secured server computer protected in accordance with current, applicable physical, technical and administrative requirements.

RETRIEVABILITY:

Individually-identified information is retrieved by the name of the record subject.

SAFEGUARDS:

This list of safeguards furnished in this System of Record is not an exclusive list of measures that has been, or will be, taken to protect individually-identifiable information.

OGC will maintain the data in compliance with applicable VA security policy directives that specify the standards that will be applied to protect sensitive personal information. Further, only authorized individuals may have access to the data and only when needed to perform their duties. They are required to take annual VA mandatory data privacy and security training.

Access to data storage areas is restricted to authorized VA employee or contract staff who has been cleared to work by the VA Office of Security and Law Enforcement. File areas are locked after normal duty hours. VA facilities are protected from outside access by the Federal Protective Service and/or other security personnel.

Security complies with applicable Federal Information Processing Standards (FIPS) issued by the National Institute of Standards and Technology (NIST).

Contractors and their subcontractors who access the data are required to maintain the same level of security as VA staff.

Access to electronic files is controlled by using an individually unique password entered in combination with an individually unique user identification code.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

At the current time, OGC has records disposition authority for certain categories of these records under Records Control Schedule N1–15–06–2 which was approved by the Archivist of the United States on March 7, 2007. The System Manager will initiate action to seek and obtain additional disposition authority for the disposition of the non-covered records in accordance with VA Handbook 6300.1, Records Management Procedures. The non-covered records will not be destroyed until VA obtains a NARA-approved records disposition authority. Once VA has obtained NARA-approved records disposition authority, VA OGC will amend this notice to reflect that authority, and any destruction of electronic records will occur in accordance with the disposition authority.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Assistant General Counsel, Professional Staff Group VI (026), Office of General Counsel, United States Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record, should submit a written request to the Assistant General Counsel, Professional Staff Group VI (026), Office of General Counsel, U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Such requests must contain a reasonable description of the records requested. All inquiries must reasonably identify the information involved and should include the individual's full name, social security number, telephone number and return address.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of VA information maintained by the Office of General Counsel may send a request by mail to the Assistant General Counsel, Professional Staff Group VI (026), Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

CONTESTING RECORDS PROCEDURES:

(See Notification Procedure above.)

RECORD SOURCE CATEGORIES:

Individuals, businesses, and organizations that are covered by the system notice.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–18464 Filed 9–18–07; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
September 19, 2007

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 424, 488, and 489
Establishment of Revisit User Fee Program for Medicare Survey and Certification Activities; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 424, 488, and 489

[CMS–2268–F]

RIN 0938–AO96

Establishment of Revisit User Fee Program for Medicare Survey and Certification Activities

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule will establish a system of revisit user fees applicable to health care facilities that have been cited for deficiencies during initial certification, recertification, or substantiated complaint surveys and require a revisit to confirm that corrections to previously-identified deficiencies have been remedied. Consistent with the President's long-term goal to promote quality of health care and to cut the deficit in half by fiscal year (FY) 2009, the FY 2007 Department of Health and Human Services' (HHS) budget request included both new mandatory savings proposals and a requirement that user fees be applied to health care providers that have failed to comply with Federal quality of care requirements. The ''Revisit User Fees'' will affect only those providers or suppliers for which a revisit is required to confirm that previously-identified failures to meet federal quality of care requirements have been remedied. The fees are estimated at $37.3 million annually and will recover the costs associated with the Medicare Survey and Certification program's revisit surveys. The fees will take effect on the date of publication of the final rule and will be in effect until the date that the continued authority provided by Congress expires. At the time of publication of this regulation the applicable date is September 30, 2007. If no legislation is enacted, the fees are not retroactive to the beginning of the fiscal year. Any provider or supplier that has a revisit survey conducted on or after the date of publication will be assessed a revisit user fee and will be notified of the assessment upon data system reconciliation which can occur following the closing of the fiscal year. The fees will be available to CMS until expended. The revisit user fee is included in the President's proposed FY 2008 budget. We note through the publication of this final rule that if authority for the revisit user fee is continued, we will use the current fee schedule in this rule for the assessment of such fees until such time as a new fee schedule notice is proposed and published in final form.

DATES: *Effective Date:* These regulations are effective on September 19, 2007.

FOR FURTHER INFORMATION CONTACT: Carla McGregor, (410) 786–0663

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. Overview

In the June 29, 2007 **Federal Register** (72 FR 35673), we published the proposed rule entitled, ''Establishment of Revisit User Fee Program for Medicare Survey and Certification Activities'' and provided for a 60 day comment period. This rule sets forth final requirements and the final Fee Schedule for providers and suppliers who require a revisit survey as a result of deficiencies cited during an initial certification, recertification, or substantiated complaint survey.

The Centers for Medicare & Medicaid Services (CMS) has in place an outcome-oriented survey process that is designed to determine whether existing Medicare-certified providers and suppliers or providers and suppliers seeking initial Medicare certification are actually meeting statutory and regulatory requirements, conditions of participation, or conditions for coverage. These health and safety requirements apply to the environments of care and the delivery of services to residents or patients served by these facilities and agencies. The Secretary of the Department of Health and Human Services (''HHS'') has designated CMS to enforce the conditions of participation/coverage and other requirements with these programs. The revisit user fee will be assessed for revisits conducted in order to determine whether deficiencies cited as a result of carrying out CMS's survey process obligations have been corrected.

B. Requirements for Issuance of Regulations

Section 20615(b) of The Continuing Appropriations Resolution (''Continuing Resolution'') budget bill passed by the Congress and signed by the President directed HHS to implement the revisit user fees in FY 2007. Section 20615(b) states as follows:

> The Secretary of Health and Human Services shall charge fees necessary to cover the costs incurred under 'Department of Health and Human Services, Centers for Medicare and Medicaid Services, Program Management' for conducting revisit surveys on health care facilities cited for deficiencies during initial certification, recertification, or substantiated complaints surveys. Not withstanding section 3302 of title 31, United States Code, receipts from such fees shall be credited to such account as offsetting collections, to remain available until expended for conducting such surveys *(Pub. L. 110–5, H.J.Res.20, § 20615(b)(2007))*.

As directed by the Secretary, in the June 29, 2007 **Federal Register** (72 FR 35673), CMS established revisit user fees for revisit surveys and put forth in regulation the definitions, criteria for determining the fee, the fee schedule, collection of fees, reconsideration process for revisit user fees, enforcement and regulatory language addressing enrollment and billing privileges, and provider agreements. In the proposed rule, cost projections were based on FY 2006 actual data and were expected to amount to $37.3 million on an annual basis. These calculations were included in section IV Regulatory Impact Analysis in the proposed rule (72 FR 35678).

The fees will take effect on the date of publication of the final rule and will be in effect until the date that the authority provided by the Congress expires. At the time of publication of this regulation the applicable date is September 30, 2007. As discussed thoroughly in the proposed rule, based on the Congress' knowledge of section 1864(e) of the Social Security Act and already established survey and certification activities, the unambiguous nature of section 20615(b) of the Continuing Resolution, and the principles of *lex posterior derogate legi priori* or ''last-in-time'' rule, the Secretary has the authority to implement this revisit user fee and establish a final fee schedule. See 72 FR 35674–35675 (discussing section 1864(e) of the Social Security Act).

II. Summary of the Proposed Provisions and Response to Comments

In the June 29, 2007 **Federal Register** (72 FR 35673), we published the proposed rule entitled, ''Establishment of Revisit User Fee Program for Medicare Survey and Certification Activities'' and provided for a 60 day comment period.

We received a total of 74 comments from various providers, suppliers, health care associations, and individual health care professionals and other individuals. The comments ranged from general support of the survey process or general opposition to the proposed provisions to very specific questions or comments regarding the proposed new revisit user fee.

Brief summaries of each proposed provision, a summary of the public comments we received and our responses to the comments are set forth below. Comments related to the paperwork burden and the impact analyses are addressed in the Collection of Information and the Regulatory Impact Analysis sections in this preamble.

General Comments

1. Time Period for Levying Fees

Comment: Several commenters suggested that CMS should not allow user fees for nursing home revisits beyond the end of the fiscal year. The commenters believe that nursing homes bear the brunt of the overall survey process because surveys are conducted annually for nursing homes and as such CMS should ensure that the fee is not renewed.

Response: The President's HHS budget for FY 2007, as enacted by the Congress, directs the HHS Secretary to implement the revisit user fees during FY 2007. Since the provisions for the revisit user fee were put forth through the annual appropriations process, continuation of the fees under this regulation beyond September 30, 2007 will depend on Congressional renewal or extension of the time period under which fees may be assessed. While nursing homes have the most frequent surveys, they also have the largest number of revisits. Revisits in nursing homes represent the largest single source revisit costs. While there would be cost to some—but not all—nursing homes as a result of the revisit fees, nursing homes also benefit from being able to reassure prospective nursing home residents and their families that the nursing home is federally certified and that there is an objective and independent system of oversight to assure quality. The revisit survey is an essential element of that quality assurance system. We also note that the revisit fees are not restricted to nursing homes, but apply to almost all providers and suppliers that require a revisit to confirm that identified deficiencies are remedied.

2. Authority to Assess a Revisit User Fee

Comment: A few commenters expressed concern that revisit fees would be imposed when the authority granted to levy fees expires on September 30, 2007 and that there does not appear to be legislation pending that would extend CMS' authority to impose these fees beyond FY 2007. One commenter stated that if the Congress does not extend this authority, then it appears that this rule will be void. Another commenter disagrees with CMS interpretation of section 1864(e) of the Social Security Act (the Act) as giving HHS the ''authority to assess revisit user fees.'' The commenter felt that clearly the inclusion and specific wording in this section within the Act indicates Congress intended that the Secretary ''may not impose'' any fee on any facility for any survey (revisit or otherwise) for determining compliance ''with any requirement of this title.''

Response: We are frequently expected to implement legislation that is promulgated by the Congress and therefore has the force of law, as in the passed FY 2007 appropriations bill. We strive to implement the provisions in an efficient and effective manner once it becomes law. The commenter is correct that the current authority to impose the revisit user fee expires for revisits occurring after September 30, 2007, unless otherwise authorized via legislation or through the FY 2008 appropriations bill, as examples. The revisit user fee is included in the President's proposed FY 2008 budget. We acknowledge the commenter's disagreement with the Congress' intent as it relates to authority to impose any fee based on the Social Security Act. However, as we discussed in the Proposed Rule, we believe that Congress intended to give the Secretary authority to implement this revisit user fee program when Congress enacted section 20615(b) of the Continuing Resolution.

3. ''Good Performers Versus Poor Performers''

Comment: Several commenters believed that those nursing homes considered to be providing excellent care would be required to pay a revisit user fee along with nursing homes that are considered poor performers. The commenters believe that even minor infractions uncovered during an annual survey for these higher quality nursing homes would still lead to the imposition of a revisit user fee. A commenter questioned whether or not those facilities going above and beyond to provide higher level care through higher costs of operations should be subjected to this user fee in the same manner as those facilities that are performing at the bare minimum requirements with lower costs of operations if the goal is to promote a better health care environment.

Response: We believe that many nursing homes will pay no revisit user fees because they consistently provide high quality care, have no deficiencies identified through the survey process, and therefore will require no revisits. Other nursing homes may require some revisits but with minimal costs because the deficiencies are not serious, and the revisit may be accomplished through an offsite survey. We have established a much lower fee for offsite surveys since actual costs to the survey program for these revisit surveys are much less than the costs for onsite surveys, and the user fee is intended only to recoup average actual costs. We believe we have designed the user fee program to result in a positive correlation between quality of care and amount of the fees—the better the quality of care, the lower the fees. We also expect that the prospect of fees for revisits will promote greater compliance with federal quality of care requirements, thereby making for fewer revisits and fewer fees over time.

4. Revisit User Fee Compared to Penalty

Comment: Several commenters believe the revisit user fee constitutes a penalty regardless of whether cited deficiencies are appealed and overturned. They also stated that the revisit user fee imposed additional penalties that may be assessed.

Response: The revisit user fee does have some similarities to a quality of care penalty in so far as the revisit user fee only applies to providers or suppliers for which deficiencies have been identified. There are differences, however, between the revisit user fee and traditional penalties. For example, a traditional penalty, such as a civil monetary penalty, is assessed according to the scope and severity of individual deficiencies that have been identified. A penalty amount would be independent of the cost for the time required by surveyors to revisit the provider in order to confirm that corrections have been made. In contrast, the revisit user fee is designed only to replace the average actual cost associated with the revisits themselves. Second, currently only nursing homes are subject to civil monetary penalties; no other Medicare-certified providers or suppliers affected by this regulation are subject to CMS CMPs for quality of care deficiencies at this time. Among nursing homes, only approximately 12 percent of nursing homes are levied a CMP in any particular year, on average. If a revisit survey is required, a user fee will be assessed; however this does not necessarily mean a CMP will be levied as well.

5. Revisit User Fee Compared to Taxes

Comment: One commenter stated that the revisit user fee amounted to a new tax. Another commenter felt that the revisit user fee was an example of extortion and that the funding to

administer the survey process including revisits is already in place. They equated this fee to have the same effect as if the IRS was to impose a fee when the individual's tax return is flagged for an audit. A commenter felt the fee would amount to financial impropriety on the part of the government.

Response: We believe that the commenter's characterization of the revisit user fee as a ''tax'' is not accurate. Taxes are typically imposed regardless of whether the taxed parties actually use the services that the tax makes possible. Taxes must be paid regardless of the extent of government services that are accessed. In contrast, the revisit user fee will be levied only for those who fail to comply fully with their responsibilities to provide quality care and to abide by federal quality of care and related requirements under the Medicare Provider Agreement and applicable regulations and laws for providers and suppliers. Such failure obliges CMS to incur revisit survey costs that would not otherwise have been incurred. The revisit user fee amount is calibrated to match the additional resources required, on average, for the surveyors to verify compliance with known federal requirements subsequent to the provider's or supplier's initial failure to meet those requirements fully.

6. Effects on Resident or Patient Care

Comment: Several commenters raised concern that the assessment and payment of the user fee would remove several thousand dollars per facility that otherwise would be available for resident care. Another commenter felt the ethics of this proposal would adversely affect the citizens of a State. The commenter felt that the revisit user fee was unfair. Other commenters stated, in various ways, that the revisit user fee would remove valuable resources that would otherwise be expended for patient and employee resources. They felt that a direct drawdown from funds used for patient care would occur, resulting in no improvement to the quality of resident care. Finally, they felt that there would be a direct adverse fiscal impact on smaller more financially challenged facilities.

Response: CMS believes the providers and suppliers are the controlling agents in managing the quality of care of services provided in their healthcare facilities. Providers and suppliers may avoid revisit fees by ensuring sustained compliance with federal quality of care requirements. The revisit user fees simply compensate for the costs of confirming that previously-identified problems have been remedied. The certainty that a revisit will occur is a substantial incentive for a provider to make the necessary corrections; therefore, we believe that this quality assurance function will improve care and safety for Medicare beneficiaries. In addition, we believe the imposition of revisit user fees will likely encourage a sustained commitment to management systems that improve quality of care provided to all clients served by the provider. CMS does not believe that the revisit user fee should harm quality of care provided, but can instead become a valuable, additional incentive to encourage providers and suppliers to commit to sustained compliance with federal quality of care requirements. The quality of care message is that providers and suppliers will have no user fees when quality of care meets the appropriate federal standards. To the extent that there are deficiencies, providers and suppliers will have only small fees to the extent that the deficiencies are not serious or widespread. If quality problems do occur, providers and suppliers will have greater incentives to ensure that quality lapses are corrected more quickly than in the past, since the revisit fees will be less if only one revisit is required.

7. State Practices and Incentives for Revisits

Comment: Several commenters expressed a concern that State survey teams would be instructed to find more violations if a revisit user fee were in place, thus increasing the number of revisit surveys. One commenter also raised the concern that the facility will have to pay a revisit user fee for a revisit survey although the State may not consider the deficiency severe. Another commenter raised concern that there would be tremendous potential for abuse, that surveyors lacked experience and that there existed too much financial control of the facilities in the hand of the state surveyors. This commenter also expressed concern as to whether there would be adequate monitoring of State agencies for potential abuse of this program. Two commenters believed the fee would increase the number of revisits currently being done, putting an extra burden on staff as well as required additional time for State surveyors. One commenter felt that the nursing home revisits would increase to 100 percent because of what they consider a financial incentive.

Response: We agree that any potential conflict of interest, and any appearance of conflict of interest, must be addressed in the design and operation of any user fee program. A number of safeguards will prevent any such potential conflict from becoming a serious reality. First, the revisit user fees will be collected nationally by CMS through a contractor rather than by individual States. CMS makes allocations to States based on the effects of inflation and on overall survey and certification workload and performance for all survey and certification functions, with revisits comprising just one of many functions. The national survey and certification budget may not exceed the level established by Congress, regardless of the level of revisit fee collections. Second, all States must conduct revisits according to policies and procedures established by CMS. Those policies and procedures are publicly available in CMS' State Operations Manual (SOM) and in numbered Survey & Certifications policy memoranda published on the CMS Web site. Such policies and procedures define the circumstances under which revisit surveys, both onsite and offsite, occur and when they do not occur. CMS Regional Offices monitor State implementation of the policies and procedures. We intend to increase CMS monitoring for revisits. Third, States incur substantial costs in order to conduct revisits. Such costs are not lightly undertaken, since there are formidable natural and governmental constraints on a State survey agency's ability to make use of any added funds that might conceivably become available even if there were a direct fiscal connection between revisits and the amount of money the State survey agency were to receive. The single largest cost to a State survey agency, for example, is personnel. The ability of a State survey agency to hire new staff (even when new revenue becomes available) is either very limited or there is a long delay between the availability of such funds and the hiring of a surveyor. Once hired, the surveyor must typically undergo about six months of training and observing before being entrusted to conduct surveys. These constraints make it unlikely that a State survey agency would incur the upfront staffing costs of conducting revisits that were not required, or would seek to identify more deficiencies simply to justify a revisit and hope that at some vague future date the added costs might be recognized by CMS. To the extent that the revisit user fee does create any type of new incentive, we expect that the main incentive will be for providers and suppliers to maintain compliance with federal quality of care and safety requirements, since such compliance offers a clear pathway to the avoidance of revisit fees.

Comment: One commenter stated that the proposed rule would increase fees for facilities that had follow-up for routine licensure/certification surveys as well as complaint visits.

Response: Revisit user fees will apply only to surveys that occur after an initial certification, recertification, or substantiated complaint survey has identified deficiencies. State licensures issues that a State survey agency might address during a survey or a revisit survey are separate activities not connected with the assessment of a revisit user fee. Surveyor time spent on State-only issues must also be cost-accounted for by State survey agencies to ensure that such costs are not billed to the federal government. Thus, a survey or revisit survey based solely on State licensure requirements would not create the assessment of a revisit user fee. Only the need to conduct revisit surveys regarding Federal conditions of participation, requirements, or conditions for coverage would trigger a revisit user fee.

Comment: One commenter observed that State and federal regulations require nursing facilities to report allegations of abuse and other issues to the State survey agency. The commenter expressed concern that such mandatory reports will result in a visit from the Survey Agency inspectors, usually without any finding of regulatory deficiencies. The financial impact of the proposal could be very burdensome for many nursing facilities.

Response: An initial visit to investigate a complaint, such as the allegation of abuse and or neglect mentioned by the commenter would not trigger a revisit user fee. A revisit would be required only if a deficiency is identified as a result of that complaint investigation. The user fee would not apply to the initial complaint investigation; it would apply only to the revisit once the provider has alleged to the State survey agency that it has addressed the deficiency identified in the original complaint investigation. Complaint investigations that find no deficiencies will not require any revisits and will therefore not occasion any revisit fees.

8. Revenue Seeking—Government Responsible for Funding Survey Process

Comments: Several commenters felt that this proposed rule and the assessment of revisit user fees was a revenue seeking mechanism, that it was a way to fund and pay for the survey process. Many of these same commenters felt that the obligation of the survey process and the conducting of revisit surveys was that of the Federal government, and or the State Health Departments. The government has mandated these surveys and as such the quality assurance checks are its obligation. One commenter felt that the Federal government's role is to raise these funds, as been often done through Federal taxes, although not advocating a Federal tax increase, it is through these like efforts the commenter suggested that funds should be derived to pay for the survey process.

Response: The revisit user fee is designed simply to pay for actual costs of conducting revisits, on average, rather than as a revenue generating instrument that might be unconnected with the government activity for which the revisit user fee is assessed. In addition, the revisit user fees offer the ancillary benefit of encouraging providers and suppliers to commit to sustained compliance with Federal quality of care requirements and ensure that quality lapses are remedied quickly.

9. Creating Positive Incentives

Comment: Although some commenters felt the revisit user fee was punitive in nature and not proactive, several commenters did support added incentives to increase patient and resident safety, quality of care, and compliance to standards. A couple of commenters went on to state that a positive incentive would serve to strengthen the relationship between regulators and providers and would establish CMS as a partner rather than an adversary of the long-term care community. A few commenters indicated strong support of the Medicare survey process as one method to assure only providers and suppliers that offer high quality services participate in the Medicare program. One commenter went as far as offering three goals for which the collected user fees should be directed, which included improving consistency of the survey process, ensuring complete, provider-specific training for surveyors, and improving communication between State survey agencies and the provider community on survey rules and expectations. This commenter went on to state that fees derived for these survey program improvements should not be used to merely supplant the normal funding stream but dedicated to specific programs.

Response: The intent of the revisit user fee program is to recover the costs associated with conducting follow-up visits for deficiencies cited during initial certification, recertification, and substantiated complaint surveys. Although the commenter offers three additional goals for the collected revisit user fee, we believe that those admirable goals go beyond Congress' intended purpose of the revisit user fee program.

Part 424—Conditions for Medicare Payment

Subpart P—Requirements for Establishing and Maintaining Medicare Billing Privileges

Section 424.535 Revocation of Enrollment and Billing Privileges in the Medicare Program

We proposed to amend § 424.535(a)(1) by adding a new sentence to the criteria for which a provider or supplier may be determined not in compliance and for which we may revoke enrollment and billing privileges in the Medicare program. We proposed to add that the provider or supplier may also be determined not to be in compliance if it has failed to pay any user fees as assessed under part 488 of this chapter. The paragraph will continue to read that all providers and suppliers are granted an opportunity to correct the deficient compliance requirement before a final determination to revoke billing privileges occurs.

Comment: Some commenters tied in the discussion of revocation of billing and the termination for nonpayment as proposed in § 488.30(f) and § 489.53(a)(16). One commenter felt that termination for nonpayment within 30 days is power disproportionate to the offense and is unrelated to quality of care and safety issues. Another commenter felt that this provision is reason not to participate in Medicare, or to care for Medicare patients.

Response: While we proposed that a provider or supplier may also be determined not to be in compliance if a revisit user fee payment has not been received within 30 calendar days after receipt of the notice that payment is due, we also state at § 424.535(a)(1) that all providers and suppliers are granted an opportunity to correct the deficient payment compliance before a final determination is made to revoke billing privileges. We further note that a payment-due notice from CMS is preceded by a survey or complaint investigation that has found deficiencies, a correction period afforded to the provider or supplier, a revisit to confirm compliance, then a later issuance of the payment-due notice, followed by the formal 30-day advance notice to the provider. As soon as a revisit occurs, each provider or supplier will know that a revisit user fee will follow at a later date, will know the amount of the fee due from the fee schedule published in this rule, and will know that the payment will be due

within 30 calendar days. While the rule specifies that enforcement action may occur if the bill has not been paid within 30 calendar days, the total amount of planning time available to the provider or supplier will have totaled much more than the 30 calendar day period before any enforcement action may occur. Finally, the revocation of billing and enrollment privileges is not an immediate action upon the failure of a provider or supplier to remit the assessed revisit user fee. In this final rule we therefore retain the time frames for which action will occur regarding this process and retain the amended language to § 424.535(a)(1) as final.

Part 488—Survey, Certification, and Enforcement

Subpart A—General Provisions

Section 488.30 Revisit User Fee for Revisit Surveys

We proposed a new § 488.30 which set forth proposed regulations that identifies the circumstances under which providers or suppliers be assessed a user fee for revisit surveys connected with deficiencies identified during surveys for initial certification, recertification, or substantiated complaints. This proposed paragraph identifies the assessment of fees, criteria for which the proposed fee schedule will be based, and collection of fees.

Section 488.30(a)—Definitions

We proposed in § 488.30(a) to define terms associated with this paragraph. Those terms included: ''certification,'' ''complaint surveys,'' ''substantiated complaint survey,'' ''provider of services,'' ''provider,'' ''supplier,'' and ''revisit survey.'' Many of the comments received for § 488.30(a) dealt less with the wording in the definitions and more with the survey and certification activities and its process.

Certification (Initial or Recertification)

We proposed that ''certification'' (both initial and recertification) would include those activities as defined in § 488.1. ''Certification'' as currently defined in § 488.1 is a ''recommendation made by the State survey agency on the compliance of providers and suppliers with the conditions of participation, requirements (SNFs and NFs), and conditions for coverage.''

Comment: One commenter proposed that home health agencies and hospice facilities be removed from initial certifications since it can take 2 or more years to get initial certifications. Another commenter proposed that the revisit user fee should be expanded to include initial surveys of ESRD facilities to allow more timely surveys that now are delayed due to CMS budget, staff shortages, and other priorities.

Response: Both commenters are referring to the issue of initial certification surveys conducted for new providers or suppliers, rather than the revisit surveys themselves.

While we appreciate the suggestion from one commenter that CMS charge a fee for initial surveys so as to eliminate the current backlog of unsurveyed and uncertified potential Medicare providers, we are neither authorized by Congress nor prepared to charge such fees at this time.

We also do not accept the suggestion from the other commenter that home health agencies and hospices simply be exempt from initial certification due to the survey backlog. We are not authorized to make such exemption. We also believe an exemption would be inadvisable, as it would permit those providers to begin to serve Medicare beneficiaries without any assurance that they meet quality of care and safety requirements. The proliferation of new home health and hospices in a few States have also given rise to considerable concerns of fraud, a concern that CMS is responding to through various anti-fraud initiatives recently announced by the Secretary.

We do expect that the revisit user fee will indirectly help to resolve the problem of surveying and certifying new providers. Revisit costs represent a minority but still substantial portion of overall survey and certification expenses. By defraying such costs through the user fees, the States will then be in a better position to conduct tier III and tier IV priority work, and will be able to conduct more initial surveys than they have been able to conduct recently.

While we appreciate the comments, to adhere to the Congress intent within the Continuing Resolution, we will not assess a fee for initial certification, nor at this time can we remove providers or suppliers based on when initial certifications are conducted. We will retain the proposed definition of ''certification'' as final.

''Complaint Surveys''

We proposed that complaint surveys are those surveys conducted on the basis of a ''substantial allegation of noncompliance,'' as defined in § 488.1. The term ''substantial allegation of noncompliance'' means:

> A complaint from any of a variety of sources (including complaints submitted in person, by telephone, through written correspondence, or in newspaper or magazine articles) that if substantiated, would affect the health and safety of patients and raises doubts as to a provider's or supplier's noncompliance with any Medicare condition. (42 CFR § 488.1)

We further noted that the Continuing Resolution included the term ''substantiated complaints surveys.'' We proposed that ''substantiated complaint survey'' means a complaint survey that results in the proof or finding of noncompliance at the time of the survey, a finding that noncompliance was proven to exist, but was corrected prior to the survey, and includes any deficiency that is cited during a complaint survey, whether or not the deficiency was the original subject of the substantial allegation of noncompliance.

We proposed that a user fee would be assessed for revisit surveys conducted to evaluate the extent to which deficiencies identified during a substantiated complaint survey have been corrected.

Comment: Commenters requested clarification on the term ''substantial allegation of noncompliance,'' and felt that the definition as a basis for the revisit fee is vague and open-ended.

Response: CMS proposed the definition for ''complaint surveys'' to mean those surveys conducted on the basis of a substantial allegation of noncompliance, as defined in § 488.1. ''Substantial allegation of noncompliance'' has been the term used in current survey, certification, and enforcement procedures and as such we intended to maintain a level of consistency by utilizing this definition as a means to define ''complaint surveys.'' It is this process that generates the action for which an investigation into the complaint should occur. It is the substantiation of this complaint survey that will determine if a revisit survey should be conducted and as a result a revisit user fee should be assessed. As we provided in the discussion of the proposed rule ''substantiated complaint survey'' means a complaint survey that results in (1) the proof or finding of noncompliance at the time of the survey, (2) a finding that noncompliance was proven to exist, but was corrected prior to the survey, and (3) includes any deficiency that is cited during a complaint survey, whether or not the deficiency was the original subject of the substantial allegation of noncompliance. If any of these 3 situations are determined and a revisit is required as a result of the situation, then a revisit user fee will be assessed. It will not simply be based on whether the complaint was substantiated. A complaint may be substantiated without

being determined to be non-compliant with the regulations. The substantiation of a complaint is a separate issue from the determination of compliance with the regulations and thus the triggering of a revisit user fee.

Comment: One commenter contends that accepting complaints from a variety of sources is overly broad and permits the process to go forward at great length. Another commenter felt that there is nothing to prevent disgruntled employees from submitting complaints anonymously, especially once they learn that the user fee will punish the facility. Commenters felt that this provides incentive for surveyors to substantiate the compliant that triggered the revisit or substantiate another deficiency.

Response: We do not expect that either the quantity of complaints received or the source of the complaints will affect revisit user fees to any measurable extent. The revisit user fee does not apply to any complaint investigation. Only complaints which have been substantiated as showing non-compliance with Federal requirements will result in citation of a deficiency. Only those deficiencies that require a revisit survey will then trigger a revisit user fee. When multiple complaints are received near the same point in time, State survey agencies typically bundle those together in one complaint investigation, this investigation is followed by a revisit survey only if one or more of the complaints is substantiated and the agency finds noncompliance to such an extent that a revisit is called for according to CMS policy. Finally, the volume of complaints reaching CMS are to some extent affected by the extent that the provider or supplier has an effective system of inviting complaints internally, and responding to complaints effectively such that beneficiaries or their families feel that there is less need to file complaints with CMS or any external party. We believe that beneficiary complaints represent a very important source of feedback for providers, suppliers, CMS and States. We hope such feedback can be effectively used by us and others to identify areas of health care that merit serious attention.

Comment: One commenter disagreed that a ''substantiated complaint survey'' can cite any deficiency regardless of whether that deficiency was the original subject of the complaint. Two commenters raised concerns that a revisit user fee will be imposed even in cases where a ''substantiated complaint'' is corrected prior to the survey or that CMS would require a revisit user fee in this instance and this would discourage a facility's internal quality assurance. A commenter raised the questions as to whether a substantiated complaint included condition and standard levels or just condition level. This commenter proposes that it just include condition level since those levels result in non-certification or decertification.

Response: CMS published condition of participation, condition for coverage and other regulatory requirements typically take the form of specific standards, with multiple standards related to a common topic comprising a broader ''condition.'' Revisit surveys are almost always required for condition-level deficiencies and are also often required for standard-level deficiencies, depending on the extent and seriousness of the noncompliance identified. As we provided in the discussion of the proposed rule, ''substantiated complaint survey'' means a complaint survey that results in (1) the proof or finding of noncompliance at the time of the survey, (2) a finding that noncompliance was proven to exist, but was corrected prior to the survey, and (3) includes any deficiency that is cited during a complaint survey, whether or not the deficiency was the original subject of the substantial allegation of noncompliance. If any of these 3 situations are determined and a revisit is required as a result of the situation then a revisit user fee is assessed.

Although we disagree in part with the commenter who indicated that any deficiency can not be cited during a complaint survey, we reiterate and clarify that under our current policy for conducting complaint surveys, we do require that if a State surveyor in the course of conducting the complaint survey observes a situation that warrants further investigation, that the State must seek input from the CMS regional office to request permission to further pursue this additional situation. See U.S. Centers for Medicare & Medicaid Services. *State Operations Manual*, ''Complaint Procedures.'' ONLINE. 2006. CMS. Available: *http://www.cms.hhs.gov/manuals/downloads/som107c05.pdf* (''SOM-Complaint'').

With regard to the two commenters'' concern that a finding that noncompliance was proven to exist, but was corrected prior to the survey, this situation alone would not trigger a revisit user fee. In addition, because a substantiated complaint survey can include the above criteria we do not believe at this time that we should make a distinction between a condition level deficiency and a standard level deficiency. As a continued part of the survey and certification process a complaint may be substantiated without being determined to be non-compliant with the regulations. The substantiation of a complaint is a separate issue from the determination of compliance with the regulations and thus the triggering of a revisit user fee.

We appreciate the comments, however to adhere to consistency across current survey and certification policy, we will retain the definition of ''complaint surveys'' to mean those surveys conducted as the basis of a substantial allegation of noncompliance, as defined in § 488.1 as final.

''Provider of Services, Provider, or Supplier''

We proposed to retain the terms ''*provider of services,*'' ''*provider,*'' or ''*supplier*'' as defined in § 488.1. We proposed that all ''provider of services,'' ''providers,'' or ''suppliers,'' as defined in § 488.1, will be subject to user fees, unless otherwise exempted through the final rule. We proposed that a ''provider of services'' or ''provider'' that may be assessed a user fee, as it applies in this proposed rule, includes a hospital, critical access hospital, skilled nursing facility, dually-participating nursing facility (''SNF/NF''), home health agency (''HHA''), and hospice. Transplant centers would also be subject to user fees and have been defined in § 482.70 of this chapter. We proposed that ''providers of services'' or ''providers'' that will not be assessed a revisit user fee as defined in the proposed rule to be comprehensive outpatient rehabilitation facilities, transplant centers, and providers of outpatient physical therapy or speech pathology services. These providers are excluded from this rule because they are not subject to a routine survey process as are other service providers. We stated that Medicaid-only ''providers of services'' or ''providers'' will not be assessed a user fee.

We proposed a ''supplier'' that may be assessed a user fee, as it applies in the proposed rule includes an end-stage renal disease center, a rural health clinic (''RHC''), and an ambulatory surgical center (''ASC''). ASCs must have an agreement with CMS to participate in Medicare and must meet conditions for coverage as defined in Part 416 of this chapter.

''Suppliers'' that would not be assessed a user fee under the proposed rule are independent laboratories, portable x-ray centers, physical therapists in independent practice, Federally Qualified Health Centers (FQHCs), and chiropractors. These

suppliers are excluded because they are not subject to a routine survey process as are other suppliers. We stated that Medicaid-only ''suppliers'' will not be assessed a user fee.

The proposed rule would not interfere with user fees associated with clinical laboratories as established by the Congress, which passed the Clinical Laboratory Improvement Amendments (CLIA) in 1988 and established that outpatient clinical laboratory services are paid based on a fee schedule in accordance with section 1833(h) of the Act.

We received several comments regarding our definition of ''provider of services,'' ''provider,'' or ''supplier'' and we have included them below.

Comment: One commenter indicated that Chiropractors status among the Allied Health Care professions remains in dispute, this commenter contends that Chiropractors should be excluded from any Medicare provider list.

Response: Our current regulations found in § 488.1 include Chiropractors as identified as a supplier. This particular definition section also has extensive implications in various parts of the Medicare and Medicaid program and although we appreciate the commenter's concern, we do not propose to remove chiropractors from the definition of supplier. We do reiterate that Chiropractors are not subject to the revisit user fees.

Comment: One commenter believed that the implementation of this rule should not coincide with the publication of the final rule for ESRD conditions of coverage. This commenter felt that revisits and assignment of fees could very well be excessive during the ''learning curve'' of the new regulation; if CMS has such discretion the commenter suggests that this final rule should state that revisit user fees for ESRD facilities will not apply for the first 12 months of implementation of new conditions for coverage.

Response: The commenter is referring to the future publication of the final CMS rule revising the Conditions for Coverage for end stage renal disease facilities (ESRD). New rules or substantial revisions of new rules are typically promulgated with future effective dates. Considerable educational communications usually precede the effective date, during which providers or suppliers have an opportunity to become familiar with the rule and make necessary changes before the survey process holds them accountable. Currently, ESRD surveys are conducted about once every three to five years. We therefore believe that there will be reasonable opportunities for providers to adjust to the new rules before they are affected by surveys and the later revisits that might follow some surveys. Finally, although we appreciate the commenter's suggestion, we do not have the discretion at this time to exclude ESRD facilities from this final rule. ESRD facilities and revisits costs were included within the President's budget projections and mandated by the Congress.

Comment: One commenter expressed concern that religious nonmedical health care institutions (RHNCIs) would be subject to the revisit user fees.

Response: We appreciate the comment received. We inadvertently did not include religious nonmedical health care institutions (RHNCIs) in the definitions. RHNCIs should have been included, as they are subject to the survey and certification process. To adhere to the intent of the Congress and maintain consistency of definitions across Medicare and Medicaid programs, we will retain the definitions as proposed with the exception that we will include RHNCIs in the definition. However, in the fee schedule in this final rule we exempt them from the user fee program due to the very small number of such facilities and their relatively unusual nature. Any change to the exemption status would be preceded by publication of a **Federal Register** notice. The final definition of ''provider of services,'' ''provider,'' or ''supplier'' will read ''Provider of services, provider, or supplier'' as defined in § 488.1, and ambulatory surgical centers, transplant centers, and religious nonmedical health care institutions subject to § 416.2, § 482.70, and § 403.702 of this chapter, respectively, will be subject to user fees unless otherwise exempted.

''Revisit Survey''

In the Proposed Rule CMS defined the term ''revisit survey'' to mean a survey performed with respect to a provider or supplier cited for deficiencies during an initial certification, recertification, or substantiated complaint survey and which is designed to evaluate the extent to which previously cited deficiencies have been corrected. We further proposed that for purpose of this rule revisit surveys include both offsite and onsite. We also reiterated that regulations established in § 488.26 of this same part provided regulatory requirements for conditions of participation, conditions for coverage, or other regulatory requirements. Specifically § 488.26 of this part states that the compliance determination is made by the State survey agency and includes a survey process that assesses compliance with Federal health, safety, and quality standards.

We received only a few comments regarding the term ''revisit surveys'' and received the majority of comments under this section reflecting commenters concern regarding the survey process and the manner in which revisit user fees will be assessed.

1. ''Revisit Survey'' Term

Comment: Several commenters requested that we redefine the term ''revisit survey'' so that the definition does not include desk reviews or offsite surveys, that the offsite (desk) reviews be defined, that fees only be imposed if the survey is done in accordance with already established policies per provider type, that the definition include criteria about when onsite revisits are required, and that we limit the fees to ''onsite revisit surveys.''

Response: We included offsite revisit surveys (desk reviews) because we wished to retain the option of the offsite revisit surveys where warranted, since the cost to providers and suppliers under the revisit fee program will be substantially less than for onsite revisit surveys. The function of onsite and offsite (desk review) revisit surveys is the same. We interpret both types to constitute revisits within the meaning intended by Congress. The Continuing Resolution requires fees to be assessed that are necessary to cover the costs incurred for conducting revisit surveys on health care facilities cited for deficiencies found during initial certification, recertification, or substantiated complaint surveys. As we observed, we do not interpret this to mean onsite revisit surveys only. Within the current survey process itself there are distinctions made for when an onsite or offsite revisit survey should occur and distinctions are made by provider and supplier type. *See* U.S. Centers for Medicare & Medicaid Services. State Operations Manual, ''Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities,'' Online. 2004. CMS. Available: *http://www.cms.hhs.gov/manuals/downloads/som107c07.pdf*, and also ''Additional Program Activities,'' Online. 2007. CMS. Available: *http://www.cms.hhs.gov/manuals/downloads/som107c03.pdf.*

We disagree that revisit surveys should only be those that were conducted onsite, as there are situations in which offsite reviews are required to verify that the contents of the plan of correction or the corrective action took place. We do, however, agree that a review of a plan of correction that does not require verification beyond the plan

of correction document itself would not constitute an offsite revisit survey (as defined here), and thus the provider or supplier would not be assessed a revisit user fee in such a circumstance. A provider or supplier will be assessed a revisit user fee for an offsite revisit survey if the deficiency or deficiencies cited are of a nature that the content of the plan of correction and the statements made by the provider or supplier require verification and offsite follow-up to ensure that the corrective action has brought the provider back into compliance with federal requirements.

We appreciate the comments received; however on the term ''revisit survey,'' based on our discussion we will retain the proposed definition of ''revisit survey'' as final.

2. Survey Process

CMS discussed the current revisit policy and survey and certification process already established for all providers and suppliers. We identified current policy for skilled nursing facilities and dually-participating nursing facilities, performed at the discretion of CMS or the State. This revisit policy indicates circumstances for which onsite revisits must occur for certifying compliance and circumstances when onsite revisits are discretionary. Likewise, CMS generally permits only two revisits for hospitals, home health agencies, hospices, ambulatory surgical centers, rural health clinics, and end-stage renal disease centers. Of these two revisits permitted by CMS, one revisit should occur within 45 calendar days of the initial certification, recertification, or substantiated complaint survey, and one revisit subject to CMS approval, between the 46th and 90th calendar days. *See* 72 FR 35676 (discussing revisit policy, including discussion on revisits related to Immediate Jeopardy).

2A. Survey Process: Skilled Nursing Facilities and Dually-Participating Nursing Facilities

Comment: Several commenters contended that the survey process is inconsistent and subjective, and proposed that the revisit user fees be postponed until these process issues are resolved. Another commenter felt that revisit user fees represent punishment, especially when deficiencies are erroneously cited. Two commenters requested assurances that only legitimate deficiencies will be cited, that unnecessary revisits will not be conducted, and that revisits will not be conducted solely for the purpose of collecting user fees. One commenter felt that the proposed rule will complicate the subjectivity and variability that will always be part of the survey process. Another commenter indicated that the survey process is broken and subjective, and as such, fees for revisits would be unfair until those problems are resolved.

Response: CMS continuously works with States to ensure that surveys are applied as consistently as possible. CMS also operates a national internal consistency program in which validation surveys are conducted by Federal surveyors to promote optimum consistency. For example, Federal surveyors conduct validation surveys on a 5% sample of nursing home surveys to check the accuracy and adequacy of State surveys. CMS then works with the States to adjust for any significant disparities. The issue of consistency is also monitored as part of CMS's review of State performance. Because no system is perfect, nursing homes have an opportunity to request review of any cited deficiency through a structured informal dispute resolution process. CMS takes the issue of consistency seriously, and we continue to develop additional methods to analyze and address consistency issues, one example is the new Quality Indicator Survey (QIS) process that has been pilot-tested in five States. The QIS process utilizes customized software and is designed as a staged process for use by surveyors to systematically review requirements and objectively investigate all triggered regulatory areas in an effort to meet several objectives, one of which is to improve consistency and accuracy of quality of care and quality of life problem identification. We believe that the revisit user fee will help address those limitations and make more feasible a number of additional consistency improvements that are underway.

Comment: One commenter feared that there are no constraints to prevent a surveyor from citing an already corrected problem in order to trigger a revisit. One commenter believed that the survey process is already stressful for facility staff and this will only be made worse for employees who fear any mistake could trigger a revisit and its associated fee.

Response: If a problem has already been corrected at the time of a standard survey or complaint investigation, the survey itself can confirm that the correction has brought the provider or supplier back into compliance with federal requirements and the surveyor would document such a determination. In such a case no revisit would be required unless the correction failed to assure compliance. We appreciate that the survey process can be inherently stressful for employees. We do not believe, however, that the amount of the revisit fee is so much as to add measurably to the pre-existing stress level for employees. The cost of a revisit fee can be compared favorably to the larger cost to beneficiaries from poor quality of care, or to the larger financial cost to providers from serious non-compliance with federal requirements, such as civil monetary penalties or termination of the provider agreement. Only in the case of multiple revisits would we expect the cumulative cost of revisits fees to become a significant expense for a particular provider. A large number of revisits would occur when there is a persistent pattern of poor quality and documented inability of a provider or supplier to sustain compliance with federal requirements. Such providers face more serious consequences than revisit user fees. We believe that the plain language of the Continuing Resolution mandates that a fee be collected whenever a revisit occurs as a result of a deficiency found during initial certification, recertification, or substantiated complaint surveys. Documentation requirements supporting deficiency citations are not being diminished, eliminated or otherwise changed by this proposed rule to create the scenario raised by the commenter.

Comment: One commenter proposed that onsite revisits be discretionary for single ''G'' level deficiencies. Another commenter indicated that it is unclear what level deficiency would necessitate a revisit. A few commenters believed that oversight of correction of some deficiencies could be done offsite and requested clarification about when onsite revisits are required.

Response: Our current policy requires onsite revisits for condition level citations. The current policy governing revisit surveys is described in our online state operations manual. We will, however, consider policy issues raised by several of the commenters for future reconsideration. Some professional discretion on the part of State survey agencies will always be required. CMS provides review and oversight of State survey agencies through the CMS regional offices. Our internal quality assurance system provides for regional office up-front input or subsequent review when there is concern regarding whether the revisit survey should be conducted onsite or offsite. However we have always maintained that a condition level citation requires an onsite revisit survey. ''G'' level deficiencies in nursing homes are serious and are cited only when one or more nursing home

residents have been harmed. We will continue to conduct revisits in such circumstances.

2B. Survey Process: Hospitals, Home Health Agencies, Hospices, Ambulatory Surgical Centers, Rural Health Clinics, and End-Stage Renal Disease Centers

Comment: One commenter felt that although survey teams work off the same worksheets, there is variation in how different survey teams assess similar situations. Therefore, the commenter felt that requiring a ''revisit'' fee for all resurveys (either onsite or offsite) will increase the number of times that home health agencies will contest the survey findings, which then they may enter into an informal dispute resolution process not only to avoid the revisit fee but also to respond to the issue of survey variation.

Response: CMS continuously works with States to ensure that surveys are as consistently applied as possible. CMS also operates a national internal consistency program in which validation surveys are conducted by Federal surveyors to promote optimum consistency. It is possible that the revisit user fees may have the ancillary effect of increasing the extent to which providers or suppliers dispute the findings of surveys or complaint investigations. We believe this may occur whether the revisits are offsite or onsite. We will monitor the effect of the revisit fees to determine if any future adjustments are advisable.

Comment: One commenter requested clarification on whether user fees will be imposed on accredited providers or suppliers for a revisit following a sample validation survey.

Response: We will not charge a fee for a validation survey of a provider or supplier that has been duly accredited by a CMS-approved accrediting organization and deemed to meet Medicare requirements. While we believe that a revisit fee pursuant to a validation survey has basis, it is absent in the language of the Continuing Resolution. We would view this as similar to a revisit survey conducted for a non-accredited provider; we did not however specify such a charge in the proposed rule. We will therefore not charge a revisit user fee in this final rule for a revisit that follows a validation survey, provided that the deemed status of the provider or supplier has not been removed by CMS. However, any survey, including a validation survey, that finds noncompliance with a Condition (compared to just a Standard), typically requires removal of deemed status and a full survey of a provider. When an accredited facility is found not to be in substantial compliance with the Medicare Conditions of Participation or Conditions for Coverage, it must remain under the jurisdiction of the State Survey Agency until the State Survey Agency verifies through revisits that the facility has corrected its deficiencies and demonstrated substantial compliance. We believe in this case, the removal of deemed status that initiated with a validation survey, that then remains under the jurisdiction of the State survey agency is equivalent to any other provider or supplier seeking recertification. In this case a provider or supplier cited for a deficiency during a recertification survey that requires a revisit survey would be assessed a revisit user fee.

Comment: One commenter requested clarification as to whether a full survey following a substantiated complaint survey in a deemed provider or supplier is a revisit as defined in proposed § 488.30(a).

Response: A full survey that is conducted pursuant to a complaint investigation of an accredited facility that has found condition-level noncompliance is viewed as a revisit for the purposes of the revisit fee. As discussed in the response above, noncompliance with a Federal condition typically requires a removal of deemed status and a full survey of a provider. The purpose of this full survey is two-fold: To verify correction of the condition-level deficiencies identified on the complaint investigation, and also to confirm that the facility is in substantial compliance with all of the pertinent conditions for participation before the State survey agency returns jurisdiction over the facility to the accreditation organization. Thus we believe the activities of the survey fall within the purposes of a revisit survey.

We appreciate all the comments received regarding our current survey process for all providers and suppliers. CMS will maintain the current policy process for the immediate future. We will take all of these comments under consideration as we continue to work with States and our national consistency program to provide continued oversight and regulatory compliance guidance.

Section 488.30(b)—Criteria for Determining the Fee

We proposed in § 488.30(b) to provide the criteria for determining the user fee. We proposed that for initial implementation of revisit user fees, we will use the criteria in proposed § 488.30(b)(1)(i) and (ii): That a provider or supplier will be assessed a revisit user fee based on the average cost per revisit survey per provider or supplier type and the type of the revisit survey (onsite or offsite). If costs change significantly in any future period for which authority for the revisit user fee exists, we would publish a **Federal Register** notice providing a revised fee schedule to the extent that fees may be affected.

We also proposed that exceptions to the assessment of a revisit user fee will be identified based on the type of visit conducted. For example, we proposed that neither a provider nor a supplier will be assessed a fee if the visit is considered a ''State monitoring visit'' unless the visit also meets the definition of a revisit, if the visit is to confirm Medicare provider or supplier compliance with Life Safety Code (LSC) requirements, if the visit is to conduct a Federal Monitoring Survey, such as a Federal look-behind survey. See 72 FR 35677 (discussing ''state monitoring visit,'' LSC, and Federal Monitoring Surveys).

We also proposed in § 488.30(b)(1)(iii) through (b)(1)(v) that CMS may adjust revisit user fees to account for the provider or supplier's size, typically determined by capacity (such as the number of beds), the number of follow-up revisits resulting from uncorrected deficiencies, and/or the seriousness and number of deficiencies (such as the scope and severity of cited deficiencies and the number of deficiencies cited at each scope and severity level), as these criteria pertain to particular provider types. Variance in provider/supplier size, the number of follow-up revisits, and the type and number of deficiencies cited may have an impact on the survey hours needed for a revisit. We also proposed in § 488.30(b)(2) that CMS may adjust the fees to account for any regional differences in cost.

We received a variety of comments for this section, the majority of which discussed quality of care and the concern that the user fee might cause adverse incentives. We summarized all of these comments and responded to them under the general comments section of this final rule. The comments discussing the specific criteria proposed in § 483.30(b) are provided below.

Comment: A few commenters stated that additional information was needed about how the various factors (for example, a provider's size, number of revisits, scope and severity of deficiencies) will impact the amount being assessed. They asked whether CMS would notify providers in advance of the actual amount that would be assessed, and whether providers would be notified about how these factors were specifically used to assess a given fee.

Response: We believe that the adjustment criteria outlined in this regulation can be important factors affecting the number of survey hours that would be required in a revisit survey and therefore the cost of such revisit survey. However, the final fee schedule published in this rule does not make use of all the potential factors that might otherwise be used because we believe many of the factors require more analysis. Of the criteria listed in 488.30(b), CMS is only using 488.30(b)(1)(i) and (ii) for the immediate future.

If Congressional authority for the revisit fee is renewed or extended, and CMS changes the overall methodology for calculating and collecting these fees, CMS will implement these changes through notice and comment rulemaking in the **Federal Register**. If Congressional authority for the revisit fee is renewed or extended but CMS will not being implementing any methodological changes, CMS will publish proposed and final notices in the **Federal Register** to announce and solicit comment on planned updates, adjustments, or changes to the criteria used, if changes are to be made.

For example, CMS does not plan to use criterion set forth at 488.30(b)(2)—regional differences in cost—in the immediate future. However, if CMS should decide to use it in the future, CMS will publish a notice in the **Federal Register** announcing CMS's intention to do so, describing how CMS intends to use and operationalize 488.30(b)(2), and to solicit public comment. Similarly, for technical adjustments or updates to the fee schedule (e.g. adjustments for cost of living increases), CMS will issue public notices in the **Federal Register**.

On the other hand, if CMS should decide in the future to use a completely different criterion not described in these rules, CMS will publish a notice of proposed rulemaking announcing this change in methodology.

Such future notices would address the commenters' concern regarding provider or supplier size, for example, and how the number of beds or the number of patients or residents served might affect a revisit fee.

In this final rule we do reserve the right to adjust fees based on the number of follow-up revisits conducted either decreasing or increasing fees based on the costs that are incurred by state survey agencies to conduct these multiple follow-ups. Any change to the current fee schedule in which the same revisit user fee is applied for each revisit, will be preceded by **Federal Register** notice of the planned change. In this regulation we are providing the information needed for each provider or supplier to know the amount that they would be charged if a revisit occurs. These criteria incorporate the average cost per provider or supplier for conducting a revisit survey and the type of revisit survey conducted (onsite or offsite). We would charge the same fee each time a revisit occurs, so if a revisit revealed that the facility had not achieved full compliance and if a second revisit were required, the provider would be charged the same amount again for the second revisit.

Comment: One commenter suggested that the fee should be based on the total or estimated hours of service, not by the actions performed during a survey. Another commenter suggested that a ''cap'' be placed on the total amount of user fees associated with a single revisit and associated with a given provider. One commenter acknowledged the intent of the proposed change and encouraged CMS to adjust revisit user fees according to particularities of the states, such as staff travel time, etc.

Response: We proposed in the June 29, 2007 Proposed Rule to use criteria (b)(1)(i) (average cost per provider or supplier type) and (b)(1)(ii) (revisit type: Onsite or offsite), and have retained those criteria in this final rule and fee schedule. We agree with the commenter that the fee should be based on the total or estimated hours of service. We have utilized an average cost per provider or supplier based on the average costs per hour for conducting revisit surveys. We appreciate the comment regarding suggesting a ''cap'' on the total amount of fees associated with a single revisit. We believe the methodology in this rule conforms to the ''cap'' idea. As discussed in the proposed rule, providers or suppliers will be assessed one fee per revisit. As discussed in the Proposed Rule, when offsite preparation is required, as it is in many cases, the provider or supplier would not be assessed a separate revisit fee for this offsite preparation. Instead, the entire preparation and actual onsite revisit will count as an onsite revisit survey.

Based on current data analysis, CMS proposed to implement the revisit user fee utilizing only criteria identified in § 488.30(b)(1)(i) and (1)(ii). We appreciate the commenters encouragement to look at differences in State costs for the revisits. In proposed § 488.30(b)(2) we reserved the right to adjust the fees to account for regional differences in costs. It is our intent to conduct further analysis on these additional criteria in proposing future fee schedules. In this rule, the final fee schedule is based on a simpler flat-rate methodology per provider type. If regional cost differences were invoked in any future change to the fee schedule, we would publish a proposed and final notice in advance of any such changes.

Comment: One commenter identified that CMS, on July 17, 2007, stated that certain provider types in California's Orange, Riverside, San Bernardino and Los Angeles Counties would be under a 2 year demonstration to re-enroll in Medicare, as well as be subject to a survey should the provider have had a Change of Ownership within the last 2 years. The commenter asked that providers not be assessed a fee if the visit is associated with this demonstration.

Response: We agree with the commenter and have specified that neither a provider nor a supplier will be assessed a fee if the visit is considered a ''State Monitoring visit'' unless the visit also meets the definition of a revisit survey in this rule. In this case, a Change of Ownership action, and other actions involved in this particular State demonstration, are considered a ''State Monitoring visit'' for purposes of this final regulation and final fee schedule. Therefore, providers and or suppliers participating in the two year demonstration would be exempt being assessed a revisit user fee if the revisit is associated with visits conducted solely on behalf of this demonstration and to the extent that they do not involve deficiencies in compliance with the Conditions of Participation or Coverage.

We appreciate all of the commenters' suggestions on our proposed criteria sections, and have clarifications in response to a number of the commenters' concerns. We intend to provide the requested detail in incorporating additional criteria when calculating any changes to the fee schedule for revisit user fees, if authority is provided by the Congress and through the notice and rulemaking process described earlier. We believe we have addressed concerns raised in this section, therefore we will retain the proposed language in § 483.30(b)(1) and (b)(2) as final. We accordingly have calculated the final fee schedule based on selected criteria. The final fee schedule will utilize criteria in § 488.30(b)(1)(i) and (b)(1)(ii) as proposed and finalized by this rule.

Section 488.30(c)—Fee Schedule

We proposed in § 488.30(c) that CMS will publish in the **Federal Register** the proposed and final notices of a uniform fee schedule before it adopts this schedule. The proposed and final notices would set forth the amounts of

the assessed fees based on the criteria as identified in paragraph (b) of this subpart. In future notices, any changes to the amounts of the assessed fees would include for example, adjustments based on increases to cost of living, labor and overhead costs. The proposed rule also constituted publication of the proposed fee schedule.

We based user fee calculations in the proposed rule and fee schedule on the type of revisit (onsite vs. offsite); the type of provider or supplier; the average number of hours that a revisit requires; and the average per hour cost of a revisit. We have identified the revisit survey costs below under section IV, Regulatory Impact Analysis.

We have received varying comments raised under this section. The majority of these comments referenced concerns also raised under general comments, the current survey process, and the criteria for determining the fee. We believe we have addressed these concerns in other sections. Comments received on § 488.30(c) are below:

Comment: One commenter believed that the **Federal Register** notice contained a number of labels displaying data regarding estimated costs and 2006 frequencies of revisit surveys, the commenter felt that based on the proposed language in Section 488.30(b) that CMS intends to exercise considerable latitude in the actual levying of fees in a specific situation. Another commenter felt that it is unfair to providers to impose fees without advance notification of the actual costs based on any adjustment criteria.

Response: We will publish in the **Federal Register** the proposed and final notices of a uniform fee schedule before we adopt this schedule. Both notices would set forth the amounts of the assessed fees based on the criteria as identified in section 488.30(b). It will also specify which of the criteria listed in 488.30(b)(1)–(2) will be used and how they will be operationalized.

In response to the nature of these comments, we have clarified the regulatory language and thus adopt as final that § 488.30(c) will read: ''CMS must publish in the **Federal Register** the proposed and final notices of a uniform fee schedule before it assesses revisit user fees. The notices must set forth which criteria will be used and how, as well as the amounts of the assessed fees based on the criteria, as identified in paragraph (b) of this subpart.'' Language placed in bold for emphasis on the changes. We also note through the publication of this final rule that if authority for the revisit user fees is continued, we will use the current fee schedule in this rule for the assessment of such fees until such time as a new fee schedule notice is proposed and published in final form.

The final fee schedule is identified below in Table A. Summation of data and calculations regarding this final fee schedule is discussed in section V, Regulatory Impact Analysis summary below.

TABLE A.—FINAL FEE SCHEDULE FOR REVISITS SURVEYS

[Onsite and offsite]

Facility	Fee assessed per offsite revisit survey	Fee assessed per onsite revisit survey
SNF & NF	$168	$2,072
Hospitals	168	2,554
HHA	168	1,613
Hospice	168	1,736
ASC	168	1,669
RHC	168	851
ESRD	168	1,490

Section 488.30(d)—Collection of Fees

We proposed in § 488.30(d)(1) that fees for revisit surveys under this paragraph may be deducted from amounts otherwise payable to the provider or supplier. We also proposed that fees will be deposited as an offset collection to be used exclusively for survey and certification activities conducted by State survey agencies pursuant to section 1864 of the Act or by CMS, and will be available for CMS until expended. We also proposed that CMS may devise other collection methods as it deems appropriate. In determining these methods, CMS will consider efficiency, effectiveness, and convenience for the providers, suppliers, and CMS. In the Proposed Rule we stated that Methods may include: Credit card; electronic fund transfer; check; money order; and offset of collections from claims submitted.

1. § 488.30(d)(1)—Collection Methods

Comments: Several commenters indicated that regarding the proposed language that fees for revisits be deducted from amounts otherwise payable to the provider, they raised concern that there were no specifics as to whether these fees would be deducted all at once or on a schedule.

Response: In the proposed language CMS identified a number of methods for the collection of the revisit user fee. For the immediate future, we will utilize a bill pay system. Providers or suppliers who are assessed a fee will receive a notice in the mail which will include the amount of the assessed revisit fee and the revisit survey for which the fee is assessed. Included in the notice is the obligation that payment is expected to be remitted within 30 calendar days of the date of the notice. As a means of clarification and to expand on payment methods that may be beneficial to providers and suppliers and based on the various comments, CMS will modify the last sentence of § 488.30(d)(1) by adding ''any method allowed by law, including credit card; electronic fund transfer; check; money order; offset collection from claims submitted.'' We will include all necessary details within this coupon notice, including to whom to direct questions, and payment remittance information. In addition, as a result of various comments regarding the time frame for when we may collect fees, and the concerns regarding the schedule of these fees, we will include an additional subparagraph § 488.30(d)(3) to this section that indicates: ''Fees for revisit surveys will be due for any revisit surveys conducted during the time period for which authority to levy a revisit user fee exists.''

Comments: One commenter indicated that they would prefer that if fees are needed, then providers should be charged an up-front fee that does count

towards approved expenses of doing business/cost report based on bed size.

Response: The revisit user fees are limited to fees for revisit surveys conducted as a result of deficiencies cited during an initial certification, recertification and substantiated complaint surveys. The fee will only be applied when revisits are needed to assure substantial compliance that requirements are met. Although we appreciate the commenters statement, Congress' clear intent was that CMS assess a fee only for revisits required as a result of deficiencies cited. It would be out of the scope of our authority to assess fees for upfront survey costs.

2. § 488.30(d)(2)—Cost Report

Comment: One commenter raised concern regarding our statement: ''At no time is the individual provider's cost borne by other patients.'' The commenter felt our statement disregards the nature of medical transactions and that these revisit user fees, if extracted from the provider's income stream, would directly impact the range and quality of the services rendered by competing on a cash basis with all other spending priorities in the practice.

Response: Each revisit user fee will arise from a provider's documented failure to comply with federal requirements for quality of care or safety. We hope that a provider would not respond to a fee arising from such failure by decreasing quality of care. Such an action could simply give rise to more quality compromises, more complaints, more surveys or complaint investigations, more revisits, and more fees. The result would not make economic or medical sense. We appreciate the commenter's concern that a provider might respond to a revisit fee by reducing services. This would represent a business decision on the part of the provider. An alternative would be to invest in remedial action so that quality would be improved and the prospect of future revisits and revisit fees would be reduced. We hope that providers will adopt the alternative approach.

Comment: Some commenters objected to the fee, but stated that if the fee were adopted then it should be considered an allowable cost on the cost report. The commenters expressed concern as to where the funds would come from if the fees were not permitted as an allowable cost on the cost report, particularly, in an industry already struggling to continue to provide services.

Response: We proposed in § 488.30(d)(2) that fees for revisit surveys under this section are not allowable items on a cost report, as identified in part 413, subpart B of this chapter, under title XVIII of the Act. The revisit user fee will be levied only as a result of a provider's failing to meet basic quality of care or safety standards that are required as a condition of participation or coverage in the Medicare program. As such, it is not appropriate for a revisit user fee to be an allowable item for a cost report. To do so would lead to both cost-shifting and the counterintuitive result that more quality breakdowns could lead to more payment. For these reasons, the Secretary has put in place the necessary mechanism for which cost-shifting would be prevented. In addition, a significant number of providers and suppliers are reimbursed through the prospective payment system; as a result, only a small group of providers as compared to the overall number of providers and suppliers receive cost based reimbursements.

While the user fee program is simply intended to defray costs of the revisits, we believe that the design of the user fee program we finalize will result in a positive correlation between quality of care and amount of the fees—the better the quality of care, the lower the fees. We also expect that the prospect of fees for revisits will promote greater compliance with federal quality of care requirements, thereby making for fewer revisits and fewer fees over time.

Comment: A commenter stated that as a result of the financial burden of the revisit user fee, the expense for the payment of this fee would be cost-shifted to private pay residents. The commenter stated that, if the fee were to be advanced this should include a requirement that would ensure increased Medicaid/Medicare reimbursement to avoid shifting burden of added costs to private-pay residents. Another commenter felt that the fee would also amount to a shifting of funds and as a result either the money is withheld from the hospital up front as part of budget cuts or the hospital has to pay it back as part of their CMS certification process.

Response: We proposed in § 488.30(d)(2) that fees for revisit surveys under this section are not allowable items on a cost report, as identified in part 413, subpart B of this chapter, under title XVIII of the Act. Part 413 identifies CMS' formulating methods for making fair and equitable reimbursement for services rendered to beneficiaries of the program. Payment is to be made on the basis of current costs of the individual provider, rather than costs of a past period or a fixed negotiated rate. This cost report also designs this reimbursement formulation so that the individual provider's costs are not borne by other patients.

CMS believes that the assessed revisit user fee is not an allowable item for a cost report, as it should not be figured into the services provided to beneficiaries, nor should it be a cost shared amongst non-Medicare patients. CMS employs several checks and balances to deter this from occurring. CMS believes that this proposed language in § 488.30(d)(2) would prevent the inclusion of the revisit user fee costs in any future cost reports. This section will only apply to a small group of providers who receive cost-based reimbursement. A significant amount of providers and suppliers are reimbursed through the prospective payment system (PPS).

As a result of comments received to § 488.20(d)(1) and (d)(2) and CMS' further consideration, we will modify the proposed language of § 488.30(d)(1) and retain the proposed language of § 488.30(d)(2) as final. The proposed last sentence of § 488.30(d)(1) will be modified to read: ''Any method allowed by law, including credit card; electronic fund transfer; check; money order; offset collection from claims submitted.'' The remainder of the proposed language will be retained as final.

Section 488.30(e)—Reconsideration Process for Revisit User Fees

We proposed in § 488.30(e) that a reconsideration process shall be available to providers or suppliers that have been assessed a revisit user fee if a provider or supplier believes an error of fact, such as a clerical error, has been made. We also proposed that a request for reconsideration must be received by CMS within seven calendar days from the date identified on the revisit user fee assessment notice.

Comment: Several commenters believe that a reconsideration process should be available for surveyor errors and substantial errors of interpretation, and that it should not be limited to just clerical errors. Another commenter indicated that the reconsideration process should include unfounded citations. One commenter asked for clarification on what was meant by ''error of fact,'' as a basis for requesting a reconsideration. Another commenter asked whether a provider could request a reconsideration of a fee if they were in the process of appealing deficiencies.

Response: The reconsideration process for revisit user fees is intended only for those situations in which a provider or supplier believes that an error of fact has been made in the application of the revisit user fee. These errors of fact would include such things

as clerical errors, billing for a fee already paid, inadvertent billing for a revisit following a validation survey of a deemed provider, or assessment of a fee when there was no revisit conducted. A request for reconsideration of an assessed revisit user fee is a separate process from any informal dispute resolution or appeal of the underlying deficiency citations.

Comment: Several commenters thought that limiting the window for revisit user fee reconsideration request to seven calendar days was unrealistic and requested that the timeframe for reconsideration requests be expanded to 30 calendar days. Another commenter requested that the timeframe for a reconsideration request be extended to 10 calendar days, and other commenters suggested a 14 or 15 calendar day window. However, one commenter thought that the seven day window was reasonable.

Response: We proposed that a request for reconsideration must be received by CMS within seven calendar days from the date identified on the revisit user fee assessment notice. CMS has considered the commenters' suggestions for extending the timeframe for submitting a reconsideration request and we have agreed to expand the timeframe for reconsideration requests to 14 calendar days from the date identified on the revisit user fee assessment notice. We will, therefore, change the timeframe for submitting a reconsideration request to 14 calendar days in the final rule. The time trigger date is the date when the assessment notice is prepared and sent. The revisit survey must have occurred prior to our assessment of a revisit user fee.

Comment: Several commenters suggested that, where a reconsideration determines that a revisit user fee was charged in error, any payments made should be refunded immediately, instead of applying the payment to future assessments of fees. One commenter suggested that refunds should be made within 30 days, whereas another commenter suggested 60 calendar days of approval of a reconsideration request. Commenters thought that actions related to fees should remain pending until the outcome of the reconsideration, and that a fee should not be paid until a facility exhausts its appeals; upon successful reconsideration, a provider would receive written confirmation that a fee is null and void.

Response: We believe that given the proposed timeframe for submitting a reconsideration request and the regulatory obligation of payment (within 30 calendar days), there would be a limited possibility that payment would be sent without CMS providing a response to the reconsideration. We, however, believe that regulatory clarification is warranted based on the type of comments received. We have modified the proposed text to include separate subparagraphs § 488.30(e)(1)(i) and (ii), (e)(2), and (e)(3). The modified language of § 488.30(e) will read as follows:

(e) Reconsideration process for revisit user fees.

(1) CMS will review a request for reconsideration of an assessed revisit user fee—

(i) If a provider or supplier believes an error of fact has been made in the application of the revisit user fee, such as clerical errors, billing for a fee already paid, or assessment of a fee when there was no revisit conducted, and

(ii) If the request for reconsideration is received by CMS within 14 calendar days from the date identified on the revisit user fee assessment notice.

(2) CMS will issue a credit toward any future revisit surveys conducted, if the provider or supplier has remitted an assessed revisit user fee and for which a reconsideration request is found in favor of the provider or supplier. If in the event that CMS judges that a significant amount of time has elapsed before such a credit is used, CMS will refund the assessed revisit user fee amount paid to the provider or supplier.

(3) CMS will not reconsider the assessment of revisit user fees that request reconsideration of the survey findings or deficiency citations that may have given rise to the revisit, the revisit findings, the need for the revisit itself, or other similarly identified basis for the assessment of the revisit user fee.

We believe that the potential that a provider or supplier would be assessed a revisit user fee due to clerical error would be rare, when this is viewed through the overall survey process and checks and balances inherent in the survey and certification process. We believe that in the rare case that this assessment should occur, we have provided providers and suppliers with an opportunity to request a reconsideration. We, indicated, however, in § 488.30(e)(3) that ''we will not reconsider the assessment of revisit user fees that request reconsideration of the survey findings or deficiency citations that may have given rise to the revisit, the revisit findings, the need for the revisit itself, or other similarly identified basis for the assessment of the revisit user fee.'' We also, based on comments received, have provided providers and suppliers a greater window for submission of requests for reconsideration from 7 calendar days to 14 calendar days. We are including additional language in § 488.30(e)(2) that identifies that we will issue a credit toward any future revisit surveys conducted if a provider or supplier has remitted an assessed revisit user fee and for which a reconsideration request is found in favor of the provider or supplier as we discussed in the preamble text of the Proposed Rule. We further clarify that we ''in the event that CMS judges that a significant amount of time has elapsed before such a credit is used, CMS will refund the assessed revisit user fee amount paid to the provider or supplier.'' In regards to the commenters' specific suggestion that refunds should be made within 30 calendar days, or commenters that suggested 60 calendar days, CMS will make a concerted effort to respond to requests for reconsideration within a timely manner and notify providers or suppliers that the reconsideration was determined in their favor, as applicable prior to the time frame for which they must remit payment. However, in those cases where remittance has occurred and the provider or supplier has not experienced an additional revisit survey and is then due a refund, CMS is committed to developing a system that would ensure efficient refund of any monies collected in error. CMS' present bill pay system would require more than 30 to 60 calendar day processes. We estimate that this cause for a refund may occur in less than 5% of all overall cases. At this time, CMS does not have the requisite data in which to provide specific amounts of provider or suppliers falling into this category, however we believe it will be an even lower percentage provided all the inherent checks and balances in our current survey and certification process.

Comment: Several commenters requested that CMS clarify the time frame for when a reconsideration decision will be made, and one commenter requested that CMS include a deadline in the regulation for responding to reconsideration requests. One commenter proposed that reconsiderations be resolved within 30 days of a reconsideration request.

Response: CMS is cognizant of the providers' 30 calendar day time frame for submitting payment and will ensure that reconsiderations are resolved in a timely manner. CMS will make a concerted effort to respond to request for reconsideration within a timely manner and notify provider or suppliers that the reconsideration was determined in their favor, prior to the time frame for which they must remit payment.

We appreciate comments received on time frames, refund methodology, and notification. As a result of suggestions, we have modified § 488.30(e) to include

within 14 calendar days for requests for reconsideration. Section 488.30(e) will read in final as discussed above.

Section 488.30(f)—Enforcement

We proposed in § 488.30(f) that if the full revisit user fee payment is not received within 30 calendar days or a request for reconsideration is not received within seven calendar days from the date the provider or supplier receives written notice of assessment, CMS may terminate the facility's provider agreement and enrollment in the Medicare program or the supplier's enrollment and participation in the Medicare program, and the provider or supplier may not seek Medicare payment, nor be considered a Medicare participating provider or supplier. We have changed the seven calendar day time period for filing of a reconsideration request to fourteen calendar days. Otherwise, CMS will adhere to the termination process as identified in § 489, subpart E, of this chapter.

Comment: Some commenters connected the discussion of revocation of billing and the termination for nonpayment as proposed in § 488.30(f) and § 489.53(a)(16). One commenter felt that termination for nonpayment within 30 days is power disproportionate to the offense and is unrelated to quality of care and safety issues. Another commenter felt that this provision is reason not to participate in Medicare, or to care for Medicare patients.

Response: While we proposed that a provider or supplier may also be determined not to be in compliance if a revisit user fee payment has not been received within 30 calendar days from the date identified on the assessment notice, we also state at § 424.535(a)(1) that all providers and suppliers are granted an opportunity to correct the deficient payment compliance before a final determination is made to revoke billing and enrollment privileges. We further note that a payment-due notice from CMS is preceded by a survey or complaint investigation that has found deficiencies, a correction period afforded to the provider or supplier, a revisit to confirm compliance, then a later issuance of the payment-due notice, followed by the formal 30-day advance notice to the provider. As soon as a revisit occurs, each provider or supplier will know that a revisit user fee will follow at a later date, will know the amount of the fee due from the fee schedule published in this rule, and will know that the payment will be due within 30 calendar days. While the rule specifies that enforcement action may occur if the bill has not been paid within 30 calendar days, the total amount of planning time available to the provider or supplier will have totaled much more than the 30-calendar day period before any enforcement action may occur. Finally, the revocation of billing and enrollment privileges is not an immediate action upon the failure of a provider or supplier to remit the assessed revisit user fee. In this final rule we therefore retain the time-frames for which action will occur regarding this process and retain the amended language to § 424.535(a)(1) as final.

Comment: A commenter indicated that the definition of revisit survey should be revised to limit it to those revisits in which the cited deficiency includes and is subject to an enforcement action under Subpart B of Part 489.

Response: We have not included the commenter's suggestion to revise the term revisit survey to include ''is subject to an enforcement action under subpart B of Part 489.'' Subpart B of part 489 governs provider agreements, not enforcement actions. However, we do agree with the premise of the commenter's suggestion and thus have modified language in § 488.30(f) to include cross references to the appropriate subpart and subsection of part 489 (governing termination) and to a subsection of part 424 (governing revocation of enrollment and billing privileges).

Section 488.30(f) will be modified to read as applicable components ''pursuant to § 489.53(a)(16) of this chapter'' and ''pursuant to § 424.535(a)(1) of this chapter.'' We retain the remainder of the proposed language in § 488.30(f) as final.

Part 489—Provider Agreements and Supplier Approval

Subpart B—Essentials of Provider Agreements

Section 489.20 Basic Commitments

Section 489.20(u)

We proposed to add to § 489.20 an additional paragraph that would require a provider to agree to pay revisit user fees when and if assessed.

We did not receive comments regarding this additional paragraph. However, due to technical changes, paragraph (u) is designated as paragraph (w) and we will retain the proposed language as final.

Subpart E—Termination of Agreement and Reinstatement After Termination

Section 489.53 Termination by CMS

Section 489.53(a)(16)

We proposed to add a new paragraph (16) to § 489.53(a) that would create an additional basis for termination if a provider has failed to pay a revisit user fee when and if assessed.

We did not receive comments regarding this additional paragraph and thus we retain the proposed language in § 489.53(a)(16) as final.

III. Provisions of the Final Rule

In this final rule we are adopting the provisions as set forth in the June 29, 2007 proposed rule with the following revisions:

All additional language proposed in § 424.535, Revocation of enrollment and billing privileges in the Medicare Program will be retained as final.

All proposed definitions in § 488.30(a) are adopted as final, except for an addition to the definition of ''provider of services, provider or supplier.'' The final definition now includes religious nonmedical health care institutions.

All proposed language in § 488.30(b)(1) and (b)(2) criteria for determining the fee is adopted as final.

Language proposed in § 488.30(c) Fee schedule is modified by removing term ''will'' and inserting the term ''must'' where applicable, we also removed ''adopts this schedule'' and added ''assesses revisit user fees'' for clarification. In addition we include that the clarifying language ''which criteria will be used and how, as well as * * *,'' the remainder of the language is adopted as final.

The last sentence of the language proposed in § 488.30(d)(1) has been modified for clarification to state that ''CMS may consider any method allowed by law, including: Credit care; electronic fund transfer; check; money order; and offset collections from claims submitted, the remainder of this paragraph is retained as final. All proposed language in § 488.30(d)(2)—the prohibition of inclusion of the revisit user fee on a provider cost report—is adopted as final. We have added a new subparagraph and new language as a result of various comments regarding the time frame for when we may collect fees, and the concerns regarding the schedule of these fees, § 488.30(d)(3) will read: ''Fees for revisit surveys will be due for any revisit surveys conducted during the time period for which authority to levy a revisit user fee exists.''

Language proposed in § 488.30(e) reconsideration process for revisit user fees will be modified by changing the formatting of the paragraph to include paragraphs (e)(1)(i), (e)(1)(ii), (e)(2), and (e)(3). Language in paragraph (e)(1)(i) previously proposed as first sentence in paragraph (e) is retained as final. We have modified paragraph (e)(1)(ii) by changing that a request for reconsideration must be received by CMS within 14 calendar days instead of the 7 calendar days as proposed. We have added a new paragraph (e)(2) that identifies when CMS will issue a credit or a refund of an assessed revisit user fee in the rare case of a provider or supplier remitting payment and ultimately a reconsideration is decided within their favor. We have added a new paragraph (e)(3) that identifies that a request for reconsideration of the revisit user fee may not include reconsideration of the survey findings or deficiency citations that may have given rise to the revisit, the revisit findings, or the need for the revisit itself.

All proposed language in § 488.30(f) Enforcement is adopted as final with the addition of language identifying the interconnection of changes made to both §§ 424.535(a)(1) and 489.53(a)(16). The language will read in final: ''If the full revisit user fee payment is not received within 30 calendar days from the date identified on the revisit user fee assessment notice, CMS may terminate the facility's provider agreement (pursuant to § 489.53(a)(16) of this chapter) and enrollment in the Medicare program or the supplier's enrollment and participation in the Medicare program (pursuant to § 424.535(a)(1) of this chapter).

All proposed new paragraphs to § 489.20 and § 489.53 are adopted as final.

Waiver of 30-Day Delay in the Effective Date

We ordinarily provide a 30-day delay in the effective date of the provisions of a rule in accordance with the Administrative Procedure Act (APA) 5 U.S.C. 553(d). However, the delay in the effective date may be waived as, in pertinent part, ''provided by the agency for good cause found and published with the rule'' 5 U.S.C. 553(d)(3). The Secretary finds that good cause exists to make effective the revisit user fee and the corresponding fee schedule immediately upon display and publication in the **Federal Register**.

The good cause exception to the 30 day effective date delay provision of section 553(d) of the APA is read to be broader than the good cause exception to the notice and comment provision of section 553(b) of the APA.

The legislative history of the APA indicates that the purpose for deferring the effectiveness of a rule under section 553(d) was to ''afford persons affected a reasonable time to prepare for the effective date of a rule or rules or to take other action which the issuance may prompt.'' S. Rep. No. 752, 79th Cong., 1st Sess. 15 (1946); H.R. Rep. No. 1980, 79th Cong., 2d Sess. 25 (1946). In this case, affected parties do not need time to adjust their behavior before this rule takes effect. With or without a revisit fee, a provider or supplier must be found to have corrected significant deficiencies in order to avoid termination. Additionally, the application of a fee for the revisit does not place appreciable administrative burdens on the affected providers or suppliers. We do not expect appreciable cost to State survey agencies because CMS is undertaking the billing and collection of the revisit user fee.

CMS identified in the proposed rule the immediacy of this revisit user fee program and the limited nature of the Continuing Resolution. Specifically, the Continuing Resolution requires CMS to implement the revisit fee program in fiscal year 2007. Accordingly, providers and suppliers have been on notice for some time that these fees would be imposed, and do not need additional time to be prepared to comply with the requirements of this regulation. We believe that given the short time frame that CMS has to collect fees before the authority of the Continuing Resolution expires, there is good cause to waive the 30 day effective date.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

V. Regulatory Impact Analysis

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This final rule is not a major rule. The aggregate costs will total approximately $37.3 million in any 1 year.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity. Small businesses are small entities, either by nonprofit status or by having revenues of $6.5 million to $31.9 million or less in any 1 year for purposes of the RFA. In the June 29, 2007 **Federal Register**, CMS issued a proposed rule identifying its limited information to separate and identify specific providers and suppliers that may be subject to a revisit user fee by the requirements described for purposes of the RFA. CMS also identified its limited information on the total revenues collected by provider or supplier type. CMS does collect information regarding Medicare and Medicaid claims submitted, however this would not provide the requisite requirements for the RFA regarding total revenues. CMS also identified that it does collect National level information which includes personal health care expenditures and payments. Personal health care as we discussed in the proposed rule includes hospital care, professional services, nursing and home health care, all of which cover those services provided by the provider and suppliers who may be assessed a revisit user fee.

Based on the information provided within the proposed rule a few commenters felt that the user fee would add what they consider financial strains on an already strained nursing home industry, especially to stand alone, not-for-profits. Additionally, two commenters stated that the economic implication must be considered, including the potential impact on wages for employees within healthcare facilities. Another commenter requested that CMS in this section take into account State differences, citing their State's increased costs for all their home health and hospice providers, who are subject to increased fees in general and

felt this user fee would disproportionately impact these providers in their State. Another commenter felt that Home Health Agencies have been adversely impacted by stagnant and declining reimbursement from both Medicare and Medicaid in the past years.

CMS specified in the proposed rule that the providers and suppliers that may be assessed a revisit user fee fall into the category of revenues collected under personal health care funds. As such CMS calculated that the overall impact of the estimated $37.3 million that will be assessed for revisit user fees would only amount to 2.3 percent of the $1,560.2 million personal health care revenues collected and only 1.9 percent of all national health care expenditures of which personal health care expenditures are included.

Although we do not deny that the revisit user fee would require a payment from a provider or supplier who is assessed a fee due to the need for a revisit survey, we do not believe it will have such an economic impact that it would create additional financial strains on providers and suppliers. We believe that many providers and suppliers will pay no fees because they consistently provide high quality care, have no deficiencies identified through the survey process, and therefore will require no revisits. Thus, this rule will have minimal financial impact on those providers and suppliers. In addition, we appreciate the commenters' concern regarding their specific State's financial situation.

For the immediate future, we have calculated the user fee by provider type and by average number of hours required for a revisit survey. It is our intent that we will consider other criteria as identified in § 488.30(b), which includes regional differences when proposing and finalizing future fee schedules. Based on our information gathered, we have determined, and the Secretary certifies, that this rule will not have a significant impact on small entities based on the overall effect on revenues.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan statistical Area (superseded by Core Based Statistical Areas) and has fewer than 100 beds. This final rule affects those small rural hospitals that have been cited for a deficiency based on noncompliance with required conditions of participation and for which a revisit is needed to make sure that the deficiency has been corrected.

Based on the information provided as a requirement for Section 1102(b) of the Act, some commenters raised concerns that these fees will be very expensive for various rural providers or suppliers, not just rural hospitals, but also small rural Home Health Agencies and long-term care facilities in rural communities, and that CMS could be affecting the availability of care in rural areas. One commenter asked why hospitals should be exempt from the fee just because the fee may have a significant impact on them; while another commenter raised what they identified as unfairness in the frequency of surveys conducted annually for long-term care facilities versus 3 years for hospitals.

Hospitals are not exempt from the revisit user fees. While hospitals are surveyed less frequently than nursing homes, hospitals are subject to CMS complaint investigations similar to nursing home complaint investigations as well as other providers and suppliers. CMS is statutorily obligated to conduct a regulatory impact analysis for small rural hospitals as part of its rule making process. As such, we have reviewed data affecting these rural hospitals, and upon that review have determined that of all hospitals identified, 285 revisits or 3.9 percent were conducted in rural hospitals to ensure that deficiencies identified were corrected. Based on the effective time period of this proposed rule, less than 3 percent of all hospitals may in fact be assessed a revisit user fee in this current fiscal year (FY 2007), we estimate that less than 1 percent of rural hospitals will be impacted by this rule.

The statutory analysis that is required does not indicate that small rural hospitals would be exempt from regulatory requirements. Rather, it requires only that the rule making agency must determine the overall financial impact on small rural hospitals. We do not make a distinction on the quality-of-care provided to residents or patients by either urban or rural location. Federal regulations call for all residents and patients to receive adequate care. The revisit user fee will only be assessed as a result of deficiencies cited with respect to providers or suppliers not fully complying with Federal requirements.

With regard to the survey frequency, nursing homes are mandated by statute to be certified annually, whereas CMS policy calls for hospitals (both accredited and non-accredited) to be certified or deemed certified on a 3 year cycle.

In addition, we appreciate the commenters' concern regarding the potential impact on various rural communities. For the immediate future, we have calculated the user fee by provider type and by average number of hours required for a revisit survey. It is our intent that we will consider other criteria as identified in § 488.30(b), which includes regional differences and facility size when proposing and finalizing future fee schedules. Based on our information gathered, we have determined, and the Secretary certifies, that this rule will not have a significant impact on small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This rule will have no mandated effect on State, local, or tribal governments and the impact on the private sector is estimated to be less than $120 million and will only effect those Medicare providers or suppliers for which a revisit user fee is assessed based on the need to conduct a revisit survey to ensure deficient practices that were cited have been corrected.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will not substantially affect State or local governments. This final rule establishes user fees for providers and suppliers for which CMS has identified deficient practices and requires a revisit to assure that corrections have been made. Therefore we have determined that this final rule will not have a significant affect on the rights, roles, and responsibilities of State or local governments.

B. Impact on Providers/Suppliers

The source of the data used to estimate the number and cost of revisit surveys is CMS's Online Survey, Certification and Reporting (OSCAR) database. OSCAR is the repository of information about CMS and State survey agency survey actions. Data collected include the dates of surveys, survey findings, and the length of time that surveyors spent conducting the survey. State survey agencies record survey time

on the CMS–670 form. Data from the CMS–670 form are entered into OSCAR by the State survey agency. CMS analyzed average survey time length using actual data from FY 2006.

Based on information entered into OSCAR, we proposed user fees in accordance with the type of revisit survey (onsite vs. offsite); the type of provider or supplier; the average number of hours that a revisit survey requires; and the average per hour cost of a revisit survey.

Overall Effect on Providers and Suppliers

We estimate that there are potentially 47,804 providers and suppliers affected by the revisit user fee, although we expect only some of those providers will be charged a revisit user fee in any one particular year. We based this estimate on FY 2006 actual data. Table B below presents the key information. Of those providers and suppliers, 34.8 percent required and received a revisit survey in FY 2006, including both onsite and offsite revisits. As identified in the proposed rule, providers and suppliers that required a revisit survey ranged widely across facility types from 87.9 percent for skilled nursing facilities (''SNFs'')/nursing facilities (''NFs'') to 2.8 percent for ambulatory surgical centers. We did not include transplant centers in FY 2006 and 2007 calculations due to lack of available cost and revisit data at this time. Transplant centers will be newly surveyed providers starting in FY 2008, and will be subject to revisit fees at the hospital rate.

TABLE B.—PERCENTAGE OF PROVIDERS/SUPPLIERS THAT HAD A REVISIT SURVEY FY 2006

	Total providers/ suppliers[1]	Total revisit survey for FY 2006 (onsite & offsite)	Number of providers/ suppliers that required revisit survey(onsite & offsite)	Percent of provider/ suppliers that required revisit survey (onsite & offsite)
SNF/NF[2]	15,172	29,426	13,350	87.9
Hospitals[3]	7,139	853	594	8.3
HHAs	8,901	1,585	1,320	14.8
Hospices	3,077	307	246	7.9
ASC	4,735	188	133	2.8
RHC	3,828	216	204	5.3
ESRD	4,952	929	781	15.7
Total	47,804	33,504	16,662	34.8

[1] Online Survey, Certification and Reporting (OSCAR) database (via PDQ, Provider Summary Table), includes providers considered active at any time in the fiscal year.
[2] Total number does not include Medicaid-only Nursing Facilities.
[3] Total includes accredited and non-accredited hospitals, as well as psychiatric hospitals, and critical access hospitals.

Comments: One commenter observed that, in CMS' impact analysis and fee proposals, CMS chose to include critical access hospitals in a single grouping with all other hospitals, even though section 1861(e) of the Social Security Act states that the term hospital does not include, unless the context otherwise requires, a critical access hospital (as defined in section 1861(mm)(1)). The commenter stated that because critical access hospitals are typically smaller and less complex organizations than most other hospitals, the context clearly does not require their inclusion with hospitals in this analysis and that it would seem that the average length of an onsite revisit survey, and the corresponding assessed fee, would be less than that of other hospitals. CMS should at least present the relevant data on critical access hospitals.

Response: We included critical access hospitals in our hospital average fee due to their similar functions and surveying process. We believe this issue raised by commenters has merit which will require further analysis and we will consider looking at critical access hospitals in future fee schedules as its own distinct entities. We agree that revisit time may be affected by many factors in addition to size of the facility. We have adopted a relatively straightforward method of calculating the user fee. If the Congress renews or extends the authority to collect the revisit user fee for any considerable time period, we intend to build into the fee schedule a means to take into account facility size and location to the extent that we find such factors make a significant difference in the time and actual cost of the revisits.

Frequency and Duration of Revisit Surveys

There are many differences across providers and suppliers in the frequency and duration of revisit surveys. Skilled nursing facilities/ nursing facilities accounted for 83 percent of total onsite revisit surveys conducted in FY 2006 following the identification of deficiencies from standard surveys. Home health agencies accounted for 6 percent of onsite revisit surveys in FY 2006, while ESRDs and hospitals accounted for 8 percent, 4 percent each. Hospice facilities, ambulatory surgical centers, and rural health clinics combined comprised the remaining 3 percent of revisits. The average length of an onsite revisit survey varied from 7.6 hours for rural health clinics to 22.8 hours for hospitals. In comparison, offsite revisit surveys conducted averaged one and a half hours (1.5) across all providers and suppliers.

Fee Schedule for Onsite Revisit Surveys

We will base the final fee schedule on the average length of time required for revisit surveys by provider or supplier type in FY 2006. Averages were calculated separately by type of provider or supplier, and the hours for revisit surveys were separated by either standard health surveys, complaint surveys, or offsite surveys. A cost of $100 per hour was incurred in FY 2005, which was the basis of the cost estimates in the Continuing Resolution. We project that the actual current cost based on inflation factors and processing expenses is $112 per hour and we will use this projected cost in setting the fee schedule. In order to obtain this inflation factor, CMS utilized FY 2005 annual expenditures derived from CMS–435 form that captures a State's cumulative expenditures and divided this by information obtained from CMS–670 form that identifies State's workload hours or survey hours,

as discussed above. The product of this calculation resulted in dollars per hour or cost incurred for conducting surveys. CMS then took this number and multiplied this by a composite rate of inflation that was obtained from percentage change calculations identified in annual and semi-annual indexes prepared by the U.S. Department of Labor's Consumer Price Index for Wage Earners and Clerical Workers (CPI-W). *See* U.S. Department of Labor, Bureau of Labor Statistics. *Summary of Annual and Semi-Annual Indexes.* ONLINE. 2007. Bureau of Labor Statistics. Available: *http://www.bls.gov/ro3/fax_9125.htm* [22 Feb 2007]. In our fee schedule, the $112 average cost per hour is then multiplied by the average hours for the revisit surveys to achieve the average fee cost per onsite revisit survey as identified in Table C below. For the present, we will not adjust fees based on the length of individual revisit surveys, but will assess a flat fee per revisit survey, based on provider or supplier type. We expect these costs to increase annually to incorporate economic changes, cost of living increases, labor and overhead costs expenses if authority for the revisit fee is continued in the future.

All revisit user fees will be assessed after publication of this final rule.

TABLE C.—REVISIT USER FEE ASSESSMENT BASED ON AVERAGE LENGTH OF ONSITE REVISIT SURVEYS*

Facility	Average length of onsite revisit survey (hrs)	Fee assessed per revisit survey (hrs × $112)
SNF/NF	18.5	$2,072
Hospitals**	22.8	2,554
HHA	14.4	1,613
Hospice	15.5	1,736
ASC	14.9	1,669
RHC	7.6	851
ESRD	13.3	1,490

*This includes onsite revisit surveys according to both Standard Health Surveys and Complaint Surveys.
**Transplant center revisits will be charged at the hospital rate.

Proposed Fee Schedule for Offsite Revisit Surveys

For offsite revisit surveys, we expect a revisit user fee of $168 assessed regardless of provider or supplier type. Based again on recorded survey time on the CMS–670 form, it was assessed that offsite revisit surveys on average take one and a half hours (1.5) across all providers and suppliers. We calculated the base hourly fee of $112 multiplied by an average of one and a half hours to arrive at the $168 fee assessed per offsite revisit survey.

All revisit user fees will be assessed after publication of this final rule and fee schedule.

Costs for All Revisit User Fees Assessed

We expect the combined costs for all providers and suppliers for all revisit surveys in FY 2007 to total approximately $37.3 million, with onsite revisit surveys amounting to approximately $34.6 million and offsite revisit surveys totaling approximately $2.7 million. However, actual fees assessed in FY 2007 will be much less than this annual amount, since we will not charge for revisits that occur prior to publication of this final regulation. The rule will take effect the date of publication. In order to give maximum consideration to the fiscal impact of the rule that would occur if it were in force for an entire year, we provide here both annual and quarterly estimates of the impact as listed below in Tables D and E. If authority for the revisit user fees is continued beyond FY 2007, we will use the current fee schedule in this rule for the assessment of fees until a new fee schedule notice is proposed and published as final.

In Table D below, we provide the projected quarterly costs based on the fee schedule of this final rule. We expect the combined costs for all providers and suppliers for all onsite revisit surveys for one quarter to total approximately $8.6 million. We first utilized the total number of onsite revisit surveys for FY 2006, took the expected revisit user fees assessed per revisits as calculated in Table B above estimated by provider or supplier and multiplied this number by the number of onsite revisit surveys expected for one quarter. We then totaled all providers and suppliers to achieve the total quarterly costs for all onsite revisit surveys.

TABLE D.—ESTIMATED QUARTERLY COSTS FOR ONSITE REVISIT SURVEYS

Facility	Number of onsite revisit surveys (FY 2006)	Fee assessed per onsite revisit survey (hrs × $112) (See Table B)	Number of onsite revisit surveys est. for quarter*	Total costs for onsite revisit surveys for quarter
SNF & NF	14,288	$2,072	3,572	$7,401,184
Hospitals	575	2,554	144	367,776
HHA	1,068	1,613	267	430,671
Hospice	256	1,736	64	111,104
ASC	95	1,669	24	40,056
RHC	149	851	37	31,487
ESRD	698	1,490	175	260,750
Total	17,129		4,283	8,643,028

*Total number of onsite revisit surveys divided by 4 and rounded up based on FY 2006 actual data.

We expect the combined costs for all providers and suppliers for all offsite revisit surveys to total $687,960 on a quarterly basis. In Table E below, we first estimated by provider or supplier the number of offsite revisit surveys expected for one quarter and multiplied this number by the expected revisit user fee of $168 per offsite revisit survey as discussed above. We then totaled all providers and suppliers to achieve the total costs for all offsite revisit surveys for one quarter.

TABLE E.—ESTIMATED QUARTERLY COSTS FOR OFFSITE REVISIT SURVEYS

Facility	Number of offsite revisit surveys (FY 2006)	Fee assessed per offsite revisit survey ($112 × 1.5 hrs)	Number of offsite revisit surveys est. for quarter*	Total costs for offsite revisit surveys for quarter
SNF & NF	15,138	$168	3,785	$635,880
Hospitals	278	168	70	11,760
HHA	517	168	129	21,672
Hospice	51	168	13	2,184
ASC	93	168	23	3,864
RHC	67	168	17	2,856
ESRD	231	168	58	9,744
Total	16,375		4,095	687,960

*Total number of offsite revisit surveys divided by 4 and rounded up based on FY 2006 actual data.

As shown in Table F below, we provide the total costs expected had the rule been in effect for an entire FY 2007, as well as the costs we would expect to offset in the final quarter of the fiscal year if the rule were in effect for the entire last quarter of FY 2007 or an entire quarter in the future.

TABLE F.—TOTAL COSTS COMBINED FOR ALL REVISIT SURVEYS PER FISCAL YEAR & QUARTER

	FY 2007	One quarter*
Onsite Revisit Surveys	$34,565,760	$8,643,028
Offsite Revisit Surveys	2,751,000	687,960
Total Costs All Revisits	37,316,760	9,330,988

*One quarter's costs are based on quarterly revisit surveys rounded up to the nearest whole number as shown in Tables D & E; multiplying Table F last quarter numbers in column 2 by 4 would create a slightly larger cost than identified in FY 2007 column 1 above.

As discussed above, we have excluded Medicaid-only facilities (such as Intermediate Care Facilities for the mentally Retarded (ICFs/MR)), comprehensive outpatient rehabilitation facilities, providers of outpatient physical therapy or speech pathology services, independent laboratories, portable x-ray centers, physical therapists in independent practice, federally qualified health centers, chiropractors, Religious nonmedical health care institutions (RNHCIs) in all proposed rate-setting calculations.

We also expect that the revisit user fee will have some effect in motivating providers and suppliers to improve quality, or if quality problems do occur, to ensure that quality lapses are corrected more quickly than in the past. Both of these positive effects would result in fewer revisit surveys being necessary. However, CMS does acknowledge that the revisit user fee may have a counter effect of prompting long-term care facilities to engage in the informal dispute resolution process to dispute State survey agency decisions more frequently in order to avoid the assessment of a fee.

We received a wide variety of comments on the discussion of the impact of this rule on providers and suppliers and we have summarized these comments below.

1. Unfairness in Charging Same Fees

Comments: A commenter stated that it is unfair to charge the same revisit fee, regardless of the seriousness or number of deficiencies.

Response: We appreciate the commenters' implicit suggestion that the amount of the revisit fee should be scaled to reflect differences in the number and seriousness of the deficiencies identified. This rule provides the basis to take such factors into greater account in the future. If the Congress renews or extends the user fee authority beyond FY 2007, we plan to examine this idea in more depth and act on it if it is determined to be feasible and correlated well with actual revisit cost. In the fee schedule in this final rule we take some small steps in the direction of acknowledging that more deficiencies or deficiencies of greater severity may take more revisit time. Under the current design in this rule, many providers will pay no fees because they consistently provide high quality care, have no deficiencies identified through the survey process, and therefore will require no revisits. Other providers may require some revisits but with minimal costs because the deficiencies are not serious, and the revisit may be accomplished through an offsite revisit survey. We have established a much lower fee for offsite revisit surveys since actual costs to the survey program for offsite revisit surveys are much less than the costs for onsite revisit surveys, and the user fee is intended only to recoup average actual costs. We believe we have designed the user fee program to result in a positive correlation between quality of care and amount of the fees—the better the quality of care, the lower the fees. We also expect that the prospect of fees for revisits will promote greater compliance with federal quality of care requirements, thereby making for fewer revisits and fewer fees over time.

2. Equalized Rate State

Comments: A few commenters noted that North Dakota is an equalized rate state, meaning that nursing homes cannot charge a per diem rate for private pay residents that exceed the per diem rate that Medicaid pays. Revenues are limited and funds could be better spent to improve the quality of care.

Response: In North Dakota nursing homes are the only Medicaid providers mandated to have equalization of rates. Equalization of rates means nursing facilities are prohibited from charging private paying residents more than the rate set by Medicaid. Medicaid controls and sets the rate for all nursing home residents except the 5 percent controlled by Medicare. The legislature sets the rate equal to the equalization rate. This final rule will only apply to Medicare providers and suppliers and to dually-participating nursing facilities.

3. Charges Should Not Be Based on Averages

Comment: A commenter felt that, rather than charging on an average fee basis by provider type, the charges should be based on the specific number of hours required to do the onsite visit and be based on the actual hourly salary cost of the surveyor, plus limited overhead. This would help ensure that the fees will not exceed actual cost and will be specific to the level of effort involved in the visit.

Response: We disagree. CMS does use a national average actual cost per hour (surveyors salaries, associated overheads and miscellaneous costs for travel, office space and equipment rentals, etc.) in calculating the average hours and costs for each provider type; Skilled Nursing Homes, HHA, Hospice, etc. revisits. However, we use average costs per provider type and do not individualize the fee to the exact number of revisit hours for any one provider, since we judge such extremely specific pricing to be so administratively expensive at this point in time that it would detract significantly from the fiscal benefits of the revisit user fee.

Comment: A few commenters argued that fees should reflect the actual cost of conducting each providers survey, rather than being based on national average costs for each type of provider.

Response: We recognize that there are differences among States and among particular facilities that lead to different costs of conducting revisit surveys. At this time, CMS has determined to charge an average fee per provider type, but will consider changing the fee schedule in the future to account for differences among particular providers.

4. Fees Are Excessive

Comment: A few commenters felt that the size of the fee was excessive.

Response: The size of the revisit fee is sufficient to cover the costs that state survey agencies incur in conducting the surveys. We do not believe that the amount of the revisit user fee will be very significant except for those providers that have a persistent problem sustaining compliance with federal requirements and may have many revisits as a result. CMS's expectation is that all providers remain in compliance with federal regulations at all times. These federal regulations establish minimally acceptable standards. The user fee will cover the costs that the state agency incurs in ensuring that violations of federal regulations have been corrected. The correction of many minor deficiencies can be evaluated by an offsite revisit survey, which will result in a nominal charge.

C. Final Fee Schedule

Facility	Fee assessed per offsite revisit survey	Fee assessed per onsite revisit survey
SNF & NF	$168	$2,072
Hospitals	168	2,554
HHA	168	1,613
Hospice	168	1,736
ASC	168	1,669
RHC	168	851
ESRD	168	1,490

D. Alternatives Considered

The revisit user fee in the Continuing Resolution addresses important resource issues in the Medicare survey and certification programming budget. To implement this revisit user fee process, CMS is required to promulgate a proposed regulation and proposed fee schedule. CMS has attempted through a variety of methods to encourage ways of providers and suppliers to improve quality and thus decrease the need to conduct revisit surveys for deficiencies cited prior to the inclusion of a revisit user fee included in the FY 2007 Continuing Resolution. CMS continues to conduct outreach and educational efforts, quality analysis studies, and review of current regulatory requirements to focus in on health and safety measures. In its outreach efforts, CMS staff continues to present at trade association meetings representing home health agencies, hospices, skilled nursing facilities/nursing facilities, and other large accreditation organizations. CMS staff speaks to new developments within survey and certification policy, updating of regulations, and expectations that CMS has for those providing services to its Medicare beneficiaries. CMS in its continued outreach and educational efforts surrounding health and safety requirements regularly posts and shares any modification of policies or program on its CMS survey and certification Web site and through its survey and certification online course delivery systems. See U.S. Centers for Medicare & Medicaid Services. ''Certification & Compliance.'' ONLINE. 2007. CMS. Available: *http://www.cms.hhs.gov/SurveyCertificationEnforcement/01_Overview.asp*. CMS also devoted a substantial part of the work of the Quality Improvement Organizations (QIOs) to educate providers and suppliers on best practices and expectations for meeting Federal health and safety requirements. Despite these efforts, there continue to be many providers and suppliers that fail to meet Medicare conditions of participation, conditions for coverage or requirements and require revisit surveys to ensure compliance with Federal quality of care requirements. In addition, costs for these revisits continue to increase. CMS believes that the assessment of revisit user fees, as directed in the Continuing Resolution, is a piece of the larger efforts to address health care providers and suppliers that have failed to comply with Federal quality of care requirements.

In accordance with Executive Order 12866, this rule has been reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 488

Administrative practice and procedure, Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR Chapter IV, parts 424, 488, and 489 as set forth below:

PART 424—CONDITIONS FOR MEDICARE PAYMENT

■ 1. The authority citation for part 424 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act, unless otherwise noted (42 U.S.C. 1302 and 1395hh).

Subpart P—Requirements for Establishing and Maintaining Medicare Billing Privileges

■ 2. Section 424.535 is amended by revising paragraph (a)(1) introductory text to read as follows:

§ 424.535 Revocation of enrollment and billing privileges in the Medicare program.

(a) * * *

(1) *Noncompliance.* The provider or supplier is determined not to be in compliance with the enrollment requirements described in this section, or in the enrollment application applicable for its provider or supplier type, and has not submitted a plan of corrective action as outlined in part 488 of this chapter. The provider or supplier may also be determined not to be in compliance if it has failed to pay any user fees as assessed under part 488 of this chapter. All providers and suppliers are granted an opportunity to correct the deficient compliance requirement before a final determination to revoke billing privileges.

* * * * *

PART 488—SURVEY, CERTIFICATION, AND ENFORCEMENT PROCEDURES

■ 1. The authority citation for part 488 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act, unless otherwise noted (42 U.S.C. 1302 and 1395(hh)); Pub.L. 110–5, H.J. Res. 20, § 20615(b)(2007).

Subpart A—General Provisions

■ 2. Part 488, subpart A is amended by adding a new § 488.30 to read as follows:

§ 488.30 Revisit user fee for revisit surveys.

(a) *Definitions.* As used in this section, the following definitions apply:

Certification (both initial and recertification) means those activities as defined in § 488.1.

Complaint surveys means those surveys conducted on the basis of a substantial allegation of noncompliance, as defined in § 488.1.

Provider of services, provider, or supplier has the meaning defined in § 488.1, and ambulatory surgical centers, transplant centers, and religious nonmedical health care institutions subject to § 416.2, § 482.70, and § 403.702 [C8] of this chapter, respectively, will be subject to user fees unless otherwise exempted.

Revisit survey means a survey performed with respect to a provider or supplier cited for deficiencies during an initial certification, recertification, or substantiated complaint survey and that is designed to evaluate the extent to which previously-cited deficiencies have been corrected and the provider or supplier is in substantial compliance with applicable conditions of participation, requirements, or conditions for coverage. Revisit surveys include both offsite and onsite review.

Substantiated complaint survey means a complaint survey that results in the proof or finding of noncompliance at the time of the survey, a finding that noncompliance was proven to exist, but was corrected prior to the survey, and includes any deficiency that is cited during a complaint survey, whether or not the cited deficiency was the original subject of the complaint.

(b) *Criteria for determining the fee.*

(1) The provider or supplier will be assessed a revisit user fee based upon one or more of the following:

(i) The average cost per provider or supplier type.

(ii) The type of revisit survey conducted (onsite or offsite).

(iii) The size of the provider or supplier.

(iv) The number of follow-up revisits resulting from uncorrected deficiencies.

(v) The seriousness and number of deficiencies.

(2) CMS may adjust the fees to account for any regional differences in cost.

(c) *Fee schedule.* CMS must publish in the **Federal Register** the proposed and final notices of a uniform fee schedule before it assesses revised revisit user fees. The notices must set forth which criteria will be used and how, as well as the amounts of the assessed fees based on the criteria as identified in paragraph (b) of this subpart.

(d) *Collection of fees.*

(1) Fees for revisit surveys under this section may be deducted from amounts otherwise payable to the provider or supplier. As they are collected, fees will be deposited as an offset collection to be used exclusively for survey and certification activities conducted by State survey agencies pursuant to section 1864 of the Act or by CMS, and will be available for CMS until expended. CMS may devise other collection methods as it deems appropriate. In determining these methods, CMS will consider efficiency, effectiveness, and convenience for the providers, suppliers, and CMS. CMS may consider any method allowed by law, including: Credit card; electronic fund transfer; check; money order; and offset collections from claims submitted.

(2) Fees for revisit surveys under this section are not allowable items on a cost report, as identified in part 413, subpart B of this chapter, under title XVIII of the Act.

(3) Fees for revisit surveys will be due for any revisit surveys conducted during the time period for which authority to levy a revisit user fee exists.

(e) *Reconsideration process for revisit user fees.*

(1) CMS will review a request for reconsideration of an assessed revisit user fee—

(i) If a provider or supplier believes an error of fact has been made in the application of the revisit user fee, such as clerical errors, billing for a fee already paid, or assessment of a fee when there was no revisit conducted, and

(ii) If the request for reconsideration is received by CMS within 14 calendar days from the date identified on the revisit user fee assessment notice.

(2) CMS will issue a credit toward any future revisit surveys conducted, if the provider or supplier has remitted an assessed revisit user fee and for which a reconsideration request is found in favor of the provider or supplier. If in the event that CMS judges that a significant amount of time has elapsed before such a credit is used, CMS will refund the assessed revisit user fee amount paid to the provider or supplier.

(3) CMS will not reconsider the assessment of revisit user fees that

request reconsideration of the survey findings or deficiency citations that may have given rise to the revisit, the revisit findings, the need for the revisit itself, or other similarly identified basis for the assessment of the revisit user fee.

(f) *Enforcement.* If the full revisit user fee payment is not received within 30 calendar days from the date identified on the revisit user fee assessment notice, CMS may terminate the facility's provider agreement (pursuant to § 489.53(a)(16) of this chapter) and enrollment in the Medicare program or the supplier's enrollment and participation in the Medicare program (pursuant to § 424.535(a)(1) of this chapter).

PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL

■ 3. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102, 1819, 1861, 1864(m), 1866, 1869, and 1871 of the Social Security Act, 42 U.S.C. 1302, 1395i–3, 1395x, 1395aa(m), 1395cc, 1395ff, and 1395hh).

Subpart B—Essentials of Provider Agreements

■ 4. Section 489.20 is amended by adding a new paragraph (w) to read as follows:

§ 489.20 Basic commitments.

* * * * *

(w) To comply with § 488.30 of this chapter, to pay revisit user fees when and if assessed.

■ 5. Section 489.53 is amended by adding a new paragraph (a)(16) to read as follows:

§ 489.53 Termination by CMS.

(a) * * *

(16) It has failed to pay a revisit user fee when and if assessed.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program) (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 7, 2007.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: September 12, 2007.

Michael O. Leavitt,

Secretary.

[FR Doc. E7–18458 Filed 9–18–07; 8:45 am]

BILLING CODE 4120–01–P

Federal Register

Wednesday,
September 19, 2007

Part III

Environmental Protection Agency

40 CFR Part 6

Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[EPA–HQ–OECA–2005–0062; FRL–8467–5]

RIN 2020–AA42

Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is amending its procedures for implementing the requirements of the National Environmental Policy Act of 1969 (NEPA). This also includes minor, technical amendments to the Agency's procedures for implementing Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions.''

This rule amends EPA's NEPA implementing procedures by: consolidating and standardizing the procedural provisions and requirements of the Agency's environmental review process under NEPA; clarifying the general procedures associated with categorical exclusions, consolidating the categories of actions subject to categorical exclusion, and amending existing and adding new categorical exclusions; consolidating and amending existing and adding new extraordinary circumstances; consolidating and amending the listing of actions that generally require an environmental impact statement; clarifying the procedural requirements for consideration of applicable environmental review laws and executive orders; and incorporating other revisions consistent with the Council on Environmental Quality's regulations (CEQ Regulations).

DATES: This final rule is effective on October 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OECA–2005–0062. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Public Reading Room, Room B102, Enforcement and Compliance Docket and Information Center, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OECA Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hargrove; NEPA Compliance Division; Office of Federal Activities (Mailcode 2252A); Environmental Protection Agency; 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–7157; fax number: (202) 564–0072; e-mail address: *hargrove.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: The contents of this preamble are organized according to the following outline:

I. General Information
- A. Does This Rule Apply to Me?
- B. Statutory Authority
- C. Background
- D. Exemptions From NEPA for Certain EPA Actions
- E. EPA's Voluntary NEPA Policy and Procedures
- F. EPA's Statement of Procedures on Floodplain Management and Wetlands Protection

II. Summary of This Rule

III. Responses to Comments
- A. Comments Relating to the Scope of the Regulations
- B. Comments Relating to Categorical Exclusions (CEs)
- C. Comments Relating to Extraordinary Circumstances (ECs)
- D. Comments Relating to the NEPA Process

IV. Statutory and Executive Order Reviews
- A. Executive Order 12866
- B. Paperwork Reduction Act
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution and Use
- I. National Technology Transfer and Advancement Act of 1995
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act

I. General Information

A. Does This Rule Apply to Me?

Those subject to this rule include EPA employees who must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) or Executive Order 12114, and certain grant and permit applicants who must submit environmental information documentation to EPA for their proposed projects.

EPA's Procedures for Implementing NEPA. Compliance with these regulations is the responsibility of EPA's Responsible Officials. Certain procedures in these NEPA regulations require those defined as applicants (that is, grant and permit applicants) to provide environmental information for EPA's use in its environmental review process.

These regulations consolidate and standardize the environmental review process applicable to all EPA proposed actions subject to NEPA. These regulations supplement and should be used in conjunction with the government-wide CEQ NEPA Regulations (40 CFR parts 1500 through 1508).

EPA's Procedures for Implementing Executive Order 12114. Compliance with these procedures is the responsibility of EPA's Responsible Officials. For applicant-proposed actions, applicants may be required to provide environmental information for EPA's use in its environmental review process. EPA's Executive Order 12114 implementing procedures ensure that environmental information is available to the Agency's decision-makers and other appropriate Federal agencies and officials for proposed actions subject to Executive Order 12114.

This rule also includes minor, technical amendments to the Agency's procedures for implementing Executive Order 12114 (42 U.S.C. 4321, note, E.O. 12114, 44 FR 1979, 3 CFR 1979, Comp., p. 356). EPA actions typically subject to Executive Order 12114 include major EPA actions that affect the environment of a foreign nation or the global commons and may include: Major research or demonstration projects, ocean dumping activities carried out under section 102 of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1401 *et seq.*), and major permitting or licensing of facilities by EPA (such as EPA-issued permits for hazardous waste treatment, storage, or disposal facilities under section 3005 of the Resource Conservation and Recovery Act (42 U.S.C. 6925), National Pollutant Discharge Elimination System permits under section 402 of the Clean Water Act (33 U.S.C. 1342), and prevention of significant deterioration approvals under Part C of the Clean Air Act (42 U.S.C. 7470 *et seq.*)).

To determine whether a project would be subject to either of these procedures, carefully examine the applicability criteria in § 6.101 and Subpart C of the NEPA implementing procedures, and § 6.401 of the Executive Order 12114 implementing procedures in this proposed rule. If there are questions regarding the applicability of these procedures to a particular entity, consult the person listed in the preceding ''**FOR FURTHER INFORMATION CONTACT**'' section of this Preamble.

B. Statutory Authority

NEPA establishes the federal government's national policy for protection of the environment. The CEQ Regulations at 40 CFR parts 1500 through 1508 establish procedures implementing this national policy. The CEQ's Regulations (40 CFR 1505.1) require federal agencies to adopt and, as needed, revise their own NEPA implementing procedures to supplement the CEQ Regulations and to ensure their decision-making processes are consistent with NEPA.

Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions,'' (see 46 FR 3364) is the authority and basis for EPA's policy, criteria, and procedures contained in the portion of today's proposed rule entitled ''Assessing the Environmental Effects Abroad of EPA Actions.''

C. Background

The Environmental Protection Agency initially established its NEPA regulations as 40 CFR Part 6 (Part 6), Subparts A through H on April 14, 1975 (see 40 FR 16823). Subpart I was added on January 11, 1977 (see 42 FR 2450). On November 29, 1978, the CEQ promulgated regulations establishing uniform federal procedures for implementing NEPA (see 43 FR 55978). Section 102 of NEPA and the CEQ Regulations require federal agencies to adopt appropriate NEPA procedures to supplement those regulations. As a result, EPA amended its NEPA regulations on November 6, 1979, to make them consistent with the CEQ Regulations (see 44 FR 64177).

Under the Agency's 1979 Part 6 amendments, Subparts A through D described general NEPA procedures for preparing environmental reviews applicable to all EPA NEPA actions and established certain categorical exclusions. Subpart A contained an overview of EPA's NEPA regulations, including environmental impact statement (EIS) requirements for EPA legislative proposals and requirements for environmental information documents (EIDs) to be submitted to EPA by applicants, grantees, or permitees as required in Subparts E through I. Subpart B described the requirements for the content of an EIS prepared pursuant to Subparts E through I. Subpart C described the requirements for coordination of applicable environmental laws and certain executive orders with the environmental review procedures. It provided a brief recitation of the provisions of those laws or executive orders and EPA implementing procedures. Subpart D described the public information requirements to be undertaken in conjunction with the environmental review requirements under Subparts E through I. Subparts E through I established specific criteria for conducting environmental reviews for particular types of actions and categorical exclusions applicable to those actions. Specifically, Subpart E established NEPA environmental review procedures for the Wastewater Treatment Construction Grants Program of the Clean Water Act; Subpart F for the issuance of new source NPDES permits; Subpart G for research and development program actions; Subpart H for solid waste demonstration projects; and Subpart I for EPA actions for construction of special purpose facilities or facility renovations. EPA's ''Statement of Procedures on Floodplain Management and Wetlands Protection,'' dated January 5, 1979, was included as Appendix A to clarify the effective date and to emphasize the importance of this Statement of Procedures.

In 1981, Subpart J, ''Assessing the Environmental Effects Abroad of EPA Actions,'' was added as EPA's general policy, criteria, and procedures for implementing Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions'' (see 46 FR 3364). Executive Order 12114 does not impose NEPA compliance requirements on Federal agencies, rather it ''furthers the purpose'' of NEPA and identifies the documents, including environmental impact statements (EISs) and environmental assessments (EAs), to be used when conducting assessments under Executive Order 12114.

In 1982, the Agency revised its Part 6 NEPA regulations by removing CEQ from the consultation process on requests to segment wastewater treatment facility construction grant projects (see 47 FR 9831). In 1983, EPA revised the categorical exclusions and the criteria for not granting an exclusion, and corrected a factual error on the responsibility for preparing a final EA (see 48 FR 1012).

In 1985, the Agency promulgated procedural amendments and minor substantive amendments to its Part 6 NEPA regulations to accommodate changes in EPA's regulations for the construction grants program found at 40 CFR Part 35 (see 50 FR 26310). The modifications in the construction grants program changed the process that EPA grant recipients followed in planning and building wastewater treatment facilities. The amendments to Subpart E and related sections of the EPA NEPA regulations streamlined and clarified the criteria and process for an environmental review and for preparing an EIS, including partitioning of the review process and the public involvement requirements. These amendments also included Office name and technical changes to reflect an Agency reorganization.

In 1986, EPA amended its Part 6 NEPA regulations to clarify and streamline procedures for partitioning and re-evaluating environmental reviews, making categorical exclusion (CE) determinations, providing for public participation, and producing and distributing environmental review documents; and to make various technical changes including Office name changes due to reorganizations.

In 1991, EPA amended Subpart G of its Part 6 NEPA regulations by adding categorical exclusions and a list of projects that normally result in preparation of EAs; revising the criteria used to determine whether preparation of an EIS is required; revising the provision directing coordination, where feasible, with other EPA program reviews; and clarifying the NEPA review process for Office of Research and Development actions (see 56 FR 20541). In addition, EPA amended Subpart D by eliminating the requirement for public notice of categorical exclusion determinations for all EPA programs except the Wastewater Treatment Construction Grants Program.

In 1993, EPA amended its Part 6 NEPA regulations to address the requirement that EPA actions conform to any air quality State implementation plan, and to clarify that air pollution control requirements need to be considered when performing NEPA reviews for wastewater treatment works (see 58 FR 63214).

D. Exemptions From NEPA for Certain EPA Actions

Certain EPA actions are exempt from the procedural requirements of NEPA, including the CEQ Regulations. Congress has provided specific statutory exemptions for certain EPA actions taken under the Clean Water Act (CWA) and all EPA actions taken under the Clean Air Act (CAA). Specifically,

under CWA Section 511(c)(1), EPA is exempt from preparing EISs for all actions taken under the CWA except for issuance of NPDES permits under CWA Section 402 for ''new sources'' as defined in Section 306, and for Federal financial assistance provided for assisting construction of publicly owned treatment works under CWA Section 201 (33 U.S.C. 1371(c)). Under the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 793(c)(1)), all actions taken under the CAA are deemed not to be major federal actions significantly affecting the environment.

Further, the courts have exempted certain EPA actions from the procedural requirements of NEPA through the functional equivalence doctrine. Under the functional equivalence doctrine, courts have found EPA to be exempt from the procedural requirements of NEPA for certain actions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), the Safe Drinking Water Act (SDWA), and the Marine Protection, Research, and Sanctuaries Act (MPRSA). The courts reasoned that EPA actions under these statutes are functionally equivalent to the analysis required under NEPA because they are undertaken with full consideration of environmental impacts and opportunities for public involvement. *See, e.g., EDF* v. *EPA,* 489 F.2d 1247 (D.C. Cir. 1973) (FIFRA); *State of Alabama* v. *EPA,* 911 F. 2d 499 (11th Cir. 1990) (RCRA); *Warren County* v. *North Carolina,* 528 F. Supp. 276 (E.D. N.C. 1981) (TSCA); *Western Nebraska Resources Council* v. *U.S. EPA,* 943 F.2d 867 (8th Cir. 1991) (SDWA); *Maryland* v. *Train,* 415 F. Supp. 116 (D. Md. 1976) (MPRSA).

Agency actions exempt from the requirements of NEPA remain exempt under this rule. If a question arises regarding the applicability of the NEPA requirements to certain proposed actions, the Responsible Official should consult with the NEPA Official and the Office of General Counsel.

E. EPA's Voluntary NEPA Policy and Procedures

In 1974, EPA Administrator Russell Train determined that the Agency could voluntarily prepare EISs for certain regulatory activities that were exempt from NEPA. In 1998, Administrator Carol Browner amended this policy to permit the preparation of non-EIS NEPA documents for certain EPA regulatory actions. The Agency's current ''Notice of Policy and Procedures for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents'' (see 63 FR 58045) sets out the policy and procedures EPA uses when preparing environmental review documents under the Voluntary NEPA Policy. This rule does not make any changes to the voluntary NEPA policy and procedures. However, the rule can serve as a framework for the preparation of voluntary NEPA documents.

F. EPA's Statement of Procedures on Floodplain Management and Wetlands Protection

On January 5, 1979, EPA issued its *Statement of Procedures on Floodplain Management and Wetlands Protection* to implement Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands); the Statement had been included in 40 CFR Part 6 as Appendix A. As part of this rulemaking, EPA is removing the Statement as an appendix to the rule. The Statement remains in effect, and can be viewed on EPA's NEPA Web site, at: *http://www.epa.gov/compliance/resources/policies/nepa/floodplain-management-wetlands-statement-pg.pdf.*

II. Summary of This Rule

On December 19, 2006, EPA published a **Federal Register** notice seeking comment on a proposed rule that would amend its regulations for implementing the NEPA and EO 12114.

The Agency is amending its procedures for implementing the requirements of NEPA. The rule amends EPA's NEPA implementing procedures by: (1) Consolidating and standardizing the procedural provisions and requirements of the Agency's environmental review process under NEPA; (2) clarifying the general procedures associated with categorical exclusions, consolidating the categories of actions subject to categorical exclusion, amending existing and adding new categorical exclusions, and consolidating and amending existing and adding new extraordinary circumstances; (3) consolidating and amending the listing of actions that generally require an environmental impact statement; (4) clarifying the procedural requirements for consideration of applicable environmental review laws and executive orders; and (5) incorporating other proposed revisions consistent with CEQ Regulations. These regulations supplement and are to be used in conjunction with the CEQ Regulations.

40 CFR Part 6 also includes EPA's procedures, ''Assessing the Environmental Effects Abroad of EPA Actions,'' that implement Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions'' (see 46 FR 3364). The rule includes minor, technical amendments to EPA's procedures for implementing the Order. These procedures further the purpose of NEPA and provide that EPA may be guided by the CEQ Regulations and EPA's NEPA implementing regulations to the extent they are applicable. Therefore, when EPA conducts an environmental assessment pursuant to its Executive Order 12114 procedures, the Agency generally follows its NEPA procedures (unless the assessment process is addressed in other EPA programs). EPA's Executive Order 12114 implementing procedures ensure that environmental information is available to the Agency's decision-makers and other appropriate Federal agencies and officials for actions subject to Executive Order 12114.

After considering comments made on the December 19, 2006 proposed rule, EPA is finalizing the rule substantially as proposed, with some minor modifications. Two changes in the rule were made in response to public comment. One change was to clarify that only major Federal actions require the preparation of an EIS (this change can be found at § 6.207(a) of the rule). Another clarified the role of cooperating agencies in the preparation of EPA NEPA documents (found at § 6.202(a)).

Other changes were made by EPA to clarify the rule's applicability, clarify the CE for on site replacement systems, and improve the overall flow of the regulation. These changes can be found at §§ 6.101(a), 6.101(b), 6.203(b), 6.204(a)(1)(iii) and 6.210. In § 6.101(a), the specific reference to the STAG account was eliminated to avoid confusion about the need for NEPA compliance for all STAG account activities. In this regard, the text was revised to indicate that the rule applies to certain grants awarded to projects authorized through the Agency's annual Appropriation Acts, which includes special grants for municipal wastewater treatment and water supply projects, projects funded through the US-Mexican Border program, and projects funded through the Indian Environmental General Assistance Program. The other change regarding the rule's applicability was to move § 6.101(f) to § 6.101(b), to improve the flow of the section, and to clearly state that this rule does not apply to actions that are statutorily exempt from NEPA. The paragraph at § 6.203(b) was separated into two paragraphs: one for the standard procedure, and one for deviations from this procedure under

the appropriate circumstances. This also demonstrates that even under an abbreviated comment period, there is still a need to circulate the FONSI/EA for public review. The additional language is meant to improve the overall flow of the section. Additionally, the text of § 6.204(a)(1)(iii) has been clarified. Lastly, § 6.210 has been restructured to clarify that consultation with CEQ must occur prior to the approval of any alternate arrangements for emergency circumstances.

III. Responses to Comments

Comments received expressed general support for the revisions to the rule; however, some comments raised concerns regarding specific aspects of the rule. The comments fell into the following four areas: the scope of the rule; categorical exclusions; extraordinary circumstances; and the NEPA process. EPA's responses to the comments have been grouped into these four areas.

A. Comments Relating to the Scope of the Regulations

Comment: One commenter asked that the EPA not weaken the Clean Water Act.

EPA's Response: EPA appreciates the commenter's concern. The purpose of this rule, however, is to revise and consolidate EPA's NEPA implementing procedures. These regulations are strictly procedural; they set out the procedures EPA follows to comply with NEPA. They have no effect on EPA's authorities under the Clean Water Act, nor do they weaken EPA's implementation of the Clean Water Act.

Comment: A commenter asked that applicants be specifically referenced in various sections of the rule because of their integral part in the process.

EPA's Response: EPA agrees that applicants have an integral role in the NEPA environmental review process. EPA believes, however, that it is unnecessary to include additional specific references to applicants. As the commenter acknowledged, the proposed regulations already specifically include applicants. For example, § 6.103(b)(3) requires the Responsible Official to ''ensure to the extent practicable, early and continued involvement of interested federal agencies, state and local governments, federally-recognized Indian tribes, and affected applicants in the environmental review process.'' (emphasis added) Applicants also are specifically identified in Subpart C ''Requirements for Environmental Information Documents and Third-Party Agreements.'' EPA believes that inclusion of applicants in the broad definition of the public (see § 6.203(a)(2)), as well as the identification of applicants in specific sections and subsections of the proposed rule, provides applicants with sufficient and appropriate participation in the environmental review process.

Comment: Another commenter asked that EPA define the term ''major Federal action'' and clarify that only major federal actions trigger the requirement to prepare an environmental impact statement.

EPA's Response: EPA agrees that the proposed rule may have been unclear because it used the term ''major action'' instead of ''major federal action.'' Therefore, in response to this comment, EPA modified § 6.207(a) of the rule to clarify that an EIS is required only for its major federal actions significantly affecting the quality of the human environment. In regard to defining the term ''major federal action,'' EPA does not agree that the term should be defined in EPA's regulations. The CEQ Regulations, which EPA is adopting through this rule, define the term ''major federal action.'' (See 40 CFR 1508.18.) Since EPA is adopting the CEQ Regulations, it is not necessary for EPA's regulations to define the term.

Comment: A tribal commenter asserted that the rule is inconsistent with EPA's trust obligation to protect Indian country because the rule may have negative impacts on the Tribe's efforts to protect water quality. In particular, the commenter claims that the rule ''compromises the Tribe's ability to certify'' that certain discharges will meet tribal water quality standards.

EPA's Response: EPA recognizes the federal government's trust responsibility to federally-recognized Indian tribes that arises from Indian treaties, statutes, executive orders, and the historical relations between the United States and Indian tribes. This rule complies with NEPA and other applicable federal statutes and regulations; therefore, it meets the federal trust responsibility and does not negate or diminish that responsibility.

The commenter's assertion regarding the rule compromising the Tribe's ability to certify that certain discharges will meet tribal water quality standards and to protect water quality mischaracterizes the effect of the rule. The rule does not alter or limit any authority or ability the Tribe has under Tribal law, federal law, or any agreement to protect water quality. Moreover, in this case, the Tribe's approval for treatment in the same manner as a state for the Clean Water Act Water Quality Standards and Certification programs and federal approval of the Tribe's water quality standards enhances the Tribe's ability to protect its waters. Under Section 401 of the Clean Water Act, no federal permit can be issued to approve any activity until the Tribe certifies that any discharge under the permit will comply with applicable tribal water quality standards. Also, EPA regulations require that any permit for a discharge upstream from the Tribe's reservation must include conditions that ensure compliance with applicable downstream water quality standards.

B. Comments Relating to Categorical Exclusions (CEs)

Comment: Some commenters expressed concern about the new CE that is established at § 6.204(a)(1)(iv) for the reissuance of new source NPDES permits because the commenters believe it would eliminate the need for EPA to comply with NEPA for NPDES permits.

EPA's Response: It appears that the commenters mistakenly believe that NEPA compliance is required for all NPDES permits. In point of fact, pursuant to section 511(c) of the Clean Water Act, 33 U.S.C. 1371(c), NEPA compliance is required only for NPDES permits for the discharge of any pollutant by a ''new source,'' which is defined in the Clean Water Act as a source that is subject to promulgated new source performance standards (see, 33 U.S.C. 1316(a)(2)). Thus, NPDES permits for sources other than ''new sources'' are not subject to NEPA. It should also be noted that NEPA applies only to federal actions. The issuance of NPDES permits by an EPA-authorized state is a state, not federal, action and is, thus, not subject to NEPA. Currently, most states are authorized and, thus, the bulk of the NPDES permits issued in the United States are not subject to NEPA and the new CE has no effect on those actions. Those state permit actions, however, will continue to be subject to the environmental and public review procedures established for those state programs.

EPA does not agree that the use of a CE eliminates the need for EPA to comply with NEPA. A CE, as defined by the CEQ Regulations, is a ''category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.'' 40 CFR 1508.4. Accordingly, the establishment and proper use of a CE achieves NEPA

compliance. The rule requires that the Responsible Official determine that the proposed action first fits within the category of actions described by the CE, and then determines that the proposed action does not involve any extraordinary circumstances. § 6.204(a). Further, the decision that an action is eligible to be excluded from further NEPA review based on this CE is required to be documented in writing, the documentation must include an explanation of why no extraordinary circumstances apply to the action, and the documentation must be made available to the public on request. § 6.204(a)(1).

Finally, not all NPDES new source permits would qualify for this CE. First, the permit must be a re-issuance, not a first-time permit. First-time NPDES new source permits issued by EPA are reviewed and the environmental effects are considered in either an EA or EIS. Second, the Responsible Official must determine that the conclusions of the NEPA document for the original permit are still valid. Third, the Responsible Official must determine that the re-issuance of the permit will not result in degradation of the receiving waters. Lastly, the permit conditions in the re-issued permit must be the same as those in the original permit or more environmentally protective. Based on EPA's experience, EPA believes that the re-issuance of permits that meet all of these conditions will not have a significant impact on the quality of the human environment.

Comment: One commenter expressed the opinion that expanding the list of CEs reduces public participation in the NEPA process.

EPA Response: EPA acknowledges that the use of a CE may reduce opportunities for public participation on that specific action. However, the public has the opportunity to comment on new CEs when they are developed. This provides a better use of agency resources for the public benefit than repeatedly focusing resources on environmentally insignificant actions. Moreover, other aspects of the approval of specific actions may provide an opportunity for public input independent from the NEPA process.

Comment: One commenter expressed concern that relying on past NEPA documents risks compounding errors or oversights in prior environmental review.

EPA Response: EPA's experience with relying on past NEPA documents is that when the action in question is a continuation and the conclusions of the earlier NEPA document regarding the lack of significant impacts have been reviewed and determined to still be valid, the continuation of that action will not cause significant impacts. The only CE that requires a re-evaluation of a past NEPA document and decision is the new CE that is established at 40 CFR 6.204(a)(1)(iv) for the reissuance of new source NPDES permits. As noted in the Supporting Statement for this rule, EPA's experience with such actions is that where the original NEPA document projected that the action would not cause significant environmental effects, it was determined that the continuation of the discharge would not degrade the receiving waters and that the permit conditions do not change or are more environmentally protective, the reissuance of the respective new source NPDES permit does not result in significant impacts. It should also be noted that the use of this CE will require additional evaluation beyond an evaluation of the action for consistency with a prior NEPA decision. Accordingly, EPA believes that the review process that must be employed before approval of this CE is adequate to ensure that past errors/oversights (assuming there are any) will not be repeated.

Comment: One commenter requested clarification about whether NPDES construction general permits are subject to NEPA and recommended that EPA add the following CE to the regulations: ''Residential construction undertaken in accordance with the environmental protection requirements of a NPDES construction general permit.'' The commenter also stated that EPA's economic analysis of the impact of the rule on small businesses, pursuant to the Regulatory Flexibility Act (RFA), did not include consideration of the potential number of affected small businesses that would require permit coverage under the construction general permit.

EPA Response: EPA believes that there is no need to add the recommended CE into the rule because NPDES construction general permits are not new source permits. Under section 511(c) of the Clean Water Act, 33 U.S.C. 1371(c), NEPA compliance is required only for NPDES permits for the discharge of any pollutant by a ''new source,'' which is defined in the Clean Water Act as a source that is subject to promulgated new source performance standards (see, 33 U.S.C. 1316(a)(2)). Since there are no new source performance standards for construction discharges, NEPA compliance is not required for these permit actions.

As to the comment on the RFA economic analysis, as noted above, construction general permits are not new source NPDES permits and, therefore, are not subject to EPA NEPA regulations. Therefore, there is no need to include small businesses that apply for such permits as part of the regulated public subject to this rule.

Comment: One commenter questioned why the revised rule did not propose CEs for EPA actions under the Resource Conservation and Recovery Act, Superfund, and the Clean Air Act.

EPA Response: EPA actions under the Clean Air Act are statutorily exempt from NEPA. See, 15 U.S.C. 793(c)(1). Additionally, the decision-making processes for EPA actions under the Resource Conservation and Recovery Act and Superfund are considered to be the functional equivalent of NEPA—see Section I.D above. Accordingly, CEs are unnecessary for EPA actions under these programs.

Comment: A commenter expressed the opinion that the CE process should allow for project-specific flexibility.

EPA Response: EPA agrees with this comment and believes that the CE process in the rule allows for the most flexibility possible.

Comment: Several commenters expressed the opinion that the CEs established in the rule should include activities that create temporary disturbances with minimal impacts and whose impacts are already relatively well-known and for which mitigation measures are well-established.

EPA Response: EPA appreciates this comment, and believes that the CEs established in the rule meet these general criteria for the actions covered. However, EPA believes that establishing CEs for the activities described in the comment would be too broad and too subjective; EPA does not have sufficient historical support for such broad CEs for all of its programs. Further, it is unlikely that such CEs could be approved without some level of environmental review on the individual projects, which would defeat the intent of establishing CEs in the first place.

C. Comments Relating to Extraordinary Circumstances (ECs)

Comment: One commenter objected to the broad nature of the extraordinary circumstances, and the similarity between the extraordinary circumstances, which, if present, would prohibit the use of a CE, and the list of criteria that normally require the preparation of an EIS.

EPA's Response: EPA believes that the extraordinary circumstances, which require determinations regarding the proximity of environmental/natural features in the project area, and/or the application of professional judgment

about the severity of an action's potential environmental effects are not too broad. Moreover, as required by the CEQ Regulations, when establishing a CE, agencies must determine whether the actions in question result in significant effects on the quality of the human environment either individually or cumulatively. The CEQ regulations also require that each agency's NEPA procedures include circumstances in which ''a normally excluded action may have a significant environmental effect.'' 40 CFR 1508.4. Accordingly, EPA believes that it is essential that these two lists parallel each other.

Comment: Several commenters believe that the Agency will not have enough information to make an informed decision regarding the applicability of extraordinary circumstances without input from the public.

EPA Response: EPA appreciates this concern, and has included an extraordinary circumstance that requires the evaluation of public controversy about an action's potential environmental effects—40 CFR 6.204(b)(8). Of the remaining extraordinary circumstances, many relate to the presence of environmental/natural features (endangered species, historic properties, and farmland) in the project area. The rest require the application of routine professional judgment in making preliminary determinations about the potential severity of the action's environmental effects. EPA does not believe that public input is needed to make these routine determinations.

Comment: One commenter expressed concern about the extraordinary circumstance in § 6.204(b)(7), which prohibits the use of a CE if the action will likely have a significant effect on land use patterns or be inconsistent with an approved land use plan because the commenter believes the criterion has little to do with NEPA, and is outside of EPA's jurisdiction.

EPA Response: EPA disagrees with this comment because federal actions that significantly alter land use patterns or are inconsistent with approved land use plans can result in significant environmental effects. Moreover, this criterion is consistent with CEQ Regulations. See 40 CFR 1502.16.

Comment: One commenter expressed concern about the extraordinary circumstance in § 6.204(b)(8), which prohibits the use of a CE if the action is expected to cause significant public controversy about a potential environmental impact because the commenter believes public controversy alone (i.e., in the absence of an environmental impact) should not prohibit the use of a CE.

EPA Response: EPA agrees that public controversy alone should not prohibit the use of a CE. As written, this extraordinary circumstance is limited to significant public controversy about a potential environmental effect. EPA believes it is appropriate to prohibit the use of a CE if there is significant public controversy regarding a potential environmental impact. Moreover, this criterion is consistent with CEQ Regulations at 40 CFR 1508.27(b)(4), which state that in determining whether an action is significant, the agency is to consider '' the degree to which the effects on the quality of the human environment are likely to be highly controversial.''

Comment: One commenter expressed concern about the extraordinary circumstance in § 6.204(b)(10), which prohibits the use of a CE if the action may conflict with federal, state, or local government, or federally-recognized Indian tribe environmental, resource protection, or land-use laws or regulations because the commenter believes that the criteria have little to do with NEPA, and are outside of EPA's jurisdiction.

EPA Response: EPA disagrees with this comment because federal actions that are inconsistent with environmental, resource protection, or land-use laws or regulations, can, regardless of the source of these requirements, result in significant environmental effects. Therefore, it is appropriate to prohibit the use of a CE in such cases. Moreover, this criterion is consistent with CEQ Regulations.

D. Comments Relating to the NEPA Process

Comment: One commenter suggested that the proposed rule be revised to provide for public hearings if an interest is expressed.

EPA Response: EPA appreciates the comment and agrees that public participation in the NEPA process is important, but does not agree that the rule should require public hearings. The proposed rule requires the Responsible Official to ''make diligent efforts to involve the public * * * in the preparation of [environmental assessments] and [environmental impact statements] consistent with 40 CFR 1501.4 and 1506.6 and applicable EPA public participation regulations.'' Section 6.203(a)(2). The Responsible Official also is required to ''use appropriate communication procedures to ensure meaningful public participation throughout the NEPA process.'' Section 6.203(a)(5). Further, in preparing in EIS, the Responsible Official may hold one or more scoping meetings, and public meetings or hearings on the draft EIS. Section 6.203(c)(3)(iii) and (iv). Thus, EPA does not believe that the rule in any way reduces opportunities for public participation in the environmental review process. Rather, it provides the Responsible Official the flexibility to use the most appropriate public participation process considering both the unique circumstances of the project and any applicable EPA public participation requirements. This approach is consistent with CEQ Regulations, which require the agency to ''make diligent efforts to involve the public in preparing and implementing their NEPA procedures,'' 40 CFR 1506.6(a), but do not prescribe how that public participation is to be carried out.

Comment: A commenter expressed support for the Emergency Circumstance provision in the rule, but urged EPA to expand the authority of the Responsible Official.

EPA Response: EPA appreciates the comment, but does not agree that the Responsible Official should be given more authority because the rule gives the responsible Official, in consultation with the NEPA Official and CEQ, the authority necessary to properly address NEPA compliance for emergency situations. The authority EPA is providing to the Responsible Official is consistent with CEQ Regulations, which require EPA to consult with CEQ about alternative arrangements for emergency circumstances. See 40 CFR 1506.11.

Comment: A commenter asked EPA to set page and time limits for NEPA documents and processes, respectively.

EPA Response: While EPA appreciates the comment, we believe that it is not necessary or appropriate for this rule to set time or page limits. CEQ Regulations provide general guidelines for time and page limits, but the nature of the specific environmental issues evaluated in NEPA documents appropriately affects their length and preparation time. Generally, the depth of analysis should correlate to the severity and probability of a proposed action's potential environmental effects. Since the purpose of a NEPA environmental review is to thoroughly and appropriately analyze the environmental impacts of a federal action, it would be counter-productive to establish mandatory time or page limits.

Comment: A commenter asked that NEPA review be limited to economically and technically feasible alternatives.

EPA Response: EPA does not agree that the NEPA review should be limited to economically and technically feasible alternatives. While these are two important factors, they are not the only ones to be considered in establishing the range of reasonable alternatives for NEPA analyses. Indeed, not all economically and technically feasible alternatives that meet the purpose and need are reasonable. Other factors (e.g., environmental soundness, compliance with statutory and regulatory requirements, and public concern) must also be considered when determining whether alternatives are reasonable under NEPA.

Comment: One commenter suggested that the rule clarify the meaning of cumulative impacts that are examined in an EIS.

EPA Response: EPA appreciates the comment, but does not believe that clarification of the meaning of cumulative impacts is necessary. The reference to cumulative impacts in the rule is consistent with accepted NEPA practice, as well as the definition of cumulative impacts in § 1508.7 of CEQ Regulations, which EPA is adopting through this rulemaking (see § 6.100(b)). Moreover, both CEQ and EPA have issued considerable guidance on the definition of cumulative impacts and techniques for assessing them. Accordingly, EPA believes that it is not necessary to expand the definition of cumulative impacts in this rule.

Comment: One commenter expressed concern because the proposed rule appeared to increase the authorities of cooperating agencies to require their approval in the preparation of EPA NEPA documents prior to issuance.

EPA Response: EPA agrees that the proposed rule implied that cooperating agencies would always assume a greater role in preparing EPA NEPA documents than is envisioned by EPA or the CEQ Regulations (40 CFR 1501.6). As acknowledged by those regulations, and demonstrated by NEPA practice, cooperating agencies may jointly prepare the NEPA document, or may focus their involvement to those specific issues on which they have jurisdiction or expertise. Accordingly, the rule, at 40 CFR 6.202(a) has been revised to clarify the role of cooperating agencies in the development of EPA NEPA documents.

Comment: One commenter suggested that EPA use the phrase ''significant adverse effect'' as the threshold for requiring an EIS.

EPA Response: EPA does not agree that the threshold for requiring an EIS should be limited to ''significant adverse effects.'' Restricting the threshold of significant impacts (that would require the preparation of an EIS) to only adverse effects would result in limiting analyses, which could result in overlooking and/or disregarding effects where there is controversy over the ''beneficial'' or ''adverse'' nature of the environmental consequence. This approach is consistent with 40 CFR 1508.27(b)(1).

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and changes that were made in response to OMB recommendations have been documented in the docket for this action.

In addition, EPA prepared an analysis of the costs and benefits associated with this action. A copy of the analysis is available in the docket for this action, and the analysis is briefly summarized here. The total annual public reporting and recordkeeping burden for this collection of information is estimated at 48,147 hours and $3,823,740 for contractor hours and costs, direct labor hours and costs, and O&M costs. The hour and cost estimates reflect the annual preparation of documentation for an anticipated 312 applicant-proposed projects that may be documented with a CE, or an EA/FONSI, or an EIS/ROD.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2020–0033.

EPA collects information from certain applicants as part of the process of complying with either NEPA or Executive Order 12114. EPA's Executive Order 12114 procedures further the purpose of NEPA and provide that EPA may be guided by NEPA procedures to the extent they are applicable. Therefore, when EPA conducts an environmental assessment pursuant to its Executive Order 12114 procedures, the Agency generally follows its NEPA procedures. For this ICR, applicant-proposed projects subject to either NEPA or Executive Order 12114 (and that are not addressed in other EPA programs' ICRs), are addressed through the NEPA assessment process. Those subject to the rule include EPA employees who must comply with NEPA and certain grant and permit applicants who must submit environmental information to EPA for their proposed projects.

The NEPA review for a project may result in a categorical exclusion (CE), or an EA documented with a finding of no significant impact (EA/FONSI), or an EIS documented with a record of decision (EIS/ROD). (EPA assumes a project may be documented with a CE only for grantee-proposed projects. EPA does not anticipate that an initial new source NPDES permit application would be documented with a CE.) For any specific project, only one of these levels of documentation is generally prepared. Applicants must submit an environmental information document (EID) to EPA as part of the environmental review process, unless the applicant submits a draft EA or a draft EIS and supporting documents. Applicants may prepare and submit the information directly, or may enter a third-party contract agreement with EPA for preparation of an EA or EIS and supporting documentation. For purposes of determining the maximum costs to applicants for this ICR, EPA assumed that grant and permit applicants would expend time and contractor costs to submit: (1) Information to support application of a CE with environmental information prepared directly by the applicant's contractor; or (2) a draft EA and supporting documents prepared directly by the applicant's contractor; or (3) a draft and final EIS and supporting documents prepared by the applicant's contractor under a third-party contract agreement with EPA. Based on EPA's experience, EPA anticipates there will be approximately 300 grantee projects annually with about 60% of these projects documented with a CE, and about 40% with an EA/FONSI. In addition, EPA estimates that one project (less than one percent of the total annual grantee projects) will have an EIS/ROD completed during the 3-year period of this ICR. For permit applicants, EPA assumes there will be approximately 12 projects annually with about 11 of the projects documented with an EA/FONSI, and one project will have an EIS/ROD completed. None will be documented with a CE. EPA estimated the one-time costs for applicants to prepare the environmental documentation by including contractor hours and costs, direct labor hours and costs, and O&M for documentation submitted to EPA to support a CE determination, or an EA/FONSI, or an

EIS/ROD. For a grantee, EPA estimates an applicant's one-time costs for submitting environmental information will be: 45 hours and $3,292 for CE documentation, or 260 hours and $18,340 for EA/FONSI documentation, or 2,840 hours and $324,480 for EIS/ROD documentation. For a permit applicant, EPA estimates an applicant's one-time costs for submitting environmental information will be: 460 hours and $53,940 for EA/FONSI documentation, or 2,840 hours and $328,880 for EIS/ROD documentation. These figures may vary depending on the complexity of issues associated with the project and the availability of relevant information, particularly for EISs. EPA believes the calculations for this ICR are representative of most projects.

For purposes of this ICR, the total annual public reporting and recordkeeping burden for this collection of information is estimated at 48,147 hours and $3,823,740 for contractor hours and costs, direct labor hours and costs, and O&M costs. This burden reflects the annual submission of documentation for an anticipated 312 applicant-proposed projects that may be documented with a CE, or an EA/FONSI, or an EIS/ROD. Over the 3-year period of this ICR, EPA anticipates 937 applicant-proposed projects with a 3-year total burden estimate of 144,440 hours and $11,471,220. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond, to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR Part 9. In addition, EPA is amending the table in 40 CFR Part 9 of currently approved OMB control numbers for various regulations to list the regulatory citations for the information requirements contained in this final rule.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The environmental information submitted by an applicant under the rule is one-time only for EPA actions subject to NEPA based on applicant proposals; i.e., actions proposed by grantees seeking funding assistance from EPA or for an NPDES permit application initiated by the permit applicant. In either case, EPA assumes the action will directly benefit the applicant (such as a grantee seeking STAG funding for renovation of a community drinking water system, or a permit applicant seeking an NPDES permit from EPA to further the applicant's business interests). Nonetheless, if the applicant cannot afford to provide the required environmental information to EPA, then EPA would undertake the environmental review without input from the applicant. (Applicants would normally be requested to demonstrate financial hardship, including inability to provide the requested environmental information.) Grantees may be grant-eligible for certain costs associated with providing environmental information to EPA; permit applicants are not eligible for EPA financial assistance. Further, EPA has attempted to reduce the cost on all entities, including small entities, through the following provisions of the rule: Section 6.300 provides that an EID is not required when the action is categorically excluded, or the applicant will prepare a draft EA and supporting documents. The Responsible Official may prepare the NEPA documents without assistance from the applicant. Section 6.302 provides that the Responsible Official may prepare generic guidance for categories of actions involving a large number of applicants; and must ensure early involvement of applicants, consult with the applicant and provide guidance describing the scope and level of environmental information required, and provide guidance on a project-by-project basis to any applicant seeking assistance. This Section also provides that the Responsible Official must consider the extent to which the applicant is capable of providing the required information, must not require the applicant to gather data or perform analyses that unnecessarily duplicate either existing data or the results of existing analyses available to EPA, and must limit the request for environmental information to that necessary for the environmental review. Section 6.303 provides that an applicant may enter into a third-party agreement with EPA. For grantees, third-party agreement contractor costs may be grant-eligible. Permit applicants are not eligible for EPA financial assistance.

This final rule is applicable to certain EPA actions subject to NEPA, including certain applicant-proposed projects. Because the projects are proposed by the applicants, who are non-federal entities, including small businesses and small governments, EPA does not know what projects will be proposed, when they will be proposed, or what level of NEPA review will be required for each individual project. In this regard, EPA's NEPA review process is reactive to an applicant's request. These factors are built into this screening assessment,

including assumptions about the entities likely to be subject to the regulations, the types of projects they are likely to propose, and the degree of possible economic impact based on the NEPA review process and the three levels of environmental documentation possible under this process using available historical information as future indicators. More detailed information on the small entity screening analysis can be found in the docket for this proposed rulemaking, EPA–HQ–00OECA–2005–0062 (available at *http://www.regulations.gov*), and is summarized below.

Based on EPA's past experience, EPA anticipates that annually there will be approximately 170 small governments applying to EPA for STAG grants for projects subject to NEPA, and four small businesses applying to EPA for new source NPDES permits for a total of approximately 174 small entities out of potential 312 total entities. Of the 174 small entities possibly affected by this rule, we have determined that the economic impact of submitting one-time environmental documentation to support a CE determination would be less than 1% of annual revenues for all small entities; and that for the one-time costs associated with submitting EA-related environmental documentation six small entities (3.4%) could experience an economic impact of 1–3%, and up to four small entities (2%) could experience an economic impact of greater than 3%. Additionally, we have also determined that approximately 57 of the 174 small entities (33%) could experience an economic impact of 1–3%, and up to 26 of the 174 small entities (15%) could experience an economic impact of greater than 3% for the one-time costs associated with submitting EIS-related environmental documentation. In all, these approximately 83 small entities represent about 48% of the estimated 174 total number of small entities that could experience a one-time economic impact of 1–3% or greater of annual revenues. Of these 83 small entities, 79 are likely to be governmental grant applicants and could be grant-eligible for EPA financial assistance with only one EIS anticipated per three years with this likelihood spread over 300 total grant applicants, including small and large governments, including tribes, and special districts.

We have therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

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

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector.

EPA believes the calculation for this UMRA assessment is representative of most projects. On an annual one-time submission basis, EPA's aggregate estimate for applicants is $3,823,740 for contractor hours and costs, direct labor hours and costs, including third-year costs for an EIS/ROD for one grantee project. The requirement in today's final rule for applicants to submit one-time, project-specific environmental information does not impose substantial compliance costs on applicants, including governmental grantees, because it is not likely to result in the expenditure by applicants, including State and local governments, and tribes, in the aggregate, or the private sector, of $100 million or more in any one year. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA, and EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

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

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Under these NEPA regulations, as well as EPA's procedures for implementing Executive Order 12114, State and local governments are required to submit environmental information only when the State or local government is a project-applicant for an EPA action subject to NEPA, for example, when the State or local government applies for a grant for a special project identified in EPA's State and Tribal Assistance (STAG) account, or for a new source NPDES permit issued by EPA. The requirement to submit environmental information to EPA for the NEPA review does not impose substantial compliance costs because it is not likely to result in the expenditure by State and local governments in the aggregate of $100 million or more in any one year. Further, this requirement does not preempt State law, or alter the current relationship between the States and the Federal Government. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the

proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. Neither the amendments to EPA's NEPA implementing regulations nor the minor, technical amendments to EPA's procedures implementing Executive Order 12114 impose new regulatory obligations on tribes. They will not have substantial direct effects on tribes, on the relationship between the national government and tribes, or on the distribution of power and responsibilities between the national government and tribes. Under EPA's regulations, Tribes are required to submit environmental information only when the Tribes are project-applicants for EPA actions subject to NEPA or Executive Order 12114, for example, when Tribes apply for grants for special projects identified in EPA's State and Tribal Assistance (STAG) account, or for new source NPDES permits issued by EPA. The requirement to submit environmental information to EPA for the environmental review process do not impose substantial compliance costs because it is not likely to result in the expenditure by state, local, and tribal governments in the aggregate of $100 million or more in any one year. Further, these requirements do not preempt tribal law. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution and Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

EPA maintains an ongoing commitment to ensure environmental justice for all people, regardless of race, color, national origin, or income. Ensuring environmental justice means not only protecting human health and the environment for everyone, but also ensuring that all people are treated fairly and given the opportunity to participate meaningfully in the development, implementation, and enforcement of environmental laws, regulations, and policies. In recognizing that minority and/or low-income communities frequently may be exposed disproportionately to environmental harms and risks, EPA works to protect these and other burdened communities from adverse human health and environmental effects of its programs, consistent with existing environmental and civil rights laws, and their implementing regulations, as well as Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' (59 FR 7629 (February 16, 1994)). Executive Order 12898 establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and/or low-income populations in the United States. In developing this rule in compliance with Executive Order 12898, EPA determined that this rule did not raise any environmental justice concerns.

Today's rule, including the amended EPA NEPA implementing procedures and the minor, technical amendments to the Agency's procedures for implementing Executive Order 12114, does not impose new regulatory program, policy, or activity obligations on EPA, state or local governments, tribes, or individual applicants required to provide environmental information to EPA for certain grants or permits. Therefore, EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. However, the NEPA rule at § 6.201 requires that for specific projects, consistent with 40 CFR 1500.5(g) and 1502.25, the EPA Responsible Official must determine the applicability of executive orders, including Executive Order 12898, and should incorporate applicable requirements as early in the NEPA review process as possible. In addition, sections 6.203(a)(5) and (c)(3)(iv) require the Responsible Official to choose public participation methods and

engage in outreach designed to reach those in ''potentially affected communities where the proposed action is known or expected to have environmental impacts including minority communities, low-income communities, or federally-recognized Indian tribal communities.'' EPA provides guidance to Responsible Officials and EPA staff on incorporating environmental justice concerns into the NEPA analysis. See ''Final Guidance For Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses,'' April 1998.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective October 19, 2007.

List of Subjects in 40 CFR Part 6

Environmental protection, Environmental assessments, Environmental impact statements, Environmental protection reporting, Foreign relations, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: September 7, 2007.

Stephen L. Johnson,

Administrator.

■ Therefore, for the reasons set forth in the preamble, EPA hereby amends title 40, chapter I of the Code of Federal Regulations by revising part 6 to read as follows:

PART 6—PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT AND ASSESSING THE ENVIRONMENTAL EFFECTS ABROAD OF EPA ACTIONS

Subpart A—General Provisions for EPA Actions Subject to NEPA

Sec.
6.100 Policy and Purpose.
6.101 Applicability.
6.102 Definitions.
6.103 Responsibilities of the NEPA and Responsible Officials.

Subpart B—EPA's NEPA Environmental Review Procedures

6.200 General requirements.
6.201 Coordination with other environmental review requirements.
6.202 Interagency cooperation.
6.203 Public participation.
6.204 Categorical exclusions and extraordinary circumstances.
6.205 Environmental assessments.
6.206 Findings of no significant impact.
6.207 Environmental impact statements.
6.208 Records of decision.
6.209 Filing requirements for EPA EISs.
6.210 Emergency circumstances.

Subpart C—Requirements for Environmental Information Documents and Third-Party Agreements for EPA Actions Subject to NEPA

6.300 Applicability.
6.301 Applicant requirements.
6.302 Responsible Official requirements.
6.303 Third-party agreements.

Subpart D—Assessing the Environmental Effects Abroad of EPA Actions

6.400 Purpose and policy.
6.401 Applicability.
6.402 Definitions.
6.403 Environmental review and assessment requirements.
6.404 Lead or cooperating agency.
6.405 Exemptions and considerations.
6.406 Implementation.

Authority: 42 U.S.C. 4321 *et seq.*, 7401–7671q, unless otherwise noted.

Subpart A—General Provisions for EPA Actions Subject to NEPA

§ 6.100 Policy and purpose.

(a) The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, as implemented by the Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500 through 1508), requires that Federal agencies include in their decision-making processes appropriate and careful consideration of all environmental effects of proposed actions, analyze potential environmental effects of proposed actions and their alternatives for public understanding and scrutiny, avoid or minimize adverse effects of proposed actions, and restore and enhance environmental quality to the extent practicable. The U.S. Environmental Protection Agency (EPA) shall integrate these NEPA requirements as early in the Agency planning processes as possible. The environmental review process shall be the focal point to ensure NEPA considerations are taken into account.

(b) Through this part, EPA adopts the CEQ Regulations (40 CFR Parts 1500 through 1508) implementing NEPA; subparts A through C of this part supplement those regulations, for actions proposed by EPA that are subject to NEPA requirements. Subparts A through C supplement, and are to be used in conjunction with, the CEQ Regulations.

§ 6.101 Applicability.

(a) Subparts A through C of this part apply to the proposed actions of EPA that are subject to NEPA. EPA actions subject to NEPA include the award of wastewater treatment construction grants under Title II of the Clean Water Act, EPA's issuance of new source National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the Clean Water Act, certain research and development projects, development and issuance of regulations, EPA actions involving renovations or new construction of facilities, and certain grants awarded for projects authorized by Congress through the Agency's annual Appropriations Act.

(b) Subparts A through C of this part do not apply to EPA actions for which NEPA review is not required. EPA actions under the Clean Water Act, except those identified in § 6.101(a), and EPA actions under the Clean Air Act are statutorily exempt from NEPA. Additionally, the courts have determined that certain EPA actions for which analyses that have been conducted under another statute are functionally equivalent with NEPA.

(c) The appropriate Responsible Official will undertake certain EPA actions required by the provisions of subparts A through C of this part.

(d) Certain procedures in subparts A through C of this part apply to the responsibilities of the NEPA Official.

(e) Certain procedures in subparts A through C of this part apply to applicants who are required to provide environmental information to EPA.

(f) When the Responsible Official decides to perform an environmental review under the *Policy for EPA's Voluntary Preparation of National Environmental Policy Act (NEPA) Documents*, the Responsible Official generally will follow the procedures set out in subparts A through C of this part.

§ 6.102 Definitions.

(a) Subparts A through C of this part use the definitions found at 40 CFR part 1508. Additional definitions are listed in this subpart.

(b) Definitions.

(1) *Administrator* means the Administrator of the United States Environmental Protection Agency.

(2) *Applicant* means any individual, agency, or other entity that has:

(i) Filed an application for federal assistance; or

(ii) Applied to EPA for a permit.

(3) *Assistance agreement* means an award of federal assistance in the form of money or property in lieu of money from EPA to an eligible applicant including grants or cooperative agreements.

(4) *Environmental information document* (EID) means a written analysis prepared by an applicant that provides sufficient information for the Responsible Official to undertake an environmental review and prepare either an EA and FONSI or an EIS and record of decision (ROD) for the proposed action.

(5) *Environmental review or NEPA review* means the process used to comply with section 102(2) of NEPA or the CEQ Regulations including development, supplementation, adoption, and revision of NEPA documents.

(6) *Extraordinary circumstances* means those circumstances listed in section 6.204 of this part that may cause a significant environmental effect such that a proposed action that otherwise meets the requirements of a categorical exclusion may not be categorically excluded.

(7) *NEPA document* is a document prepared pursuant to NEPA.

(8) *NEPA Official* is the Assistant Administrator for Enforcement and Compliance Assurance, who is responsible for EPA's NEPA compliance.

(9) *Responsible Official* means the EPA official responsible for compliance with NEPA for individual proposed actions.

§ 6.103 Responsibilities of the NEPA and Responsible Officials.

(a) The NEPA Official will:

(1) Ensure EPA's compliance with NEPA pursuant to 40 CFR 1507.2(a) and the regulations in subparts A through C of this part.

(2) Act as EPA's liaison with the CEQ and other federal agencies, state and local governments, and federally-recognized Indian tribes on matters of policy and administrative procedures regarding compliance with NEPA.

(3) Approve procedural deviations from subparts A through C of this part.

(4) Monitor the overall timeliness and quality of EPA's compliance with subparts A through C of this part.

(5) Advise the Administrator on NEPA-related actions that involve more than one EPA office, are highly controversial, are nationally significant, or establish new EPA NEPA-related policy.

(6) Support the Administrator by providing policy guidance on NEPA-related issues.

(7) Assist EPA's Responsible Officials with establishing and maintaining adequate administrative procedures to comply with subparts A through C of this part, performing their NEPA duties, and training personnel and applicants involved in the environmental review process.

(8) Consult with Responsible Officials and CEQ regarding proposed changes to subpart A through C of this part, including:

(i) The addition, amendment, or deletion of a categorical exclusion, or

(ii) Changes to the listings of types of actions that normally require the preparation of an EA or EIS.

(9) Determine whether proposed changes are appropriate, and if so, coordinate with CEQ, pursuant to 40 CFR 1507.3, and initiate a process to amend this part.

(b) The Responsible Official will:

(1) Ensure EPA's compliance with the CEQ regulations and subparts A through C of this part for proposed actions.

(2) Ensure that environmental reviews are conducted on proposed actions at the earliest practicable point in EPA's decision-making process and in accordance with the provisions of subparts A through C of this part.

(3) Ensure, to the extent practicable, early and continued involvement of interested federal agencies, state and local governments, federally-recognized Indian tribes, and affected applicants in the environmental review process.

(4) Coordinate with the NEPA Official and other Responsible Officials, as appropriate, on resolving issues involving EPA-wide NEPA policy and procedures (including the addition, amendment, or deletion of a categorical exclusion and changes to the listings of the types of actions that normally requires the preparation of an EA or EIS) and/or unresolved conflicts with other federal agencies, state and local governments, and federally-recognized Indian tribes, and/or advising the Administrator when necessary.

(5) Coordinate with other Responsible Officials, as appropriate, on NEPA-related actions involving their specific interests.

(6) Consistent with national NEPA guidance, provide specific policy guidance, as appropriate, and ensure that the Responsible Official's office establishes and maintains adequate administrative procedures to comply with subparts A through C of this part.

(7) Upon request of an applicant and consistent with 40 CFR 1501.8, set time limits on the NEPA review appropriate to individual proposed actions.

(8) Make decisions relating to the preparation of the appropriate NEPA documents, including preparing an EA or EIS, and signing the decision document.

(9) Monitor the overall timeliness and quality of the Responsible Official's respective office's efforts to comply with subparts A through C of this part.

(c) The NEPA Official and the Responsible Officials may delegate NEPA-related responsibilities to a level no lower than the Branch Chief or equivalent organizational level.

Subpart B—EPA's NEPA Environmental Review Procedures

§ 6.200 General requirements.

(a) The Responsible Official must determine whether the proposed action meets the criteria for categorical exclusion or whether it requires preparation of an EA or an EIS to identify and evaluate its environmental impacts. The Responsible Official may decide to prepare an EIS without first undertaking an EA.

(b) The Responsible Official must determine the scope of the environmental review by considering the type of proposed action, the reasonable alternatives, and the type of environmental impacts. The scope of an EIS will be determined as provided in 40 CFR 1508.25.

(c) During the environmental review process, the Responsible Official must:

(1) Integrate the NEPA process and the procedures of subparts A through C of this part into early planning to ensure appropriate consideration of NEPA's policies and to minimize or eliminate delay;

(2) Emphasize cooperative consultation among federal agencies, state and local governments, and federally-recognized Indian tribes before an EA or EIS is prepared to help ensure compliance with the procedural provisions of subparts A through C of this part and with other environmental review requirements, to address the need for interagency cooperation, to identify the requirements for other agencies' reviews, and to ensure appropriate public participation.

(3) Identify at an early stage any potentially significant environmental issues to be evaluated in detail and insignificant issues to be de-emphasized, focusing the scope of the environmental review accordingly;

(4) Involve other agencies and the public, as appropriate, in the environmental review process for

proposed actions that are not categorically excluded to:

(i) Identify the federal, state, local, and federally-recognized Indian tribal entities and the members of the public that may have an interest in the action;

(ii) Request that appropriate federal, state, and local agencies and federally-recognized Indian tribes serve as cooperating agencies consistent with 40 CFR 1501.6 and 1508.5; and

(iii) Integrate, where possible, review of applicable federal laws and executive orders into the environmental review process in conjunction with the development of NEPA documents.

(d) When preparing NEPA documents, the Responsible Official must:

(1) Utilize a systematic, interdisciplinary approach to integrate the natural and social sciences with the environmental design arts in planning and making decisions on proposed actions subject to environmental review under subparts A through C of this part (see 40 CFR 1501.2(a) and 1507.2);

(2) Plan adequate time and funding for the NEPA review and preparation of the NEPA documents. Planning includes consideration of whether an applicant will be required to prepare an EID for the proposed action.

(3) Review relevant planning or decision-making documents, whether prepared by EPA or another federal agency, to determine if the proposed action or any of its alternatives have been considered in a prior federal NEPA document. EPA may adopt the existing document, or will incorporate by reference any pertinent part of it, consistent with 40 CFR 1506.3 and 1502.21.

(4) Review relevant environmental review documents prepared by a state or local government or a federally-recognized Indian tribe to determine if the proposed action or any of its alternatives have been considered in such a document. EPA will incorporate by reference any pertinent part of that document consistent with 40 CFR 1502.21.

(e) During the decision-making process for the proposed action, the Responsible Official must:

(1) Incorporate the NEPA review in decision-making on the action. Processing and review of an applicant's application must proceed concurrently with the NEPA review procedures set out in subparts A through C of this part. EPA must complete its NEPA review before making a decision on the action.

(2) Consider the relevant NEPA documents, public and other agency comments (if any) on those documents, and EPA responses to those comments, as part of consideration of the action (see 40 CFR 1505.1(d)).

(3) Consider the alternatives analyzed in an EA or EIS before rendering a decision on the action; and

(4) Ensure that the decision on the action is to implement an alternative analyzed or is within the range of alternatives analyzed in the EA or EIS (see 40 CFR 1505.1(e)).

(f) To eliminate duplication and to foster efficiency, the Responsible Official should use tiering (see 40 CFR 1502.20 and 1508.28) and incorporate material by reference (see 40 CFR 1502.21) as appropriate.

(g) For applicant-related proposed actions:

(1) The Responsible Official may request that the applicant submit information to support the application of a categorical exclusion to the applicant's pending action.

(2) The Responsible Official may gather the information and prepare the NEPA document without assistance from the applicant, or, pursuant to Subpart C of this part, have the applicant prepare an EID or a draft EA and supporting documents, or enter into a third-party agreement with the applicant.

(3) During the environmental review process, applicants may continue to compile additional information needed for the environmental review and/or information necessary to support an application for a permit or assistance agreement from EPA.

(h) For all NEPA determinations (CEs, EA/FONSIs, or EIS/RODs) that are five years old or older, and for which the subject action has not yet been implemented, the Responsible Official must re-evaluate the proposed action, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the action and complete an appropriate NEPA document or reaffirm EPA's original NEPA determination. If there has been substantial change in the proposed action that is relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, the Responsible Official must conduct a supplemental environmental review of the action and complete an appropriate NEPA document.

§ 6.201 Coordination with other environmental review requirements.

Consistent with 40 CFR 1500.5(g) and 1502.25, the Responsible Official must determine the applicability of other environmental laws and executive orders, to the fullest extent possible. The Responsible Official should incorporate applicable requirements as early in the NEPA review process as possible.

§ 6.202 Interagency cooperation.

(a) Consistent with 40 CFR 1501.5, 1501.6, and 1508.5, the Responsible Official will request other appropriate federal and non-federal agencies to be joint lead or cooperating agencies as a means of encouraging early coordination and cooperation with federal agencies, state and local governments, and federally-recognized Indian tribes with jurisdiction by law or special expertise.

(b) For an EPA action related to an action of any other federal agency, the Responsible Official must comply with the requirements of 40 CFR 1501.5 and 1501.6 relating to lead agencies and cooperating agencies, respectively. The Responsible Official will work with the other involved agencies to facilitate coordination and to reduce delay and duplication.

(c) To prepare a single document to fulfill both NEPA and state or local government, or federally-recognized Indian tribe requirements, consistent with 40 CFR 1506.2, the Responsible Official should enter into a written agreement with the involved state or local government, or federally-recognized Indian tribe that sets out the intentions of the parties, including the responsibilities each party intends to assume and procedures the parties intend to follow.

§ 6.203 Public participation.

(a) *General requirements.* (1) The procedures in this section apply to EPA's environmental review processes, including development, supplementation, adoption, and revision of NEPA documents.

(2) The Responsible Official will make diligent efforts to involve the public, including applicants, in the preparation of EAs or EISs consistent with 40 CFR 1501.4 and 1506.6 and applicable EPA public participation regulations (e.g., 40 CFR Part 25).

(3) EPA NEPA documents will use plain language to the extent possible.

(4) The Responsible Official will, to the greatest extent possible, give notice to any state or local government, or federally-recognized Indian tribe that, in the Official's judgment, may be affected by an action for which EPA plans to prepare an EA or an EIS.

(5) The Responsible Official must use appropriate communication procedures to ensure meaningful public participation throughout the NEPA

process. The Responsible Official must make reasonable efforts to involve the potentially affected communities where the proposed action is expected to have environmental impacts or where the proposed action may have human health or environmental effects in any communities, including minority communities, low-income communities, or federally-recognized Indian tribal communities.

(b) *EA and FONSI requirements.* (1) At least thirty (30) calendar days before making the decision on whether, and if so how, to proceed with a proposed action, the Responsible Official must make the EA and preliminary FONSI available for review and comment to the interested federal agencies, state and local governments, federally-recognized Indian tribes and the affected public. The Responsible Official must respond to any substantive comments received and finalize the EA and FONSI before making a decision on the proposed action.

(2) Where circumstances make it necessary to take the action without observing the 30 calendar day comment period, the Responsible Official must notify the NEPA Official before taking such action. If the NEPA Official determines that a reduced comment period would be in the best interest of the Government, the NEPA Official will inform the Responsible Official, as soon as possible, of this approval. The Responsible Official will make the EA and preliminary FONSI available for review and comment for the reduced comment period.

(c) *EIS and ROD requirements.* (1) As soon as practicable after the decision to prepare an EIS and before beginning the scoping process, the Responsible Official must ensure that a notice of intent (NOI) (see 40 CFR 1508.22) is published in the **Federal Register**. The NOI must briefly describe the proposed action; a preliminary list of environmental issues to be analyzed, and possible alternatives; EPA's proposed scoping process including, if available, whether, when, and where any scoping meeting will be held; and the name and contact information for the person designated by EPA to answer questions about the proposed action and the EIS. The NOI must invite comments and suggestions on the scope of the EIS.

(2) The Responsible Official must disseminate the NOI consistent with 40 CFR 1506.6.

(3) The Responsible Official must conduct the scoping process consistent with 40 CFR 1501.7 and any applicable EPA public participation regulations (e.g., 40 CFR Part 25).

(i) Publication of the NOI in the **Federal Register** begins the scoping process.

(ii) The Responsible Official must ensure that the scoping process for an EIS allows a minimum of thirty (30) days for the receipt of public comments.

(iii) The Responsible Official may hold one or more public meetings as part of the scoping process for an EPA EIS. The Responsible Official must announce the location, date, and time of public scoping meetings in the NOI or by other appropriate means, such as additional notices in the **Federal Register**, news releases to the local media, or letters to affected parties. Public scoping meetings should be held at least fifteen (15) days after public notification.

(iv) The Responsible Official must use appropriate means to publicize the availability of draft and final EISs and the time and place for public meetings or hearings on draft EISs. The methods chosen for public participation must focus on reaching persons who may be interested in the proposed action. Such persons include those in potentially affected communities where the proposed action is known or expected to have environmental impacts including minority communities, low-income communities, or federally-recognized Indian tribal communities.

(v) The Responsible Official must circulate the draft and final EISs consistent with 40 CFR 1502.19 and any applicable EPA public participation regulations and in accordance with the 45-day public review period for draft EISs and the 30-day public review period for final EISs (see § 6.209 of this part). Consistent with section 6.209(b) of this part, the Responsible Official may establish a longer public comment period for a draft or final EIS.

(vi) After preparing a draft EIS and before preparing a final EIS, the Responsible Official must solicit the comments of appropriate federal agencies, state and/or local governments, and/or federally-recognized Indian tribes, and the public (see 40 CFR 1503.1). The Responsible Official must respond in the final EIS to substantive comments received (see 40 CFR 1503.4).

(vii) The Responsible Official may conduct one or more public meetings or hearings on the draft EIS as part of the public involvement process. If meetings or hearings are held, the Responsible Official must make the draft EIS available to the public at least thirty (30) days in advance of any meeting or hearing.

(4) The Responsible Official must make the ROD available to the public upon request.

§ 6.204 Categorical exclusions and extraordinary circumstances.

(a) A proposed action may be categorically excluded if the action fits within a category of action that is eligible for exclusion and the proposed action does not involve any extraordinary circumstances.

(1) Certain actions eligible for categorical exclusion require the Responsible Official to document a determination that a categorical exclusion applies. The documentation must include: A brief description of the proposed action; a statement identifying the categorical exclusion that applies to the action; and a statement explaining why no extraordinary circumstances apply to the proposed action. The Responsible Official must make a copy of the determination document available to the public upon request. The categorical exclusions requiring this documentation are listed in paragraphs (a)(1)(i) through (a)(1)(v) of this section.

(i) Actions at EPA owned or operated facilities involving routine facility maintenance, repair, and grounds-keeping; minor rehabilitation, restoration, renovation, or revitalization of existing facilities; functional replacement of equipment; acquisition and installation of equipment; or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities.

(ii) Actions relating to existing infrastructure systems (such as sewer systems; drinking water supply systems; and stormwater systems, including combined sewer overflow systems) that involve minor upgrading, or minor expansion of system capacity or rehabilitation (including functional replacement) of the existing system and system components (such as the sewer collection network and treatment system; the system to collect, treat, store and distribute drinking water; and stormwater systems, including combined sewer overflow systems) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include actions that: involve new or relocated discharges to surface or ground water; will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water; will provide capacity to serve a population 30% greater than the existing population; are not supported by the state, or other regional growth plan or strategy; or directly or indirectly involve or relate to upgrading or

extending infrastructure systems primarily for the purposes of future development.

(iii) Actions in unsewered communities involving the replacement of existing onsite systems, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of pollutants from existing sources, or relocate existing discharge.

(iv) Actions involving re-issuance of a NPDES permit for a new source providing the conclusions of the original NEPA document are still valid (including the appropriate mitigation), there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective.

(v) Actions for award of grants authorized by Congress under EPA's annual Appropriations Act that are solely for reimbursement of the costs of a project that was completed prior to the date the appropriation was enacted.

(2) Certain actions eligible for categorical exclusion do not require the Responsible Official to document a determination that a categorical exclusion applies. These categorical exclusions are listed in paragraphs (a)(2)(i) through (a)(2)(x) of this section.

(i) Procedural, ministerial, administrative, financial, personnel, and management actions necessary to support the normal conduct of EPA business.

(ii) Acquisition actions (compliant with applicable procedures for sustainable or ''green'' procurement) and contracting actions necessary to support the normal conduct of EPA business.

(iii) Actions involving information collection, dissemination, or exchange; planning; monitoring and sample collection wherein no significant alteration of existing ambient conditions occurs; educational and training programs; literature searches and studies; computer studies and activities; research and analytical activities; development of compliance assistance tools; and architectural and engineering studies. These actions include those conducted directly by EPA and EPA actions relating to contracts or assistance agreements involving such actions.

(iv) Actions relating to or conducted completely within a permanent, existing contained facility, such as a laboratory, or other enclosed building, provided that reliable and scientifically-sound methods are used to appropriately dispose of wastes and safeguards exist to prevent hazardous, toxic, and radioactive materials in excess of allowable limits from entering the environment. Where such activities are conducted at laboratories, the Lab Director or other appropriate official must certify in writing that the laboratory follows good laboratory practices and adheres to all applicable federal, state, local, and federally-recognized Indian tribal laws and regulations. This category does not include activities related to construction and/or demolition within the facility (see paragraph (a)(1)(i) of this section).

(v) Actions involving emergency preparedness planning and training activities.

(vi) Actions involving the acquisition, transfer, lease, disposition, or closure of existing permanent structures, land, equipment, materials, or personal property provided that the property: has been used solely for office functions; has never been used for laboratory purposes by any party; does not require site remediation; and will be used in essentially the same manner such that the type and magnitude of the impacts will not change substantially. This category does not include activities related to construction and/or demolition of structures on the property (see paragraph (a)(1)(i) of this section).

(vii) Actions involving providing technical advice to federal agencies, state or local governments, federally-recognized Indian tribes, foreign governments, or public or private entities.

(viii) Actions involving approval of EPA participation in international ''umbrella'' agreements for cooperation in environmental-related activities that would not commit the United States to any specific projects or actions.

(ix) Actions involving containment or removal and disposal of asbestos-containing material or lead-based paint from EPA owned or operated facilities when undertaken in accordance with applicable regulations.

(x) Actions involving new source NPDES permit modifications that make only technical corrections to the NPDES permit (such as correcting typographical errors) that do not result in a change in environmental impacts or conditions.

(b) The Responsible Official must review actions eligible for categorical exclusion to determine whether any extraordinary circumstances are involved. Extraordinary circumstances are listed in paragraphs (b)(1) through (b)(10) of this section. (See 40 CFR 1508.4.)

(1) The proposed action is known or expected to have potentially significant environmental impacts on the quality of the human environment either individually or cumulatively over time.

(2) The proposed action is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally-recognized Indian tribal communities.

(3) The proposed action is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.

(4) The proposed action is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the National Register of Historic Places.

(5) The proposed action is known or expected to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.

(6) The proposed action is known or expected to cause significant adverse air quality effects.

(7) The proposed action is known or expected to have a significant effect on the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans.

(8) The proposed action is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.

(9) The proposed action is known or expected to be associated with providing financial assistance to a federal agency through an interagency agreement for a project that is known or expected to have potentially significant environmental impacts.

(10) The proposed action is known or expected to conflict with federal, state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.

(c) The Responsible Official may request that an applicant submit sufficient information to enable the Responsible Official to determine whether a categorical exclusion applies to the applicant's proposed action or

whether an exceptional circumstance applies. Pursuant to Subpart C of this part, applicants are not required to prepare EIDs for actions that are being considered for categorical exclusion.

(d) The Responsible Official must prepare an EA or EIS when a proposed action involves extraordinary circumstances.

(e) After a determination has been made that a categorical exclusion applies to an action, if new information or changes in the proposed action involve or relate to at least one of the extraordinary circumstances or otherwise indicate that the action may not meet the criteria for categorical exclusion and the Responsible Official determines that an action no longer qualifies for a categorical exclusion, the Responsible Official will prepare an EA or EIS.

(f) The Responsible Official, or other interested parties, may request the addition, amendment, or deletion of a categorical exclusion.

(1) Such requests must be made in writing, be directed to the NEPA Official, and contain adequate information to support and justify the request.

(2) Proposed new categories of actions for exclusion must meet these criteria:

(i) Actions covered by the proposed categorical exclusion generally do not individually or cumulatively have a significant effect on the human environment and have been found by EPA to have no such effect.

(ii) Actions covered by the proposed categorical exclusion generally do not involve extraordinary circumstances as set out in paragraphs (b)(1) through (b)(14) of this section and generally do not require preparation of an EIS; and

(iii) Information adequate to determine that a proposed action is properly covered by the proposed category will generally be available.

(3) The NEPA Official must determine that the addition, amendment, or deletion of a categorical exclusion is appropriate.

(g) Any addition, amendment, or deletion of a categorical exclusion will be done by rule-making and in coordination with CEQ pursuant to 40 CFR 1507.3 to amend paragraph (a)(1) or paragraph (a)(2) of this section.

§ 6.205 Environmental assessments.

(a) The Responsible Official must prepare an environmental assessment (EA) (see 40 CFR 1508.9) for a proposed action that is expected to result in environmental impacts and the significance of the impacts is not known. An EA is not required if the proposed action is categorically excluded, or if the Responsible Official has decided to prepare an EIS. (See 40 CFR 1501.3.)

(b) Types of actions that normally require the preparation of an EA include:

(1) The award of wastewater treatment construction grants under Title II of the Clean Water Act;

(2) EPA's issuance of new source NPDES permits under section 402 of the Clean Water Act;

(3) EPA actions involving renovations or new construction of facilities;

(4) Certain grants awarded for special projects authorized by Congress through the Agency's annual Appropriations Act; and

(5) Research and development projects, such as initial field demonstration of a new technology, field trials of a new product or new uses of an existing technology, alteration of a local habitat by physical or chemical means, or actions that may result in the release of radioactive, hazardous, or toxic substances, or biota.

(c) The Responsible Official, or other interested parties, may request changes to the list of actions that normally require the preparation of an EA (i.e., the addition, amendment, or deletion of a type of action).

(d) Consistent with 40 CFR 1508.9, an EA must provide sufficient information and analysis for determining whether to prepare an EIS or to issue a FONSI (see 40 CFR 1508.9(a)), and may include analyses needed for other environmental determinations. The EA must focus on resources that might be impacted and any environmental issues that are of public concern.

(e) An EA must include:

(1) A brief discussion of:

(i) The need for the proposed action;

(ii) The alternatives, including the no action alternative (which must be assessed even when the proposed action is specifically required by legislation or a court order);

(iii) The affected environment, including baseline conditions that may be impacted by the proposed action and alternatives;

(iv) The environmental impacts of the proposed action and alternatives, including any unresolved conflicts concerning alternative uses of available resources; and

(v) Other applicable environmental laws and executive orders.

(2) A listing or summary of any coordination or consultation undertaken with any federal agency, state or local government, or federally-recognized Indian tribe regarding compliance with applicable laws and executive orders;

(3) Identification and description of any mitigation measures considered, including any mitigation measures that must be adopted to ensure the action will not have significant impacts; and

(4) Incorporation of documents by reference, if appropriate, including, when available, the EID for the action.

§ 6.206 Findings of no significant impact.

(a) The Responsible Official may issue a finding of no significant impact (FONSI) (see 40 CFR 1508.13) only if the EA supports the finding that the proposed action will not have a significant effect on the human environment. If the EA does not support a FONSI, the Responsible Official must prepare an EIS and issue a ROD before taking action on the proposed action.

(b) Consistent with 40 CFR 1508.13, a FONSI must include:

(1) The EA, or in lieu of the EA, a summary of the supporting EA that includes a brief description of the proposed action and alternatives considered in the EA, environmental factors considered, and project impacts; and

(2) A brief description of the reasons why there are no significant impacts.

(c) In addition, the FONSI must include:

(1) Any commitments to mitigation that are essential to render the impacts of the proposed action not significant;

(2) The date of issuance; and

(3) The signature of the Responsible Official.

(d) The Responsible Official must ensure that an applicant that has committed to mitigation possesses the authority and ability to fulfill the commitments.

(e) The Responsible Official must make a preliminary FONSI available to the public in accordance with section 6.203(b) of this part before taking action.

(f) The Responsible Official may proceed with the action subject to any mitigation measures described in the FONSI after responding to any substantive comments received on the preliminary FONSI during the 30-day comment period, or 30 days after issuance of the FONSI if no substantive comments are received.

(g) The Responsible Official must ensure that the mitigation measures necessary to the FONSI determination, at a minimum, are enforceable, and conduct appropriate monitoring of the mitigation measures.

(h) The Responsible Official may revise a FONSI at any time provided the revision is supported by an EA. A revised FONSI is subject to all provisions of paragraph (d) of this section.

§ 6.207 Environmental impact statements.

(a) The Responsible Official will prepare an environmental impact statement (EIS) (see 40 CFR 1508.11) for major federal actions significantly affecting the quality of the human environment, including actions for which the EA analysis demonstrates that significant impacts will occur that will not be reduced or eliminated by changes to or mitigation of the proposed action.

(1) EISs are normally prepared for the following actions:

(i) New regional wastewater treatment facilities or water supply systems for a community with a population greater than 100,000.

(ii) Expansions of existing wastewater treatment facilities that will increase existing discharge to an impaired water by greater than 10 million gallons per day (mgd).

(iii) Issuance of new source NPDES permit for a new major industrial discharge.

(iv) Issuance of a new source NPDES permit for a new oil/gas development and production operation on the outer continental shelf.

(v) Issuance of a new source NPDES permit for a deepwater port with a projected discharge in excess of 10 mgd.

(2) The Responsible Official, or other interested party, may request changes to the list of actions that normally require the preparation of an EIS (i.e., the addition, amendment, or deletion of a type of action).

(3) A proposed action normally requires an EIS if it meets any of the following criteria. (See 40 CFR 1507.3(b)(2)).

(i) The proposed action would result in a discharge of treated effluent from a new or modified existing facility into a body of water and the discharge is likely to have a significant effect on the quality of the receiving waters.

(ii) The proposed action is likely to directly, or through induced development, have significant adverse effect upon local ambient air quality or local ambient noise levels.

(iii). The proposed action is likely to have significant adverse effects on surface water reservoirs or navigation projects.

(iv) The proposed action would be inconsistent with state or local government, or federally-recognized Indian tribe approved land use plans or regulations, or federal land management plans.

(v) The proposed action would be inconsistent with state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws and regulations for protection of the environment.

(vi) The proposed action is likely to significantly affect the environment through the release of radioactive, hazardous or toxic substances, or biota.

(vii) The proposed action involves uncertain environmental effects or highly unique environmental risks that are likely to be significant.

(viii) The proposed action is likely to significantly affect national natural landmarks or any property on or eligible for the National Register of Historic Places.

(ix) The proposed action is likely to significantly affect environmentally important natural resources such as wetlands, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.

(x) The proposed action in conjunction with related federal, state or local government, or federally-recognized Indian tribe projects is likely to produce significant cumulative impacts.

(xi) The proposed action is likely to significantly affect the pattern and type of land use (industrial, commercial, recreational, residential) or growth and distribution of population including altering the character of existing residential areas.

(4) An EIS must be prepared consistent with 40 CFR Part 1502.

(b) When appropriate, the Responsible Official will prepare a legislative EIS consistent with 40 CFR 1506.8.

(c) In preparing an EIS, the Responsible Official must determine if an applicant, other federal agencies or state or local governments, or federally-recognized Indian tribes are involved with the project and apply the applicable provisions of § 6.202 and Subpart C of this part.

(d) An EIS must:

(1) Comply with all requirements at 40 CFR parts 1500 through 1508.

(2) Analyze all reasonable alternatives and the no action alternative (which may be the same as denying the action). Assess the no action alternative even when the proposed action is specifically required by legislation or a court order.

(3) Describe the potentially affected environment including, as appropriate, the size and location of new and existing facilities, land requirements, operation and maintenance requirements, auxiliary structures such as pipelines or transmission lines, and construction schedules.

(4) Summarize any coordination or consultation undertaken with any federal agency, state and/or local government, and/or federally-recognized Indian tribe, including copies or summaries of relevant correspondence.

(5) Summarize any public meetings held during the scoping process including the date, time, place, and purpose of the meetings. The final EIS must summarize the public participation process including the date, time, place, and purpose of meetings or hearings held after publication of the draft EIS.

(6) Consider substantive comments received during the public participation process. The draft EIS must consider the substantive comments received during the scoping process. The final EIS must include or summarize all substantive comments received on the draft EIS, respond to any substantive comments on the draft EIS, and explain any changes to the draft EIS and the reason for the changes.

(7) Include the names and qualifications of the persons primarily responsible for preparing the EIS including an EIS prepared under a third-party contract (if applicable), significant background papers, and the EID (if applicable).

(e) The Responsible Official must prepare a supplemental EIS when appropriate, consistent with 40 CFR 1502.9.

§ 6.208 Records of decision.

(a) The Responsible Official may not make any decisions on the action until the time periods in 40 CFR 1506.10 have been met.

(b) A record of decision (ROD) records EPA's decision on the action. Consistent with 40 CFR 1505.2, a ROD must include:

(1) A brief description of the proposed action and alternatives considered in the EIS, environmental factors considered, and project impacts;

(2) Any commitments to mitigation; and

(3) An explanation if the environmentally preferred alternative was not selected.

(c) In addition, the ROD must include:

(1) Responses to any substantive comments on the final EIS;

(2) The date of issuance; and

(3) The signature of the Responsible Official.

(d) The Responsible Official must ensure that an applicant that has committed to mitigation possesses the authority and ability to fulfill the commitment.

(e) The Responsible Official must make a ROD available to the public.

(f) Upon issuance of the ROD, the Responsible Official may proceed with the action subject to any mitigation

measures described in the ROD. The Responsible Official must ensure adequate monitoring of mitigation measures identified in the ROD.

(g) If the mitigation identified in the ROD will be included as a condition in the permit or grant, the Responsible Official must ensure that EPA has the authority to impose the conditions. The Responsible Official should ensure that compliance with assistance agreement or permit conditions will be monitored and enforced under EPA's assistance agreement and permit authorities.

(h) The Responsible Official may revise a ROD at any time provided the revision is supported by an EIS. A revised ROD is subject to all provisions of paragraph (d) of this section.

§ 6.209 Filing requirements for EPA EISs.

(a) The Responsible Official must file an EIS with the NEPA Official no earlier than the date the document is transmitted to commenting agencies and made available to the public. The Responsible Official must comply with any guidelines established by the NEPA Official for the filing system process and comply with 40 CFR 1506.9 and 1506.10. The review periods are computed through the filing system process and published in the **Federal Register** in the Notice of Availability.

(b) The Responsible Official may request that the NEPA Official extend the review periods for an EIS. The NEPA Official will publish notice of an extension of the review period in the **Federal Register** and notify the CEQ.

§ 6.210 Emergency circumstances.

If emergency circumstances make it necessary to take an action that has a significant environmental impact without observing the provisions of subparts A through C of this part that are required by the CEQ Regulations, the Responsible Official must consult with the NEPA Official at the earliest possible time. Consistent with 40 CFR 1506.11, the Responsible Official and the NEPA Official should consult with CEQ about alternative arrangements at the earliest opportunity. Actions taken without observing the provisions of subparts A through C of this part will be limited to actions necessary to control the immediate impacts of the emergency; other actions remain subject to the environmental review process.

Subpart C—Requirements for Environmental Information Documents and Third-Party Agreements for EPA Actions Subject to NEPA

§ 6.300 Applicability.

(a) This section applies to actions that involve applications to EPA for permits or assistance agreements.

(b) The Responsible Official is responsible for the environmental review process on EPA's action (that is, issuing the permit or awarding the assistance agreement) with the applicant contributing through submission of an EID or a draft EA and supporting documents.

(c) An applicant is not required to prepare an EID when:

(1) The action has been categorically excluded or requires the preparation of an EIS; or

(2) The applicant will prepare and submit a draft EA and supporting documents.

(d) The Responsible Official must notify the applicant if EPA will not require submission of an EID.

§ 6.301 Applicant requirements.

(a) The applicant must prepare an EID in consultation with the Responsible Official, unless the Responsible Official has notified the applicant that an EID is not required. The EID must be of sufficient scope and content to enable the Responsible Official to prepare an EA and FONSI or, if necessary, an EIS and ROD. The applicant must submit the EID to the Responsible Official.

(b) The applicant must consult with the Responsible Official as early as possible in the planning process to obtain guidance with respect to the appropriate level and scope of environmental information required for the EID.

(c) As part of the EID process, the applicant may consult with appropriate federal agencies, state and local governments, federally-recognized Indian tribes, and other potentially affected parties to identify their interests in the project and the environmental issues associated with the project.

(d) The applicant must notify the Responsible Official as early as possible of other federal agency, state or local government, or federally-recognized Indian tribe requirements related to the project. The applicant also must notify the Responsible Official of any private entities and organizations affected by the proposed project. (See 40 CFR 1501.2(d)(2).)

(e) The applicant must notify the Responsible Official if, during EPA's environmental review process, the applicant:

(1) Changes its plans for the project as originally submitted to EPA; and/or

(2) Changes its schedule for the project from that originally submitted to EPA.

(f) In accordance with § 6.204, where appropriate, the applicant may request a categorical exclusion determination by the Responsible Official. If requested by the Responsible Official, the applicant must submit information to the Responsible Official regarding the application of a categorical exclusion to EPA's pending action and the applicant's project.

§ 6.302 Responsible Official requirements.

(a) Consistent with 40 CFR 1501.2(d), the Responsible Official must ensure early involvement of applicants in the environmental review process to identify environmental effects, avoid delays, and resolve conflicts.

(b) The Responsible Official must notify the applicant if a determination has been made that the action has been categorically excluded, or if EPA needs additional information to support the application of a categorical exclusion or if the submitted information does not support the application of a categorical exclusion and that an EA, or an EIS, will be required.

(c) When an EID is required for a project, the Responsible Official must consult with the applicant and provide the applicant with guidance describing the scope and level of environmental information required.

(1) The Responsible Official must provide guidance on a project-by-project basis to any applicant seeking such assistance. For major categories of actions involving a large number of applicants, the Responsible Official may prepare and make available generic guidance describing the recommended level and scope of environmental information that applicants should provide.

(2) The Responsible Official must consider the extent to which the applicant is capable of providing the required information. The Responsible Official may not require the applicant to gather data or perform analyses that unnecessarily duplicate either existing data or the results of existing analyses available to EPA. The Responsible Official must limit the request for environmental information to that necessary for the environmental review.

(d) If, prior to completion of the environmental review for a project, the Responsible Official receives notification, that the applicant is proposing to or taking an action that would result in significant impacts or would limit alternatives, the

Responsible Official must notify the applicant promptly that EPA will take appropriate action to ensure that the objectives and procedures of NEPA are achieved (see 40 CFR 1506.1(b)). Such actions may include withholding grant funds or denial of permits.

(e) The Responsible Official must begin the NEPA review as soon as possible after receiving the applicant's EID or draft EA. The Responsible Official must independently evaluate the information submitted and be responsible for its accuracy (see 40 CFR 1506.5).

(f) At the request of an applicant and at the discretion of the Responsible Official, an applicant may prepare an EA or EIS and supporting documents or enter into a third-party contract pursuant to § 6.303.

(g) The Responsible Official must review, and take responsibility for the completed NEPA documents, before rendering a final decision on the proposed action.

§ 6.303 Third-party agreements.

(a) If an EA or EIS is to be prepared for an action subject to subparts A through C of this part, the Responsible Official and the applicant may enter into an agreement whereby the applicant engages and pays for the services of a third-party contractor to prepare an EA or EIS and any associated documents for consideration by EPA. In such cases, the Responsible Official must approve the qualifications of the third-party contractor. The third-party contractor must be selected on the basis of ability and absence of any conflict of interest. Consistent with 40 CFR 1506.5(c), in consultation with the applicant, the Responsible Official shall select the contractor. The Responsible Official must provide guidance to the applicant and contractor regarding the information to be developed, including the project's scope, and guide and participate in the collection, analysis, and presentation of the information. The Responsible Official has sole authority for final approval of and EA or EIS.

(1) The applicant must engage and pay for the services of a contractor to prepare the EA or EIS and any associated documents without using EPA financial assistance (including required match).

(2) The Responsible Official, in consultation with the applicant, must ensure that the contractor is qualified to prepare an EA or EIS, and that the substantive terms of the contract specify the information to be developed, and the procedures for gathering, analyzing and presenting the information.

(3) The Responsible Official must prepare a disclosure statement for the applicant to include in the contract specifying that the contractor has no financial or other interest in the outcome of the project (see 40 CFR 1506.5(c)).

(4) The Responsible Official will ensure that the EA or EIS and any associated documents contain analyses and conclusions that adequately assess the relevant environmental issues.

(b) In order to make a decision on the action, the Responsible Official must independently evaluate the information submitted in the EA or EIS and any associated documents, and issue an EA or draft and final EIS. After review of, and appropriate changes to, the EA or EIS submitted by the applicant, the Responsible Official may accept it as EPA's document. The Responsible Official is responsible for the scope, accuracy, and contents of the EA or EIS and any associated documents (see 40 CFR 1506.5).

(c) A third-party agreement may not be initiated unless both the applicant and the Responsible Official agree to its creation and terms.

(d) The terms of the contract between the applicant and the third-party contractor must ensure that the contractor does not have recourse to EPA for financial or other claims arising under the contract, and that the Responsible Official, or other EPA designee, may give technical advice to the contractor.

Subpart D—Assessing the Environmental Effects Abroad of EPA Actions

Authority: 42 U.S.C. 4321, note, E.O. 12114, 44 FR 1979, 3 CFR, 1979 Comp., p. 356.

§ 6.400 Purpose and policy.

(a) *Purpose.* On January 4, 1979, the President signed Executive Order 12114 entitled ''Environmental Effects Abroad of Major Federal Actions.'' The purpose of this Executive Order is to enable responsible Federal officials in carrying out or approving major Federal actions which affect foreign nations or the global commons to be informed of pertinent environmental considerations and to consider fully the environmental impacts of the actions undertaken. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the Marine Protection, Research, and Sanctuaries Act (MPRSA) (33 U.S.C. 1401 *et seq.*). It should be noted, however, that in fulfilling its responsibilities under Executive Order 12114, EPA shall be guided by CEQ regulations only to the extent that they are made expressly applicable by this subpart. The procedures set forth below reflect EPA's duties and responsibilities as required under the Executive Order and satisfy the requirement for issuance of procedures under section 2–1 of the Executive Order.

(b) *Policy.* It shall be the policy of this Agency to carry out the purpose and requirements of the Executive Order to the fullest extent possible. EPA, within the realm of its expertise, shall work with the Department of State and the Council on Environmental Quality to provide information to other Federal agencies and foreign nations to heighten awareness of and interest in the environment. EPA shall further cooperate to the extent possible with Federal agencies to lend special expertise and assistance in the preparation of required environmental documents under the Executive Order. EPA shall perform environmental reviews of activities significantly affecting the global commons and foreign nations as required under Executive Order 12114 and as set forth under these procedures.

§ 6.401 Applicability.

(a) Administrative actions requiring environmental review. The environmental review requirements apply to the activities of EPA as follows:

(1) Major research or demonstration projects which affect the global commons or a foreign nation.

(2) Ocean dumping activities carried out under section 102 of the MPRSA which affect the related environment.

(3) Major permitting or licensing by EPA of facilities which affect the global commons or the environment of a foreign nation. This may include such actions as the issuance by EPA of hazardous waste treatment, storage, or disposal facility permits pursuant to section 3005 of the Resource Conservation and Recovery Act (42 U.S.C. 6925), NPDES permits pursuant to section 402 of the Clean Water Act (33 U.S.C. 1342), and prevention of significant deterioration approvals pursuant to Part C of the Clean Air Act (42 U.S.C. 7470 *et seq.*)

(4) Wastewater Treatment Construction Grants Program under section 201 of the Clean Water Act when activities addressed in the facility plan would have environmental effects abroad.

(5) Other EPA activities as determined by OFA and OIA (see § 6.406(c)).

(b) [Reserved].

§ 6.402 Definitions.

As used in this subpart, *environment* means the natural and physical environment and excludes social, economic and other environments; *global commons* is that area (land, air, water) outside the jurisdiction of any nation; and *responsible official* is either the EPA Assistant Administrator or Regional Administrator as appropriate for the particular EPA program. Also, an action *significantly* affects the environment if it does *significant* harm to the environment even though on balance the action may be beneficial to the environment. To the extent applicable, the responsible official shall address the considerations set forth in the CEQ regulations under 40 CFR 1508.27 in determining significant effect.

§ 6.403 Environmental review and assessment requirements.

(a) *Research and demonstration projects.* The appropriate Assistant Administrator is responsible for performing the necessary degree of environmental review on research and demonstration projects undertaken by EPA. If the research or demonstration project affects the environment of the global commons, the applicant shall prepare an environmental analysis. This will assist the responsible official in determining whether an EIS is necessary. If it is determined that the action significantly affects the environment of the global commons, then an EIS shall be prepared. If the undertaking significantly affects a foreign nation EPA shall prepare a unilateral, bilateral or multilateral environmental study. EPA shall afford the affected foreign nation or international body or organization an opportunity to participate in this study. This environmental study shall discuss the need for the action, analyze the environmental impact of the various alternatives considered and list the agencies and other parties consulted.

(b) *Ocean dumping activities.* (1) The Assistant Administrator for Water shall ensure the preparation of appropriate environmental documents relating to ocean dumping activities in the global commons under section 102 of the MPRSA. For ocean dumping site designations prescribed pursuant to section 102(c) of the MPRSA and 40 CFR part 228, and for the establishment or revision of criteria under section 102(a) of the MPRSA, EPA shall prepare appropriate environmental documents consistent with EPA's Notice of Policy and Procedures for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents dated October 29, 1998.

(2) For individual permits issued by EPA under section 102(b) an environmental assessment shall be made by EPA. Pursuant to 40 CFR part 221, the permit applicant shall submit with the application an environmental analysis which includes a discussion of the need for the action, an outline of alternatives, and an analysis of the environmental impact of the proposed action and alternatives consistent with the EPA criteria established under section 102(a) of MPRSA. The information submitted under 40 CFR part 221 shall be sufficient to satisfy the environmental assessment requirement.

(c) *EPA permitting and licensing activities.* The appropriate Regional Administrator is responsible for conducting concise environmental reviews with regard to permits issued under section 3005 of the Resource Conservation and Recovery Act (RCRA permits), section 402 of the Clean Water Act (NPDES permits), and section 165 of the Clean Air Act (PSD permits), for such actions undertaken by EPA which affect the global commons or foreign nations. The information submitted by applicants for such permits or approvals under the applicable consolidated permit regulations (40 CFR parts 122 and 124) and Prevention of Significant Deterioration (PSD) regulations (40 CFR part 52) shall satisfy the environmental document requirement under Section 2–4(b) of Executive Order 12114. Compliance with applicable requirements in part 124 of the consolidated permit regulations (40 CFR part 124) shall be sufficient to satisfy the requirements to conduct a concise environmental review for permits subject to this paragraph.

(d) *Wastewater treatment facility planning.* 40 CFR part 6, subparts A through C, detail the environmental review process for the facilities planning process under the wastewater treatment works construction grants program. For the purpose of these regulations, the facility plan shall also include a concise environmental review of those activities that would have environmental effects abroad. This shall apply only to the Step 1 grants awarded after January 14, 1981, but on or before December 29, 1981, and facilities plans developed after December 29, 1981. Where water quality impacts identified in a facility plan are the subject of water quality agreements with Canada or Mexico, nothing in these regulations shall impose on the facility planning process coordination and consultation requirements in addition to those required by such agreements.

(e) *Review by other Federal agencies and other appropriate officials.* The responsible officials shall consult with other Federal agencies with relevant expertise during the preparation of the environmental document. As soon as feasible after preparation of the environmental document, the responsible official shall make the document available to the Council on Environmental Quality, Department of State, and other appropriate officials. The responsible official with assistance from OIA shall work with the Department of State to establish procedures for communicating with and making documents available to foreign nations and international organizations.

§ 6.404 Lead or cooperating agency.

(a) *Lead Agency.* Section 3–3 of Executive Order 12114 requires the creation of a lead agency whenever an action involves more than one Federal agency. In implementing section 3–3, EPA shall, to the fullest extent possible, follow the guidance for the selection of a lead agency contained in 40 CFR 1501.5 of the CEQ regulations.

(b) *Cooperating Agency.* Under Section 2–4(d) of the Executive Order, Federal agencies with special expertise are encouraged to provide appropriate resources to the agency preparing environmental documents in order to avoid duplication of resources. In working with a lead agency, EPA shall to the fullest extent possible serve as a cooperating agency in accordance with 40 CFR 1501.6. When other program commitments preclude the degree of involvement requested by the lead agency, the responsible EPA official shall so inform the lead agency in writing.

§ 6.405 Exemptions and considerations.

Under section 2–5 (b) and (c) of the Executive Order, Federal agencies may provide for modifications in the contents, timing and availability of documents or exemptions from certain requirements for the environmental review and assessment. The responsible official, in consultation with the Director, Office of Federal Activities (OFA), and the Assistant Administrator, Office of International Affairs (OIA), may approve modifications for situations described in section 2–5(b). The responsible official, in consultation with the Director, OFA and Assistant Administrator, OIA, shall obtain exemptions from the Administrator for situations described in section 2–5(c). The Department of State and the Council on Environmental Quality shall be consulted as soon as possible on the utilization of such exemptions.

§ 6.406 Implementation.

(a) *Oversight.* OFA is responsible for overseeing the implementation of these procedures and shall consult with OIA wherever appropriate. OIA shall be utilized for making formal contacts with the Department of State. OFA shall assist the responsible officials in carrying out their responsibilities under these procedures.

(b) *Information exchange.* OFA with the aid of OIA, shall assist the Department of State and the Council on Environmental Quality in developing the informational exchange on environmental review activities with foreign nations.

(c) *Unidentified activities.* The responsible official shall consult with OFA and OIA to establish the type of environmental review or document appropriate for any new EPA activities or requirements imposed upon EPA by statute, international agreement or other agreements.

[FR Doc. E7–18053 Filed 9–18–07; 8:45 am]

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S. 1/P.L. 110–81

Honest Leadership and Open Government Act of 2007 (Sept. 14, 2007; 121 Stat. 735)

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