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Presidential Documents

Title 3—

The President

Presidential Determination No. 2008–1 of October 2, 2007

Presidential Determination on FY 2008 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act, and Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act, as Amended

Memorandum for the Secretary of State

In accordance with section 207 of the Immigration and Nationality Act (the ''Act'')(8 U.S.C. 1157), as amended, and after appropriate consultations with the Congress, I hereby make the following determinations and authorize the following actions:

The admission of up to 80,000 refugees to the United States during FY 2008 is justified by humanitarian concerns or is otherwise in the national interest; provided, however, that this number shall be understood as including persons admitted to the United States during FY 2008 with Federal refugee resettlement assistance under the Amerasian immigrant admissions program, as provided below. The ceiling shall be construed as a maximum not to be exceeded and not a minimum to be achieved.

The 80,000 admissions numbers shall be allocated among refugees of special humanitarian concern to the United States in accordance with the following regional allocations; provided, however, that the number of admissions allocated to the East Asia region shall include persons admitted to the United States during FY 2008 with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100–202 (Amerasian immigrants and their family members):

Africa	16,000
East Asia	20,000
Europe and Central Asia	3,000
Latin America/Caribbean	3,000
Near East/South Asia	28,000
Unallocated Reserve	10,000

The 10,000 unallocated refugee numbers shall be allocated to regional ceilings as needed. Upon providing notification to the Judiciary Committees of the Congress, you are hereby authorized to use unallocated admissions in regions where the need for additional admissions arises.

Additionally, upon notification to the Judiciary Committees of the Congress, you are further authorized to transfer unused admissions allocated to a particular region to one or more other regions, if there is a need for greater admissions for the region or regions to which the admissions are being transferred. Consistent with section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States and designate such persons for this purpose.

Consistent with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)), and after appropriate consultation with the Congress, I also specify that, for FY 2008, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

a. Persons in Vietnam

b. Persons in Cuba

c. Persons in the former Soviet Union

d. In exceptional circumstances, persons identified by a United States Embassy in any location

You are authorized and directed to report this determination to the Congress immediately and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, October 2, 2007.

[FR Doc. 07–5171
Filed 10–17–07; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket FAA No. FAA–2006–26364; Airspace Docket No. 06–ANM–12]

Establishment of Class E Airspace; Beaver, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** August 10, 2007 (72 FR 44955), Airspace Docket No. 06–ANM–12, FAA Docket No. FAA–2006–26364. In that rule, an error was made in the legal description for Beaver, UT. Specifically, the longitude referencing V–293 stated ''* * * long. 133°00′00″ W.'' instead of ''* * * long.113°30′00″ W.'' This action corrects that error.

DATES: *Effective Date:* 0901 UTC, October 25, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, System Support Group, Western Service Area, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 917–6726.

SUPPLEMENTARY INFORMATION:

History

On August 10, 2007, a final rule for Airspace Docket No. 06–ANM–12, FAA Docket No. FAA–2006–26364 was published in the **Federal Register** (72 FR 44955), establishing Class E airspace in Beaver, UT. The longitude referencing V–293 was incorrect in that the longitude stated ''* * * long. 133°00′00″ W.'' instead of ''* * * long.113°30′00″ W.'' This action corrects that error.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the legal description as published in the **Federal Register** on August 10, 2007 (72 FR 44955), Airspace Docket No. 06–ANM–12, FAA Docket No. FAA–2006–26364, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

§ 71.1 [Amended]

■ On page 44956, correct the legal description for Beaver, UT, to read as follows:

Paragraph 6005—Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM UT E5 Beaver, UT [Corrected]

Beaver Municipal Airport, UT (lat. 38°13′51″ N., long. 112°40′31″ W.)

Bryce Canyon VORTAC (lat. 37°41′21″ N., long. 112°18′14″ W.)

That airspace extending upward from 700 feet above the surface within a 5.0-mile radius of Beaver Municipal Airport and within 3 miles each side of the 261° bearing from the Airport extending from the 5.0-mile radius to 14.0 miles west of the Airport, and that airspace extending upward from 1,200 feet above the surface beginning at lat. 38°19′24″ N., long. 113°30′00″ W.; thence east on V–244 to lat. 38°22′22″ N., long. 112°37′47″ W.; thence south on V–257 to BRYCE CANYON VORTAC; thence west on V–293 to lat. 37°56′30″ N., long. 113°30′00″ W.; to point of beginning.

* * * * *

Issued in Seattle, Washington, on October 5, 2007.

Clark Desing,

Manager, System Support Group, Western Service Center.

[FR Doc. E7–20389 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 2000N–1545] (formerly 00N–1545)

Applications for Food and Drug Administration Application Approval to Market a New Drug; Revision of Postmarketing Reporting Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations describing postmarketing reporting requirements to implement certain provisions of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). The changes apply to drug products that are life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition and that were not originally derived from human tissue and replaced by a recombinant product. The final rule implements provisions of the Modernization Act by requiring an applicant who is the sole manufacturer of one of these products to notify FDA at least 6 months before discontinuing manufacture of the drug product.

DATES: This rule is effective December 17, 2007.

FOR FURTHER INFORMATION CONTACT:

S. Mitchell Weitzman, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5535, or

Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 7, 2000 (65 FR 66665), we (FDA) issued a proposed rule to revise our postmarketing reporting requirements to implement section 506C of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 356c). Section 506C of the act

requires manufacturers who are the sole manufacturers of certain drug products to notify us at least 6 months before discontinuing manufacture of the products. Section 506C(a) applies to sole manufacturers of products that meet the following three criteria:

(1) The products are life supporting, life sustaining, or intended for use in the prevention of a debilitating disease or condition;

(2) The products must have been approved under section 505(b) or (j) of the act (21 U.S.C. 355(b) or (j)); and

(3) The products are not originally derived from human tissue and replaced by a recombinant product.

Under section 506C of the act, we may reduce the 6-month notification period if good cause exists for the reduction, and we must provide information to the public about the product discontinuance.

II. Overview of the Final Rule Including Changes to the Proposed Rule

This final rule amends the postmarketing provisions of FDA regulations in § 314.81 (21 CFR 314.81) to require applicants who are sole manufacturers of certain drug products to notify us at least 6 months before discontinuing manufacture of the products. The 6-month notification period required by these regulations will give certain individuals who are currently taking affected medications that will be discontinued an opportunity to evaluate alternative therapeutic options, and will provide additional time for FDA to evaluate replacement products when available. Under § 314.91 (21 CFR 314.91), we may reduce the 6-month notification period when we find good cause exists for the reduction.

In this rulemaking, the agency finalizes all of the substantive provisions in the proposed rule. In addition, we have made some revisions, none of which changed the substantive requirements. One revision reflects a relatively minor change in administrative process. In that instance, for administrative efficiency, we have revised proposed §§ 314.81(b)(3)(iii)(*b*) and 314.91(c)(3) to make the notification procedures for manufacturers planning to submit a notice of discontinuance (or a request for reduction in the discontinuance notification period) the same for drugs regulated by the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER). As revised, manufacturers are to send notifications of discontinuance or requests for reduction in notification periods for all drugs subject to this rule, whether regulated by CDER or CBER, to the following designated offices:

(1) The Drug Shortage Coordinator at the address of Director of CDER;

(2) The Drug Registration and Listing Team, Division of Compliance Risk Management in CDER; and

(3) The director in the review division in CDER or CBER that is responsible for reviewing the application.

The final rule eliminates the proposed requirement to notify the Director of CBER.

We have also revised the proposed rule to change the manner in which the agency publicly discloses a list of all drug products to be discontinued under § 314.81(b)(3)(iii)(*a*), as described in paragraph (b)(3)(iii)(*c*) of § 314.81. In the preamble to the proposed rule, we stated that we would provide discontinuance information both on the Internet and in notices in the **Federal Register**. Since the proposed rule was published in November 2000, access to the Internet has dramatically increased. As a result, we believe that posting on the Internet is an effective means to distribute the discontinuance information to appropriate physician and patient organizations, as required by section 506C(c) of the act, and to the public. Therefore, we no longer plan to publish the discontinuance information in the **Federal Register**. This information will be distributed through posting on the Internet (*www.fda.gov/cder/drug/shortages/default.htm*).

A. Notification Requirements

As described in section I of this document, we are amending our postmarketing reporting requirements in§ 314.81 to implement new statutory requirements under section 506C of the act. Section 314.81(b)(3)(iii) requires an applicant who is the sole manufacturer of an approved drug product to notify us in writing at least 6 months before discontinuing manufacture of the drug product if the drug product meets the following criteria:

(1) The product is life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition; and

(2) The product was not originally derived from human tissue and replaced by a recombinant product.

A life supporting or life sustaining drug is a drug product that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life. The phrase ''debilitating disease or condition,'' as stated in section 506C(a) of the act, means serious disease or condition.

B. Reduction in the Discontinuance Notification Period

Under section 506C(b) of the act, we may reduce the 6-month notification period if the manufacturer certifies that good cause exists for the reduction. We are adding § 314.91 to implement section 506C(b) of the act. Section 314.91 allows for a reduction in the 6-month discontinuance notification period, as required under § 314.81(b)(3)(iii)(*a*), when we find good cause exists for the reduction. We may find good cause exists based on information certified by an applicant in a written request for a reduction of the discontinuance notification period. In limited circumstances, we may find good cause exists based on information already known to us (e.g., withdrawal of the drug from the market based upon formal regulatory action or resulting from consultations between the applicant and us).

To assist a manufacturer that is requesting a reduction in the notification period, § 314.91(c)(1) provides a template for certification that good cause exists. The following circumstances can establish good cause for a reduction in the discontinuance notification period:

- A public health problem may result from continuation of manufacturing for the 6-month period;
- A biomaterials shortage prevents the continuation of the manufacturing for the 6-month period;
- A liability problem may exist for the manufacturer if the manufacturing is continued for the 6-month period;
- Continuation of manufacturing for the 6-month period may cause substantial economic hardship for the manufacturer;
- The manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code (11 U.S.C. 701 *et seq.* and 1101 *et seq.*); or
- The manufacturer can stop making the product but still distribute it to satisfy existing market need for 6 months.
- Other good cause exists for the reduction.

C. Disclosure of Discontinuance Information to the Public

Section 506C(c) of the act states that, to the maximum extent practicable, we are to distribute information to appropriate physician and patient organizations about the discontinuation of products described in section 506C(a). To implement section 506C(c) of the act, we will, in accordance with § 314.81(b)(3)(iii)(*c*), publicly disclose a list of all drug products to be

discontinued under paragraph (b)(3)(iii)(*a*) of § 314.81. If the notification period is reduced under § 314.91, we will state the reason(s) for the reduction and the anticipated date that manufacturing will cease. As described in the preamble to the proposed rule (65 FR 66665 at 66667), the listing of discontinued products will include the following information:

- The brand and generic name, the manufacturer, and indication(s) of the drug product;
- Whether a reduction in the notification period was granted by the agency under § 314.91;
- The reason(s) for a notification period of less than 6 months, if applicable; and
- Any additional information the agency may have regarding anticipated product availability.

We will post the discontinuance information on the Internet at *www.fda.gov/cder/drug/shortages/default.htm*.

III. Comments on the Proposed Rule

We received written comments from three pharmaceutical companies and a patient advocacy organization. The comments generally sought clarification of terms and procedures described in the proposed rule. Comments from the patient advocacy organization included suggestions for ensuring that patients affected by the withdrawal of a drug product covered by this rule had sufficient opportunity to prepare for alternative treatment options as needed. A summary of the comments received and our responses follow.

A. General Comments

(Comment 1) One comment urged companies to voluntarily give notice to the agency 1 year before discontinuing manufacture of a product, even though the act requires notification only 6 months before discontinuance.

Although we are retaining the 6-month notification period in the final rule, we agree that it would be beneficial if companies could, when possible, provide more than the 6-month notice required by statute. Section 506C of the act and § 314.81(b)(3)(iii) are clear that this is the minimum notification period, given that they require ''*at least* 6-months'' notification (emphasis added). Earlier notification is permitted, and FDA encourages companies to provide us with as much advance notification as possible.

(Comment 2) One comment asked FDA to urge companies that intend to discontinue the manufacture of products to license the products to other pharmaceutical firms.

We agree that it could be in the interest of public health for manufacturers of products covered by this final rule to find alternative means of making these products available to patients, including the possibility of transferring the new drug application (NDA) or abbreviated new drug application (ANDA) for these products to other manufacturers. However, the act does not require an applicant covered by this rule to transfer an NDA or ANDA, or use any other means to ensure product availability. The act merely requires applicants to meet the notice requirements implemented by this rule. Therefore, while we agree that it would be preferable for manufacturers to find alternative ways to make these products available to patients, this regulation will not require such measures.

B. Scope and Terminology

Proposed § 314.81(b)(3)(iii)(*a*) states that an applicant who is the sole manufacturer of an approved drug product must notify FDA in writing at least 6 months before discontinuing manufacture of the drug product if that drug product meets the following criteria: (1) The drug product is life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition; and (2) the drug product was not originally derived from human tissue and replaced by a recombinant product.

(Comment 3) One comment expressed concern that while the ''Orange Book'' (FDA's publication on ''Approved Drug Products with Therapeutic Equivalence Evaluations'') lists all drug products with approved NDAs and ANDAs, it is not possible to determine whether the listed approved products are, in fact, being manufactured. The comment therefore requested that we define sole manufacturer as ''an applicant listed in the Orange Book who is the holder of the only listed approved application under section 505(b) or (j) of the act.''

We decline to adopt this definition of ''sole manufacturer'' for three reasons. First, agency experience indicates that sole manufacturers generally know that they are a sole manufacturer. Second, while the Orange Book is routinely updated, there may be, on occasion, delays in updating it because, for example, the agency may not always be notified about discontinuance of drug products in a timely fashion. Thus, the Orange Book would not be an appropriate singular source to determine which applicants are sole manufacturers. The comment's suggestion could also create potential confusion because some drugs are approved but not marketed, and are therefore placed in the ''discontinued'' section of the Orange Book. Finally, we note that there are other generally reliable sources for obtaining commercial manufacturing information that can adequately provide information on sole manufacturers, rendering the comment's suggestion unduly restrictive.

(Comment 4) One comment requested that we clarify the phrase ''discontinuing manufacture.'' The comment indicated that discontinuance and the 6-month notification period should apply when a manufacturer is ceasing production of a product with the intent of withdrawing the product from the market, not when there is a temporary cessation of manufacturing resulting, for example, from technical production difficulties.

We agree with the comment that the phrase ''discontinuing manufacture'' does not refer to temporary cessations of manufacturing. We intend to apply the provisions of final § 314.81(b)(3)(iii) to those instances where a manufacturer has made a decision to no longer market a drug product that is life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition. The provisions of § 314.81(b)(3)(iii) would not apply to situations described in the comment, such as temporary or intermittent manufacturing cessations due to planned or unplanned circumstances. Manufacturers who schedule a planned temporary manufacturing cessation but do not intend to permanently discontinue product manufacture are not subject to the provisions of this regulation. Normally, the supply of drug product available to patients under these circumstances would not be affected during the period of the planned manufacturing cessation. Similarly, manufacturers who experience an unplanned temporary manufacturing interruption but intend to continue manufacturing over the long term are not subject to this rule. We request that manufacturers who experience such an unplanned temporary manufacturing cessation keep the agency informed about the status of the shutdown because the duration of an unplanned shutdown may be unpredictable and could affect the availability of needed therapy for patients.

(Comment 5) In the preamble to the proposed rule, we interpreted the phrase ''life supporting or life sustaining'' drug as one that is essential to, or that yields information that is

essential to, the restoration or continuation of a bodily function important to the continuation of human life (65 FR 66665 at 66666). One comment suggested that we incorporate this interpretation into § 314.81(b)(3)(iii).

We decline to incorporate this interpretative language into the codified language in § 314.81(b)(3)(iii). The codified language parallels the statutory provision of section 506C(a) of the act. As the comment notes, the preamble to the proposed rule defined the term ''life supporting or life sustaining drug'' as a ''drug product that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life'' and explained the definition's origins. Rather than incorporating that language into the codified language, we intend to rely on the interpretation described in the preamble to the proposed rule for guidance in applying that language.

(Comment 6) One comment contended that the scope of the language ''intended for use in the prevention of a serious disease or condition'' in proposed § 314.81(b)(3)(iii)(*a*)(*1*) is too broad and ambiguous. The comment expressed concern that the phrase ''intended for use in prevention'' could sweep into the rule's ambit drugs approved to treat less serious conditions where the less serious conditions are themselves a contributing factor or risk factor in the development of a serious disease or condition. The comment suggested that the phrase should be amended to apply only to products that are ''specifically indicated in approved labeling for prevention or prophylaxis of a disease or condition that is, or has the potential in its fullest manifestation to be, chronically debilitating.''

We disagree with the comment's assertion that the phrase ''intended for use in the prevention of a serious disease or condition'' is ambiguous or overly broad. In general, we do not expect that drug products used to treat relatively minor diseases or conditions will fall within the scope of this rule solely because there is a prophylactic connection to a more serious disease or illness—however tenuous. For instance, antihistamines that treat allergic rhinitis would not generally fall under this rule, even though allergic rhinitis may be a trigger for asthma, a more serious disease or condition. In contrast, products that are intended for use in treating or preventing asthma would potentially fall under the scope of this rule. Accordingly, we have not adopted the comment's suggestion.

C. Procedures

(Comment 7) One comment stated that a decision to discontinue manufacturing a product could occur ''long after'' the manufacturer produces the last lot. The comment requested that we clarify when the applicant should notify us in this situation. The comment does not provide any specific instances where a decision to discontinue manufacturing a product has occurred long after an applicant produced the last lot.

As we stated in response to comment 4, we intend to apply the provisions of § 314.81(b)(3)(iii) to those instances where a manufacturer has made a decision to no longer market a drug product that is life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition. If the decision to discontinue manufacturing is not a temporary or intermittent manufacturing cessation, we would expect manufacturers covered by this rule to notify the agency as soon as the decision has been made. We would expect that manufacturers would ordinarily have notified the agency before they had produced the last lot and that they will file a request for a reduction of the 6-month notification period if good cause exists for the reduction.

Under the scenario posed by the comment, the rule would require notification as soon as a decision not to resume manufacturing the drug has been made (i.e., to convert a temporary shutdown to a permanent one). In addition, the agency would expect manufacturers in such circumstances to be able to demonstrate that the shutdown was originally believed to be only temporary and to explain the change in circumstances.

(Comment 8) One comment requested that we clarify whether the 6-month notification period for discontinuing the manufacture of a product covered by this regulation (under § 314.81(b)(3)(iii)(*a*)) would run consecutively with the 6 months of continued marketing under new § 314.91(d)(6). Under § 314.91(d)(6), an applicant can establish good cause for a reduction in the notification period by certifying that it can stop manufacturing, but continue to distribute the drug product to satisfy existing market need for 6 months. The comment asked whether, in this ''special instance,'' the manufacturer would be ''allowed 1 year of marketing after making the decision to withdraw the product.''

We believe the comment has misconstrued the nature of the statutory and regulatory scheme. These provisions do not operate to limit the period of continued marketing of the product. They simply require notification to FDA at least 6 months before cessation of manufacturing. Manufacturers may elect to give FDA notice of discontinuance more than 6 months before manufacturing ceases. Moreover, the length of time that a product remains on the market may vary with the amount of product in the supply chain at the time manufacturing is discontinued. The statute and § 314.91(d)(6) provide that demonstration of a manufacturer's ability to continue distribution of a drug product to satisfy existing market need for 6 months can be good cause for a reduction in the 6-month notification period. Section 314.91(d)(6) may shorten the minimum notification period, but only in situations where the applicant can continue distribution of the drug product to satisfy existing market need for at least 6 months. In this circumstance, the product would likely continue to be marketed for less than 12 months, i.e., the 6 months of continued marketing plus some reduced portion of the 6-month discontinuance notification period.

(Comment 9) One comment urged FDA to put the onus on manufacturers to prove that reduction of the 6-month notification period will not cause substantial physical and emotional harm to the patients who rely on the drug. The same comment stated the agency should create the highest hurdles for reducing the discontinuance notification period if the health and welfare of patients are at stake.

As reflected in the good cause provisions in § 314.91(d)(7), the statute provides several specific circumstances that may be considered good cause for reduction of the notification period, such as a public health problem that may result from continuation of manufacturing for the 6-month period; a biomaterials shortage; a liability problem; economic hardship; bankruptcy; or a manufacturer being able to continue distribution for 6 months. We agree that there should be a public health focus to establish good cause when requesting a reduction in the discontinuance notification period. Accordingly, we intend to apply the provisions in § 314.91(d)(7), a broad provision permitting reduction in the notification period for ''other good cause,'' consistent with the public health concerns expressed in the comment. Manufacturers seeking to establish good cause for reasons other than those specifically enumerated under § 314.91(d)(1) through (d)(6) will

be expected to demonstrate that reducing the discontinuance notification period will not result in increased risk of harm to the health of patients who use the drug.

(Comment 10) One comment asked about the relationship between notification of discontinuance of manufacturing under this rule and removing a withdrawn product from the list of drugs submitted for purposes of drug registration and listing. Under current § 314.81(b)(3)(iii) (redesignated as § 314.81(b)(3)(iv) by this rulemaking), an applicant must submit Form FDA 2657 (Drug Product Listing) to the Drug Registration and Listing Team, Division of Compliance Risk Management and Surveillance (formerly the Drug Listing Branch[1]), in CDER within 15 working days of the withdrawal from sale of a drug product.[2] The submission of this form notifies us that the drug product is no longer being marketed. The comment requested that we clarify whether sending the notice of discontinuation of manufacturing to the Drug Listing Branch will result in the delisting of the product, or whether additional correspondence with the Drug Listing Branch will be required.

The delisting process is separate from the notification of discontinuance process described in this rule. The notification of discontinuance is submitted under this rule at least 6 months before cessation of manufacturing. The notice of discontinuance does not take the place of a listing update submitted on a Form FDA 2657. In most cases where manufacturing is discontinued, the drug will continue to be marketed for at least 6 months or more and should remain listed during that time. The Form 2657 would need to be submitted later, within 15 days of withdrawal from the market of the drug, under current § 314.81(b)(3)(iii) (redesignated as § 314.81(b)(3)(iv) in this rule). In addition, while all drugs are subject to the listing requirements, the discontinuance provision applies only to those instances where the manufacturing of a single-source drug product that is life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition, will be discontinued.

(Comment 11) One comment asked why, under §§ 314.81(b)(3)(iii)(*b*) and 314.91(c)(3) of the proposed rule, manufacturers of drugs regulated by CBER are not required to send the notification of discontinuance to the Drug Listing Branch, as are manufacturers of drugs regulated by CDER.

We agree that the requirement should be the same for drugs regulated by CBER and CDER. For administrative efficiency, we have revised §§ 314.81(b)(3)(iii)(*b*) and 314.91(c)(3) to make the procedures for manufacturers to submit a notice of discontinuance (or a request for reduction in the discontinuance notification period) the same for drugs, whether they are regulated by CDER or CBER. As revised, for all drugs subject to this rule, manufacturers must send notifications of discontinuance or requests for reduction in notification periods, to the following designated CDER and CBER offices: (1) The CDER Drug Shortage Coordinator, at the address of the Director of CDER; (2) the CDER Drug Registration and Listing Team, Division of Compliance Risk Management and Surveillance; and (3) either the director of the review division in CDER that is responsible for reviewing the application or the director of the office in CBER that is responsible for reviewing the application. This final rule eliminates the proposed requirement to notify the Director of CBER for drug products regulated by CBER.

We encourage manufacturers who have questions about these processes to contact the Drug Shortage Coordinator at CDER.

IV. Analysis of Impacts

We have examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). 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). We believe that this final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the final rule will result in minimal additional costs in about one instance per year to one manufacturer, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $127 million, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. We do not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

The final rule requires that manufacturers of certain drug products notify the agency at least 6 months before discontinuing their manufacture. As explained in section V of this document, the regulatory conditions that trigger this requirement occur only infrequently. Based on agency experience, we estimate that such circumstances occur no more than once per year. Moreover, the notification requirement will impose a significant burden only when market conditions deteriorate so quickly that firms could not foresee the desired action 6 months in advance. Most pharmaceutical firms rely on established long-term marketing plans.

Under certain specified circumstances, the rule permits us to reduce the notification period for good cause. Manufacturers can request a reduced notification period by submitting a written certification, based on considerations such as public health, legal liability, biomaterial shortage, or substantial economic hardship. A certification of substantial economic hardship will need to be supported by evidence demonstrating that the reduced notification period is necessary to avoid substantial economic hardship to the manufacturer.

V. Paperwork Reduction Act of 1995

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown in the following paragraphs with an estimate of the annual reporting burden. Included in the estimate is the

[1] The former Drug Listing Branch has been reorganized as the Drug Registration and Listing Team, Division of Compliance Risk Management and Surveillance, in CDER's Office of Compliance.

[2] In the **Federal Register** of August 29, 2006 (71 FR 51276), we published a proposed rule that would amend § 314.81(b)(3)(iii) to provide 30-days for submission of Form FDA 2657.

time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information. OMB and FDA received no comments concerning the information collection provisions of the proposed rule.

Title: Applications for FDA Approval to Market a New Drug; Revision of Postmarketing Reporting Requirements

Description: The final rule implements section 506C of the act and requires applicants who are the sole manufacturers of certain drug or biologic products to notify us at least 6 months before discontinuing the manufacture of the product. For the rule to apply, a product needs to meet the following three criteria:

(1) The product must be life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition;

(2) The product must have been approved by FDA under section 505(b) or 505(j) of the act; and

(3) The product must not have been originally derived from human tissue and replaced by a recombinant product.

The rule allows us to reduce the 6-month notification period if we find good cause for the reduction. An applicant may request that we reduce the notification period by certifying that good cause for the reduction exists. Under the rule, we will also publicly disclose information about the drugs that are discontinued under the rule. Existing regulations, which appear in part 314, establish postmarketing reporting requirements for approved drugs. Current § 314.81(b)(3)(iii) (OMB control no. 0910–0001), which is redesignated as § 314.81(b)(3)(iv) in this rule, requires an applicant to notify us within 15 working days of withdrawing a drug product from sale. This rule adds two new reporting requirements.

A. Notification of Discontinuance

Under this rule, at least 6 months before an applicant intends to discontinue manufacture of a product, the applicant must send us written notification of the discontinuance. For drugs regulated by CDER or CBER, manufacturers must send notifications of discontinuance to the following designated offices: (1) The CDER Drug Shortage Coordinator at the address of the Director of CDER; (2) the CDER Drug Registration and Listing Team, Division of Compliance Risk Management and Surveillance in CDER; and (3) the director of either the CDER division or the CBER office that is responsible for reviewing the application. We require that the notification be sent to these offices to ensure that our efforts regarding the discontinuation of the product are commenced in a timely manner. We will work with members of the industry and with the applicant during the 6-month notification period to ease patient transition from the drug that will be discontinued to alternate therapy.

B. Certification of Good Cause

We may reduce the 6-month notification period if we find good cause for the reduction. As described in section 506C(b) of the act and new § 314.91, an applicant can request a reduction in the notification period for good cause by submitting written certification to the following designated offices: (1) The CDER Drug Shortage Coordinator at the address of the Director of CDER; (2) the CDER Drug Registration and Listing Team, Division of Compliance Risk Management and Surveillance in CDER; and (3) the director of either the CDER division or the CBER office that is responsible for reviewing the application, that good cause exists as follows:

- A public health problem may result from continuation of manufacturing for the 6-month period (§ 314.91(d)(1));
- A biomaterials shortage prevents the continuation of manufacturing for the 6-month period (§ 314.91(d)(2));
- A liability problem may exist for the manufacturer if the manufacturing is continued for the 6-month period (§ 314.91(d)(3));
- Continuation of the manufacturing for the 6-month period may cause substantial economic hardship for the manufacturer (§ 314.91(d)(4));
- The manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code (§ 314.91(d)(5));
- The manufacturer can stop making the product but still distribute it to satisfy existing market need for 6 months (§ 314.91(d)(6)); or
- Other good cause exists for a reduction in the notification period (§ 314.91(d)(7)).

With each certification described previously, the applicant must describe in detail the basis for the applicant's conclusion that such circumstances exist. We require that the written certification that good cause exists be submitted to the offices identified previously to ensure that our efforts regarding the discontinuation take place in a timely manner.

Description of Respondents: An applicant who is the sole manufacturer and who intends to discontinue marketing of a drug product that meets the following criteria: (1) Is life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition; (2) was approved by FDA under section 505(b) or (j) of the act; and (3) was not originally derived from human tissue and replaced by recombinant product.

Burden Estimate: Table 1 of this document provides an estimate of the annual reporting burden for notification of product discontinuance and certification of good cause under this rule.

Notification of Discontinuance: Based on data collected from the CDER drug shortage coordinator, CDER review divisions, and CBER review offices during 2003 through 2006, one applicant during each year discontinued the manufacture of one product meeting the criteria of section 506C of the act. Each applicant meeting the criteria is required under final § 314.81(b)(3)(iii) to notify the agency of the discontinuance at least 6 months before manufacturing ceased. Although the procedures for notifying the agency that are set forth in the final rule were not in place during 2003 through 2006, we estimate that the number of manufacturers who would be required to notify us of discontinuance would remain the same. Therefore, the number of respondents is estimated to be one. The total annual responses are the total number of notifications of discontinuance that are expected to be submitted to CDER or CBER in a year. During 2003 through 2006, an applicant would have been required to notify us annually of one product discontinuance under the procedures. We estimate that the total annual responses will remain the same, averaging one response per respondent. The hours per response is the estimated number of hours that a respondent would spend preparing the information to be submitted with a notification of product discontinuance, including the time it takes to gather and copy the statement. Based on experience in working with applicants regarding similar collections of information, we estimate that approximately 2 hours on average are needed per response. Therefore, we estimate that 2 hours will be spent per year by respondents notifying us of a product discontinuance under these regulations.

Certification of Good Cause: Based on data collected from the CDER drug shortage coordinator, CDER review divisions, and CBER review offices during 2003 through 2006, one applicant discontinued during each year the manufacture of one product meeting the criteria of section 506C of the act. Each applicant has the opportunity under § 314.91 to request a reduction in the 6-month notification period by certifying to us that good cause exists

for the reduction. We do not expect that each eligible applicant will certify that good cause exists for a reduction. Furthermore, the number of applicants who are in a position to request a reduction is quite small. Therefore, the number of respondents is estimated to be one. The total annual responses are the total number of notifications of discontinuance that are expected to be submitted to us in a year. We estimate that the total annual responses will remain small, averaging one response per respondent. The hours per response is the estimated number of hours that a respondent spends preparing the detailed information certifying that good cause exists for a reduction in the notification period, including the time it takes to gather and copy the documents. Based on experience in working with applicants regarding similar collections of information, we estimate that approximately 16 hours on average are needed per response. Therefore, we estimate that 16 hours will be spent per year by respondents certifying that good cause exists for a reduction in the 6-month notification period under § 314.91.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Notification of Discontinuance (§ 314.81(b)(3)(iii))	1	1	1	2	2
Certification of Good Cause (§ 314.91)	10	1	1	16	16
Total					18

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The information collection provisions of this final rule have been submitted to OMB for review.

Prior to the effective date of this final rule, FDA will publish a notice in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection provisions of this final rule. 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.

VI. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we have concluded that the rule does not contain policies that have federalism implications as defined in the Executive order, and, consequently, a federalism summary impact statement is not required.

VII. Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 314 is amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

■ 1. The authority citation for 21 CFR part 314 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 356a, 356b, 356c, 371, 374, 379e.

■ 2. Section 314.81 is amended as follows:

■ a. Redesignate paragraph (b)(3)(iii) as (b)(3)(iv);

■ b. Remove from newly redesignated paragraph (b)(3)(iv)(*c*) the phrase ''(b)(3)(iii)'' and add in its place the phrase ''(b)(3)(iv)''; and

■ c. Add new paragraph (b)(3)(iii) to read as follows:

The addition reads as follows:

§ 314.81 Other postmarketing reports.

* * * * *

(b) * * *

(3) * * *

(iii) *Notification of discontinuance.* (*a*) An applicant who is the sole manufacturer of an approved drug product must notify FDA in writing at least 6 months prior to discontinuing manufacture of the drug product if:

(*1*) The drug product is life supporting, life sustaining, or intended for use in the prevention of a serious disease or condition; and

(*2*) The drug product was not originally derived from human tissue and replaced by a recombinant product.

(*b*) For drugs regulated by the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER), one copy of the notification required by paragraph (b)(3)(iii)(*a*) of this section must be sent to the CDER Drug Shortage Coordinator, at the address of the Director of CDER; one copy to the CDER Drug Registration and Listing Team, Division of Compliance Risk Management and Surveillance; and one copy to either the director of the review division in CDER that is responsible for reviewing the application, or the director of the office in CBER that is responsible for reviewing the application.

(*c*) FDA will publicly disclose a list of all drug products to be discontinued under paragraph (b)(3)(iii)(*a*) of this section. If the notification period is reduced under § 314.91, the list will state the reason(s) for such reduction and the anticipated date that manufacturing will cease.

* * * * *

■ 3. Section 314.91 is added to subpart B to read as follows:

§ 314.91 Obtaining a reduction in the discontinuance notification period.

(a) *What is the discontinuance notification period?* The discontinuance notification period is the 6-month period required under § 314.81(b)(3)(iii)(*a*). The discontinuance notification period begins when an applicant who is the

sole manufacturer of certain products notifies FDA that it will discontinue manufacturing the product. The discontinuance notification period ends when manufacturing ceases.

(b) *When can FDA reduce the discontinuance notification period?* FDA can reduce the 6-month discontinuance notification period when it finds good cause exists for the reduction. FDA may find good cause exists based on information certified by an applicant in a request for a reduction of the discontinuance notification period. In limited circumstances, FDA may find good cause exists based on information already known to the agency. These circumstances can include the withdrawal of the drug from the market based upon formal FDA regulatory action (e.g., under the procedures described in § 314.150 for the publication of a notice of opportunity for a hearing describing the basis for the proposed withdrawal of a drug from the market) or resulting from the applicant's consultations with the agency.

(c) *How can an applicant request a reduction in the discontinuance notification period?* (1) The applicant must certify in a written request that, in its opinion and to the best of its knowledge, good cause exists for the reduction. The applicant must submit the following certification:

The undersigned certifies that good cause exists for a reduction in the 6-month notification period required in § 314.81(b)(3)(iii)(*a*) for discontinuing the manufacture of (*name of the drug product*). The following circumstances establish good cause (*one or more of the circumstances in paragraph (d) of this section*).

(2) The certification must be signed by the applicant or the applicant's attorney, agent (representative), or other authorized official. If the person signing the certification does not reside or have a place of business within the United States, the certification must contain the name and address of, and must also be signed by, an attorney, agent, or other authorized official who resides or maintains a place of business within the United States.

(3) For drugs regulated by the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER), one copy of the certification must be submitted to the Drug Shortage Coordinator at the address of the Director of CDER, one copy to the CDER Drug Registration and Listing Team, Division of Compliance Risk Management and Surveillance in CDER, and one copy to either the director of the review division in CDER responsible for reviewing the application, or the director of the office in CBER responsible for reviewing the application.

(d) *What circumstances and information can establish good cause for a reduction in the discontinuance notification period?* (1) A public health problem may result from continuation of manufacturing for the 6-month period. This certification must include a detailed description of the potential threat to the public health.

(2) A biomaterials shortage prevents the continuation of the manufacturing for the 6-month period. This certification must include a detailed description of the steps taken by the applicant in an attempt to secure an adequate supply of biomaterials to enable manufacturing to continue for the 6-month period and an explanation of why the biomaterials could not be secured.

(3) A liability problem may exist for the manufacturer if the manufacturing is continued for the 6-month period. This certification must include a detailed description of the potential liability problem.

(4) Continuation of the manufacturing for the 6-month period may cause substantial economic hardship for the manufacturer. This certification must include a detailed description of the financial impact of continuing to manufacture the drug product over the 6-month period.

(5) The manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code (11 U.S.C. 701 *et seq.* and 1101 *et seq.*). This certification must be accompanied by documentation of the filing or proof that the filing occurred.

(6) The manufacturer can continue distribution of the drug product to satisfy existing market need for 6 months. This certification must include a detailed description of the manufacturer's processes to ensure such distribution for the 6-month period.

(7) Other good cause exists for the reduction. This certification must include a detailed description of the need for a reduction.

Dated: October 5, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–20510 Filed 10–17–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 600

[Docket No. 2007N–0284]

Revision of the Requirements for Live Vaccine Processing

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations by providing options to the existing requirement for the processing of live vaccines. FDA is amending the regulations due to advances in technology that will allow processing of live vaccines to be performed in multiproduct manufacturing areas. We are publishing this rule because the existing requirement regarding facilities and equipment for live vaccine processing is too prescriptive and is no longer necessary. We are taking this action as part of our continuing effort to reduce the burden of unnecessary regulations on industry and to revise outdated regulations without diminishing public health protection. Elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule under our usual procedures for notice and comment in the event that we receive any significant adverse comments on the direct final rule. If we receive any significant adverse comments that warrant terminating the direct final rule, we will consider such comments on the proposed rule in developing the final rule.

DATES: This rule is effective March 18, 2008. Submit written or electronic comments by January 2, 2008. If we receive no significant adverse comments during the specified comment period, we intend to publish a confirmation document on or before the effective date of this direct final rule confirming that the direct final rule will go into effect on March 18, 2008. If we receive any significant adverse comments during the comment period, we intend to withdraw this direct final rule before its effective date by publication of a notice in the **Federal Register**.

ADDRESSES: You may submit comments, identified by Docket No. 2007N–0284, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

• Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

• FAX: 301–827–6870.

• Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No. 2007N–0284 for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments see the ''Request for Comments'' heading in section VII of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

Live organisms are used in the production of certain vaccine products. These live organisms are generally used as source material for further manufacture into final products used in the prevention, treatment, or cure of a disease or condition of human beings. Live organisms pose a challenge to manufacturers in the prevention of cross contamination of other products and manufacturing areas. Some live organisms used in manufacturing may be harmful to humans, especially immunocompromised patients. To ensure the safety of a biological product manufactured in the same building or area in which live organisms are utilized, tight controls are needed to avoid the release of any live organisms into the manufacturing environment and to prevent cross contamination of other products manufactured in the same building or area.

Current FDA regulations strictly limit how live vaccine processing may be performed. Current § 600.11(e)(4) (21 CFR 600.11(e)(4)) requires that: (1) Space used for processing a live vaccine must be decontaminated before processing is started and must not be used for any other purpose during the vaccine processing; (2) live vaccine processing areas must be isolated from and independent of any space used for any other purpose by being either in a separate building, in a separate wing of a building, or in quarters at the blind end of a corridor; (3) the processing area must include adequate space and equipment for all processing steps up to, but not including, filling into final containers; and (4) test procedures that potentially involve the presence of microorganisms other than the vaccine strains, or the use of tissue culture cell lines other than primary cultures, must not be conducted in space used for processing live vaccine.

We are revising § 600.11(e)(4) to allow greater flexibility for vaccine manufacturers regarding the buildings and equipment used for live vaccine processing. The revisions provide for the use of modern manufacturing approaches to assist vaccine manufacturers who engage in live vaccine processing, e.g., manufacturers of influenza virus vaccines. The revisions provide that live vaccine processing steps may be performed in multiproduct manufacturing buildings and areas when appropriate controls exist to prevent cross contamination of other products and areas. We recognize that advances in facility, utility, system, and equipment design, as well as in sterilization, decontamination, and disinfection technologies have increased the ability of manufacturers to control the manufacture of biological products and the equipment used in their manufacture. The use of appropriate controls, procedures, and processes provides an adequate degree of confidence that a product meets the expected levels of safety, purity, and potency. Areas of special concern, such as containment, decontamination, sterilization, and disinfection can be addressed using currently available controls, procedures, and processes. The scope of this regulation is limited to all live vaccine processing steps up to, but not including, filling into final containers. In section II of this document, we identify each of the changes included in this direct final rule.

II. Highlights of the Direct Final Rule

We are revising § 600.11(e)(4) to require that live vaccine processing be performed under appropriate controls to prevent cross contamination of other products and other manufacturing areas within the building. We regard an area as a specific room or set of rooms within a building associated with the manufacturing of any one product or multiple products.

Revised § 600.11(e)(4)(i) is analogous to the preexisting § 600.11(e)(4). In revised § 600.11(e)(4)(i)(A), we provide that a manufacturer can use an area that is either in a separate building, in a separate wing of a building, or in quarters at the blind end of a corridor and includes adequate space and equipment for all processing steps up to, but not including, filling into final containers. In revised § 600.11(e)(4)(i)(B), we require that a manufacturer not use the manufacturing space for conducting test procedures that potentially involve the presence of microorganisms other than the vaccine strains or the use of tissue culture cell lines other than primary cultures.

In revised § 600.11(e)(4)(ii), if manufacturing is conducted in a multiproduct manufacturing building or area, we require appropriate controls including procedural controls, and where necessary, process containment, to prevent cross contamination of other products and other manufacturing areas within the building. In addition, we are requiring that all product, equipment, and personnel movement between distinct live vaccine processing areas and between live vaccine processing areas and other manufacturing areas up to, but not including, filling in containers, must be conducted under conditions that will prevent cross contamination of other products and manufacturing areas within the building, including the introduction of live vaccine organisms into these other areas. Process containment is a system designed to mechanically isolate equipment or an area that involves manufacturing using live vaccine organisms. Procedural controls establish and perform effective decontamination, sterilization, and disinfection, as well as

execute manufacturing procedures in such a manner as to prevent cross contamination with live vaccine organisms.

As part of their procedural controls, manufacturers must have written procedures and effective processes in place to adequately remove or decontaminate live vaccine organisms from manufacturing areas and from equipment for subsequent manufacture of other products. Written procedures must be in place for verification that processes to remove or decontaminate live vaccine organisms have been followed. All potential routes of cross contamination to other manufacturing areas should be addressed, including movement of persons (e.g., technical, maintenance, delivery, management personnel, and visitors), equipment, and in-process materials. Live vaccine organisms should not be removed from designated areas unless this can be done in a manner that prevents the cross contamination of other products and manufacturing areas. These procedural controls will provide a level of assurance that products made in areas where live vaccines are manufactured remain safe, pure, and potent.

III. Legal Authority

FDA is issuing this regulation under the biological products provisions of the Public Health Service Act (PHS Act) (42 U.S.C. 262 and 264), and the drugs and general administrative provisions of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 331, 351–353, 355, 360, 371, and 374). Under these provisions of the PHS Act and the act, we have the authority to issue and enforce regulations designed to ensure that biological products are safe, effective, pure, and potent, and to prevent the introduction, transmission, and spread of communicable disease.

IV. Rulemaking Action

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described its procedures on when and how the agency will employ direct final rulemaking. We have determined that this rule is appropriate for direct final rulemaking because we believe that it includes only noncontroversial amendments and we anticipate no significant adverse comments. Consistent with our procedures on direct final rulemaking, FDA is publishing elsewhere in this issue of the **Federal Register** a companion proposed rule to amend FDA's regulations to allow greater flexibility in live vaccine processing. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event that the direct final rule is withdrawn because of any significant adverse comments. The comment period for the direct final rule runs concurrently with the companion proposed rule. Any comments received in response to the companion proposed rule will be considered as comments regarding the direct final rule.

We are providing a comment period on the direct final rule of 75 days after the date of publication in the **Federal Register**. If we receive any significant adverse comments, we intend to withdraw this direct final rule before its effective date by publication of a notice in the **Federal Register**. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a regulation change in addition to those in the rule would not be considered a significant adverse comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this rule and that provision can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of a significant adverse comment.

If any significant adverse comments are received during the comment period, FDA will publish, before the effective date of this direct final rule, a document withdrawing the direct final rule. If we withdraw the direct final rule, any comments received will be applied to the proposed rule and will be considered in developing a final rule using the usual notice-and-comment procedures.

If FDA receives no significant adverse comments during the specified comment period, FDA intends to publish a confirmation document, before the effective date of the direct final rule, confirming the effective date.

V. Analysis of Impacts

A. Review Under Executive Order 12866, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act of 1995

FDA has examined the impacts of the direct final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). 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 agency believes that this direct final rule is not an economically significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this direct final rule will provide increased flexibility for the processing of live vaccines, it would decrease overall compliance costs. Therefore, the agency certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $127 million, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this direct final rule to result in any 1-year expenditure that would meet or exceed this amount.

B. Environmental Impact

The agency has determined under 21 CFR 25.31(h), that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

C. Federalism

FDA has analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the direct final rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VI. The Paperwork Reduction Act of 1995

This direct final rule contains no new collections of information. The collection of information under § 600.11(e)(4) is covered by OMB control numbers 0910–0139 (expires September 30, 2008) and 0910–0308 (expires July 31, 2008). Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) is not required.

VII. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 600 is amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

■ 1. The authority citation for 21 CFR part 600 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374; 42 U.S.C. 216, 262, 263, 263a, 264, 300aa–25.

■ 2. Section 600.11 is amended by revising paragraph (e)(4) to read as follows:

§ 600.11 Physical establishment, equipment, animals, and care.

* * * * *

(e) * * *

(4) *Live vaccine processing.* Live vaccine processing must be performed under appropriate controls to prevent cross contamination of other products and other manufacturing areas within the building. Appropriate controls must include, at a minimum:

(i)(A) Using a dedicated manufacturing area that is either in a separate building, in a separate wing of a building, or in quarters at the blind end of a corridor and includes adequate space and equipment for all processing steps up to, but not including, filling into final containers; and

(B) Not conducting test procedures that potentially involve the presence of microorganisms other than the vaccine strains or the use of tissue culture cell lines other than primary cultures in space used for processing live vaccine; or

(ii) If manufacturing is conducted in a multiproduct manufacturing building or area, using procedural controls, and where necessary, process containment. Process containment is deemed to be necessary unless procedural controls are sufficient to prevent cross contamination of other products and other manufacturing areas within the building. Process containment is a system designed to mechanically isolate equipment or an area that involves manufacturing using live vaccine organisms. All product, equipment, and personnel movement between distinct live vaccine processing areas and between live vaccine processing areas and other manufacturing areas, up to, but not including, filling in final containers, must be conducted under conditions that will prevent cross contamination of other products and manufacturing areas within the building, including the introduction of live vaccine organisms into other areas. In addition, written procedures and effective processes must be in place to adequately remove or decontaminate live vaccine organisms from the manufacturing area and equipment for subsequent manufacture of other products. Written procedures must be in place for verification that processes to remove or decontaminate live vaccine organisms have been followed.

* * * * *

Dated: July 30, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–20610 Filed 10–17–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1000

[Docket No. FR–4999–F–02]

RIN 2577–AC61

Use of Indian Housing Block Grant Funds for Rental Assistance in Low-Income Housing Tax Credit Projects

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Indian Housing Block Grant (IHBG) program regulations to specify the conditions under which IHBG funds may be used for project-based or tenant-based rental assistance. The final rule clarifies that such rental assistance may be provided in a manner consistent with assistance provided under section 8 of the United States Housing Act of 1937 on behalf of a tenant receiving assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). This final rule follows publication of a June 8, 2007, proposed rule, and adopts the proposed rule without change. HUD received one public comment on the June 8, 2007, proposed rule, expressing unqualified support for the proposed regulatory changes.

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

FOR FURTHER INFORMATION CONTACT: Deborah Lalancette, Director, Office of Grants Management, Office of Native American Programs, Department of Housing and Urban Development, 1670 Broadway, 23rd Floor, Denver, CO 80202–4801; telephone (303) 675–1625 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Indian Housing Block Grant (IHBG) program, HUD makes assistance available to eligible Indian tribes for affordable housing activities. The amount of assistance made available to each Indian tribe is

determined using an allocation formula, developed with the active participation of Indian tribes and using negotiated rulemaking procedures. An Indian tribe (or its tribally designated housing entity (TDHE)) may use its IHBG funds for a wide range of affordable housing activities, including the provision of project-based or tenant-based rental assistance for eligible families. The regulations governing the IHBG program are located in part 1000 of HUD's regulations in title 24 of the Code of Federal Regulations.

In 1986, Congress amended the Internal Revenue Code to create the Low Income Housing Tax Credit (LIHTC) (see 26 U.S.C. 42), a tax incentive to promote the development of affordable rental housing. Eligible projects receive Federal income tax credits over a 10-year period using a formula that, in part, takes into account certain eligible costs called ''eligible basis.'' Generally, Federal grants used with respect to a building, or for its operation thereof, result in a dollar-for-dollar decrease in eligible basis. However, the Internal Revenue Service (IRS) has recognized that certain types of Federal rental assistance payments are not Federal grants that require a reduction in a building's eligible basis. They include payments made pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (Section 8) and comparable programs or methods of rental assistance designated by the Secretary of the Treasury by publication in the **Federal Register** or in the Internal Revenue Bulletin. (See the income tax regulations at 26 CFR 1.42–16(b).)

HUD rental assistance programs (such as the project-based voucher program) address the requirements that apply when such program rental assistance is provided to tenants residing in LIHTC projects. However, the IHBG program regulations are silent with regard to the use of IHBG rental assistance in these projects. HUD has received requests from several Indian tribes and TDHEs that are IHBG recipients and wish to use their IHBG funds for LIHTC projects.

On June 8, 2007 (72 FR 31944), in response to these tribal requests, HUD published a proposed rule for public comment to specify the conditions under which IHBG funds may be used for tenant-based or project-based rental assistance.

II. This Final Rule

This final rule follows publication of the June 8, 2007, proposed rule and adopts the proposed rule without change. The public comment period on the proposed rule closed on August 7, 2007. HUD received a single public comment from a state housing finance agency, expressing unqualified support for the proposed regulatory changes.

The final rule adds a new § 1000.103 to clarify that IHBG funds may be used for project-based or tenant-based rental assistance. Further, the final rule clarifies that IHBG funds may be used for project-based or tenant-based rental assistance that is administered in a manner consistent with Section 8. Only the Secretary of the Treasury may make a determination that project-based or tenant-based rental assistance complies with the income tax regulations at 26 CFR 1.42–16(b) and, therefore, will not reduce the building's eligible basis. This final rule will allow for such determination to be made. This final rule does not limit the range of eligible activities that an Indian tribe or TDHE may undertake. It merely clarifies one permissible use of IHBG funds.

III. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule would clarify that IHBG funds may be used for project-based or tenant-based rental assistance that is provided in a manner consistent with assistance provided under Section 8 of the United States Housing Act of 1937 on behalf of a tenant receiving assistance under NAHASDA. This rule would not impose new requirements on IHBG program participants. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI remains applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the rule docket file by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule would not impose any federal mandate on any state, local, or tribal government, or on the private sector, within the meaning of UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number applicable to the program affected by this rule is 14.862.

List of Subjects in 24 CFR Part 1000

Aged, community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Public housing, Reporting and recordkeeping requirements.

■ For the reasons described in the preamble, HUD amends 24 CFR part 1000 to read as follows:

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

■ 1. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 1401 *et seq.* and 42 U.S.C. 3535(d).

■ 2. Add § 1000.103 to read as follows:

§ 1000.103 How may IHBG funds be used for tenant-based or project-based rental assistance?

(a) IHBG funds may be used for project-based or tenant-based rental assistance.

(b) IHBG funds may be used for project-based or tenant-based rental assistance that is provided in a manner consistent with section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) IHBG funds used for project-based or tenant-based rental assistance must comply with the requirements of NAHASDA and this part.

Dated: October 11, 2007.

Orlando J. Cabrera,

Assistant Secretary for Public and Indian Housing.

[FR Doc. E7–20525 Filed 10–17–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[Docket No. IN–156–FOR, Administrative Cause No. 06–046R]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving, with certain exceptions, an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Indiana Department of Natural Resources, Division of Reclamation (IDNR, department, or Indiana) revised its rules concerning the definition of ''government-financed construction''; underground mining reclamation plans for siltation structures, impoundments, dams, embankments, and refuse piles; requirements for performance bond release; surface mining permanent and temporary impoundments; surface mining primary roads; and inspections of sites. Indiana revised its program to be consistent with the corresponding Federal regulations, to clarify ambiguities, and to improve operational efficiency.

DATES: *Effective Date:* October 18, 2007.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Chief, Alton Field Division—Indianapolis Area Office. Telephone: (317) 226–6700. E-mail: *IFOMAIL@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Indiana program effective July 29, 1982. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the July 26, 1982, **Federal Register** (47 FR 32071). You can also find later actions concerning the Indiana program and program amendments at 30 CFR 914.10, 914.15, 914.16, and 914.17.

II. Submission of the Amendment

By letter dated December 11, 2006 (Administrative Record No. IND–1741), Indiana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) in response to a required program amendment at 30 CFR 914.16(ff) and to include changes made at its own initiative. The provisions of 312 Indiana Administrative Code (IAC) 25 that Indiana proposed to revise were: 312 IAC 25–1–57, definition of ''government-financed construction''; 25–4–87, underground mining reclamation plans for siltation structures, impoundments, dams, embankments, and refuse piles; 25–5–16, requirements for performance bond release; 25–6–20, surface mining permanent and temporary impoundments; 25–6–66, surface mining primary roads; and 25–7–1, inspections of sites.

We announced receipt of the proposed amendment in the February 6, 2007, **Federal Register** (72 FR 5374). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on March 8, 2007. We received comments from two Federal agencies.

During our review of the amendment, we identified concerns about requirements for performance bond release. We notified Indiana of these concerns by letter dated May 9, 2007, (Administrative Record No. IND–1748). We also met with Indiana staff on June 26, 2007, to discuss the concerns regarding the amendment and corresponded with the State via email on June 23, 2007 (Administrative Record No. IND–1752). Indiana responded by email on July 24, 2007 (Administrative Record No. IND–1752), that it would not submit revisions to this portion of the amendment at this time and that we should proceed with processing the other portions of the amendment. Therefore, we are proceeding with the final rule **Federal Register** document.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment with exceptions as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

A. Minor Revisions to Indiana's Rules

Indiana made minor wording, editorial, punctuation, grammatical, restructuring, and recodification changes to the following previously-approved rules:

Topic	State rule
Underground mining reclamation plans for siltation structures, impoundments, dams, embankments, and refuse piles.	312 IAC 25–4–87(a)(1)(B) and (a)(2)(A) and (C), (c), (e)(1) and (e)(4), and (f)(1).
Requirements for performance bond release.	312 IAC 25–5–16(b).

Topic	State rule
Surface mining permanent and temporary impoundments	312 IAC 25–6–20(a)(1), (a)(3)(A), (B), and (C), (a)(5), (a)(6), (a)(7)(B)(iii), (a)(9)(A), (D), (E)(iii), (b)(3), (b)(8)(B), (c)(1) and (2), (d) and (e).
Surface mining primary roads	312 IAC 25–6–66(2)(A) and (C), (2)(H), and (4)(B)(i).
Inspections of sites	312 IAC 25–7–1(f)(3)(E) and (F), (g)(2), (h)(1)(D)(ii), and (h)(3)(A).

1. For example, 312 IAC 25–4–87(a)(2)(A) was restructured from:

(A) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying, and landscape architecture.

to:

(A) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields, such as the following:

(i) Geology.

(ii) Land surveying.

(iii) Landscape architecture.

2. For example, 312 IAC 25–5–16(b) was recodified as 312 IAC 25–5–16(c).

3. For example, at 312 IAC 25–6–20(a)(3)(C), the phrase ''in lieu of'' was replaced by the phrase ''instead of''.

Because these changes are minor, we find that they will not make Indiana's previously approved rules less effective than the corresponding Federal regulations.

B. Revisions to Indiana's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

Indiana's rules listed in the table below contain language that is the same as or similar to the corresponding Federal regulations.

Topic	State [rule]	Federal counterpart [regulation]
Definition of ''Government-financed construction''	312 IAC 25–1–57	30 CFR 707.5.
Surface Mining Primary Roads	312 IAC 25–6–66(2)	30 CFR 816.151(b).

Because the above State rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the Federal counterpart regulations.

C. 312 IAC 25–4–87 Underground Mining Reclamation Plans for Siltation Structures, Impoundments, Dams, Embankments, and Refuse Piles

1. At subsection (g)(3), Indiana proposed to remove the following sentence:

If necessary to protect the health or safety of persons or property or the environment, even though the volume of water impounded is less than one hundred (100) acre feet, the director may require an application to be made.

There is no Federal counterpart to Indiana's rule at subsection (g)(3). On November 29, 2004 (69 FR 69283), we approved the removal of a similar requirement at 312 IAC 25–4–49(g)(3) for surface mining reclamation plans. Therefore, we find the revision made to previously approved 312 IAC 25–4–87(g)(3) will not make the Indiana rules less effective than the Federal regulations or SMCRA.

D. 312 IAC 25–5–16 Requirements for Performance Bond Release

1. Indiana proposed to revise its rule at subsection (a) concerning what a permittee must include in the newspaper advertisement that is part of the bond release application. Currently, Indiana's rule requires the permittee to state in the newspaper advertisement that, ''any person with a valid legal interest that might be adversely affected by release of bond, or the responsible officer or head of any federal, Indiana, or local governmental agency that has jurisdiction by law or is authorized to develop and enforce environmental standards with respect to the operations, may file written comments or objections or may request a public hearing or informal conference.'' Indiana proposed to revise this requirement by deleting the words ''informal conference.''

The counterpart Federal regulation at 30 CFR 800.40(a)(2) specifies that the advertisement must contain the name and address of the regulatory authority to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted pursuant to 30 CFR 800.40(f) and (h). The Federal regulation at 30 CFR 800.40(f) provides that certain persons may file written objections and request a ''public hearing'' regarding the proposed bond release. The Federal regulation at 30 CFR 800.40(h) provides that ''without prejudice to the right of an objector or the applicant, the regulatory authority may hold an informal conference * * * to resolve such written objections.''

We find that Indiana's proposed revision is no less effective than the Federal regulation at 30 CFR 800.40(a)(2) because this Federal regulation does not require the newspaper advertisement to contain information on who may request a public hearing or informal conference. Instead, it requires the advertisement to contain information on where requests for public hearings or informal conferences may be submitted. Therefore, we are approving Indiana's revision.

2. Indiana proposed to add a new rule at subsection (b) that allows the director of IDNR to initiate an application for the release of bond. If a bond release application is initiated by the director of IDNR, the department will have to perform the notification and certification requirements otherwise imposed on the permittee. While the counterpart Federal regulation at 30 CFR 800.40(a) allows a permittee to file an application for bond release, the Federal regulations are silent as to whether a regulatory authority may initiate bond release proceedings. However, a similar provision was approved for the Kentucky program on December 31, 1990 (55 FR 53490) and the Illinois program on April 7, 2000 (65 FR 18239). Also, on September 14, 2004, we approved a similar change for Indiana's statute at IC 14–34–6–7 (69 FR 55348). We approved the statutory change with the understanding that Indiana would revise its implementing rule at 312 IAC 25–5–16. Indiana's revision at 312 IAC 25–5–16(b) meets this requirement.

Under Indiana's proposal, bond release proceedings initiated by the director of IDNR must conform to the same procedural steps as a bond release initiated by the permittee. Thus, the

public participation and notification requirements of section 519 of SMCRA and the Federal regulation at 30 CFR 800.40 would still apply when the director of IDNR initiates a bond release in Indiana. For the above reasons, we find that allowing the director of IDNR to initiate bond release does not make Indiana's performance bond release requirements at 312 IAC 25–5–16(b) less effective than the Federal regulation at 30 CFR 800.40(a). Therefore, we are approving the new provision.

3. Indiana proposed to redesignate existing subsections (c) through (f) as new subsections (d) through (g) and to revise new subsection (d). Indiana also proposed to delete existing subsections (g) and (i) and to add new subsection (h). In addition, Indiana proposed to revise existing subsection (h) and redesignate it as new subsection (i). Finally, Indiana proposed to add new subsection (j).

In a letter dated May 9, 2007 (Administrative Record No. IND–1748), we notified Indiana that we completed our review of the State's proposed amendment and identified some provisions that appeared to be less effective than the Federal regulations. We also met with Indiana staff on June 26, 2007, to discuss our concerns regarding the amendment.

We advised Indiana that 312 IAC 25–5–16, starting at new subsection (d), contains deficiencies that include inappropriate reference citations and the removal and/or absence of required program provisions, thus making the Indiana rules less effective than the Federal regulations. During our discussions and in an email dated July 24, 2007 (Administrative Record No. IND–1752), Indiana advised us that it would submit revisions to the amendment to address these concerns at a later date and that we should proceed with processing the amendment. Therefore, we cannot approve Indiana's proposed revisions at 312 IAC 25–5–16 new subsections (d) through (j).

E. 312 IAC 25–6–20 Surface Mining Permanent and Temporary Impoundments

1. At subsection (a)(3)(B) regarding criteria for stability of impoundments, Indiana proposed to remove the language ''and located where failure would not be expected to cause loss of life or serious property damage.''

The counterpart Federal regulation at 30 CFR 816.49(a)(4)(ii) does not contain the deleted language. Therefore, we find that the removal of the language will not make Indiana's rule at 312 IAC 25–6–20(a)(3)(B) less effective than the counterpart Federal regulation.

2. At subsection (a)(9)(E)(ii) regarding inspection of impoundments, Indiana proposed to add the following type of impoundment to its list of those non-hazardous impoundments that are exempt from its quarterly examination requirements:

> (ii) Impoundments that are entirely contained within an incised structure such that the incised structure would completely contain the waters of the impoundment should failure occur and failure would not create a potential threat to public health and safety or threaten significant environmental harm.

The impoundments listed in subsection (a)(9)(E) are among those that do not meet the size or other criteria of 30 CFR 77.216(a) or do not meet the Class B or C criteria for dams in the NRCS publication, Technical Release No. 60.

There is no Federal counterpart to the added provision. The Federal regulation at 30 CFR 816.49(a)(12) requires quarterly inspections of impoundments for appearance of structural weakness and other hazardous conditions. Because incised structures do not have dams, there is no probability of impoundment failure. Therefore, we find that 312 IAC 25–6–20(a)(9)(E)(ii) is no less effective than the counterpart Federal regulation at 30 CFR 816.49(a)(12), and we are approving it.

F. 312 IAC 25–7–1 Inspections of Sites

At subsection (h)(1)(D)(i) regarding the definition of ''abandoned site,'' Indiana proposed to remove the language ''or permit revocation proceedings have been initiated and are being pursued diligently.''

On November 29, 2004, we required Indiana to revise its regulation at 312 IAC 25–7–1(h)(1)(D)(i) to allow a site to be classified as abandoned only in cases where a permit has expired or been revoked (69 FR 69287). We codified this requirement at 30 CFR 914.16(ff). Indiana's removal of the above quoted language meets this requirement. Therefore, we find that 312 IAC 25–7–1(h)(1)(D)(i) is no less effective than 30 CFR 840.11(g)(4)(i), and we approve it. We are also removing the required amendment at 30 CFR 914.16(ff).

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On January 4, 2007, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND–1744). We received comments from two agencies. The U.S. Department of the Interior Fish and Wildlife Service responded on January 22, 2007 (Administrative Record No. IND–1745), that it had no specific comments on the proposed amendment. The U.S. Department of Agriculture Forest Service (Forest Service) responded on February 9, 2007 (Administrative Record No. IND–1746), by recommending that Indiana retain, instead of deleting, the provision at 312 IAC 25–4–87(g)(3) that requires a permit application and prior approval from the director of IDNR before the construction of structures that impound less than 100 acre-feet of water. The Forest Service also recommended that Indiana add one or more criteria to 312 IAC 25–6–66(4) that encourages design parameters that foster the passage of aquatic organisms instead of having only criteria that approaches the design of water crossing structures strictly from an engineering standpoint. Because the Federal regulations do not contain requirements related to the Forest Service's above two recommendations, Indiana is not required to have them in the State's approved regulatory program. However, we sent a copy of the Forest Service's comments to Indiana for consideration.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On January 4, 2007, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. IND–1744). EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On January 4, 2007, we requested comments on Indiana's amendment (Administrative Record No.

IND–1744), but neither responded to our request.

V. OSM's Decision

Based on our discussions in OSM's Findings III.A. through D.2., and E. and F. above, we approve those revisions to Indiana's rules sent to us on December 11, 2006. We do not approve Indiana's newly redesignated subsections (d) through (g) and (i) and new subsections (h) and (j) at 312 IAC 25–5–16 as discussed in OSM's Findings III.D.3. For those rules we approve, Indiana must fully promulgate them in identical form to the rules submitted to and reviewed by OSM and the public.

To implement our decision, we are amending the Federal regulations at 30 CFR part 914, which codify decisions concerning the Indiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

Effect of OSM's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change to an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Indiana program, we will recognize only the statutes, rules and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Indiana to enforce only approved provisions.

VI. Procedural Determinations

Executive Order 12630—Takings

The provisions in the rule based on counterpart Federal regulations do not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations. The revisions made at the initiative of the State that do not have Federal counterparts have also been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that this rulemaking has no takings implications.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Indiana program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Indiana program has no effect on federally-recognized Indian tribes.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that a portion of the provisions in 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 they are based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this part of the rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations. The Department of the Interior also certifies that the provisions in this rule that are not based upon counterpart Federal regulations 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.*). This determination is based upon the fact that the provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that a portion of the State provisions are based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that a portion of the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 2007.

William Joseph,

Acting Regional Director, Mid-Continent Regional Office.

■ For the reasons set out in the preamble, 30 CFR part 914 is amended as set forth below:

PART 914—INDIANA

■ 1. The authority citation for part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 914.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
	October 18, 2007	312 IAC 25–1–57; 25–4–87; 25–5–16(a), (b) [new], and (c) [formerly (b)]; 25–6–20; 25–6–66; and 25–7–1.

§ 914.16 [Amended]

■ 3. Section 914.16 is amended by removing paragraph (ff) and removing reserved paragraphs (gg) through (mm).

[FR Doc. 07–5144 Filed 10–17–07; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–125–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment revises the Virginia Coal Surface Mining Reclamation Regulations concerning review of a decision not to inspect or enforce. The amendment is intended to specify the time limit for filing a request for review of a decision and to identify with whom a request for review should be filed.

DATES: *Effective Date:* October 18, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Earl Bandy, Director, Knoxville Field Office; Telephone: (276) 523–4303. Internet: *ebandy@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a) (1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Virginia program in the December 15, 1981, **Federal Register** (46 FR 61088). You can also find later actions concerning Virginia's program and program amendments at 30 CFR 946.12, 946.13, and 946.15.

II. Submission of the Amendment

By letter dated March 12, 2007 (Administrative Record Number VA–1063), the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. In its letter, the DMME stated that the program amendment revises the Virginia Coal Surface Mining Reclamation Regulations to be consistent with the time limits to request formal administrative review of agency decisions under the Virginia Act and regulations. The amendment also identifies the person with whom the request for review should be filed.

We announced receipt of the proposed amendment in the May 9, 2007, **Federal Register** (72 FR 26329). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on June 8, 2007.

III. OSM's Findings

4 VAC 25–130–842.15(d). Review of Decision Not To Inspect or Enforce

This provision is amended at subsection (d) by adding the phrase ''within 30 days of the Division's determination'' to clarify the time limit within which a person may request a formal hearing to review a decision not to inspect or enforce. Subsection (d) is also amended to specify that all requests for hearings and appeals for review and reconsideration be filed with the Director, Division of Mined Land Reclamation.

As amended, 4 VAC 25–130–842.15(d) provides as follows:

> Any person who requested a review of a decision not to inspect or enforce under this section and who is or may be adversely affected by any determination made under Subsection (b) of this section may request review of that determination by filing within 30 days of the Division's determination an application for formal review and request for hearing under the Virginia Administrative Process Act, § 2.2–4000 et seq. of the Code of Virginia. All requests for hearing or appeals for review and reconsideration made under this section shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

In its submittal letter, the DMME stated that the 30-day time limit for requesting formal review was proposed in order to make this regulation consistent with the time limits to request formal administrative review of agency decisions under the Virginia Act and regulations.

The Federal regulations at 30 CFR 840.15 require that each State program ''provide for public participation in enforcement of the State program consistent with that provided by 30 CFR parts 842, 843 and 845 and 43 CFR part 4.''

The counterpart Federal regulation pertaining to appeals of informal review decisions is at 30 CFR 842.15(d), which provides as follows:

> Any determination made under paragraph (b) of this section [pertaining to requests for informal review] shall constitute a decision of OSM within the meaning of 43 CFR 4.1281 and shall contain a right of appeal to the Office of Hearings and Appeals in accordance with 43 CFR part 4.

The Federal regulations promulgated by the Office of Hearings and Appeals, and applicable to formal appeals of OSM's decisions on informal review, are at 43 CFR 4.1280–4.1286. The time allowed for requesting formal review is set forth in 43 CFR 4.1282(b), which states that:

> The notice of appeal shall be filed within 20 days *from the date of receipt of the decision.* If the person appealing has not been served with a copy of the decision, such appeal must be filed within 30 days of the date of the decision.

(Emphasis added.)

With respect to anyone requesting formal review, but who was not served with the informal review decision, the Federal regulation and the proposed Virginia amendment are identical in providing a 30-day appeal period that runs from the date of the determination. However, the Federal and State provisions differ with respect to appeal times for persons who are served with the informal review decision. While the State amendment provides a 30-day appeal period commencing with the date of the informal review determination, the Federal regulation allows only a 20-day appeal period, but that period commences with the person's *receipt* of the decision. Even though Virginia would allow ten additional days to appeal, we were concerned that a person's appeal period could nearly expire before he or she receives the decision, which must only be sent to the appellant within 30 days of the informal review request, 4 VAC 25–130–842.15(b). To address that concern, the DMME submitted a document from its Procedures Manual. The document, entitled ''Mailing-Administrative Decisions'', was issued on September 10, 2007, and states, in pertinent part, as follows:

> A decision that is subject to administrative or judicial review under the Virginia Coal Surface Mining Control and Reclamation Act of 1979, as amended, or the Virginia Administrative Process Act shall be either hand delivered or sent by certified mail to the person it is directed to or to his designated agent.
>
> A decision sent by certified mail shall be mailed on the date of the decision, but no later than 2 working days from the decision date.

If the DMME adheres to the policy quoted above, a person wishing to formally appeal an informal review decision should have at least 25 days to file his appeal after receipt of the decision, assuming the decision is mailed two days after its issuance, and assuming delivery occurs no later than 3 days after mailing. With the understanding that the DMME will apply this policy to informal review decisions, and that the DMME will serve all informal review decisions via certified mail, we find that the amendment to 4 VAC 25–130–842.15(d) is no less effective than the Federal regulations at 30 CFR 842.15(d) and 43 CFR 4.1282(b). The remainder of the amendment, pertaining to the identification of the entity with whom a request for review should be filed, is no less effective than the aforementioned Federal regulations. The amendment is, therefore, approved.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Number VA–1068) and no comments were received.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, on March 16, 2007, we requested comments on the amendments from various Federal agencies with an actual or potential interest in the Virginia program (Administrative Record Number VA–1060). The United States Department of the Interior, Bureau of Land Management responded and stated that they found no inconsistencies with the proposed changes and the Federal Laws, which govern mining (Administrative Record No. 1067). The United States Department of Agriculture, Natural Resources Conservation Service responded and stated that they did not object to the amendment and deemed the changes appropriate.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the

program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Virginia proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

Under 30 CFR 732.17(h)(II)(i), we requested comments on the amendment from the EPA (Administrative Record number VA–1064). No comments were received.

V. OSM's Decision

Based on the above findings, we are approving the amendment sent to us by Virginia on March 12, 2007. To implement this decision, we are amending the Federal regulations at 30 CFR part 946, which codify decisions concerning the Virginia program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

The provisions in the rule based on counterpart Federal regulations do not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations. The revisions made at the initiative of the State that do not have Federal counterparts have also been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that the provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve Federal regulations involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that a portion of the provisions in 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 they are based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations. The Department of the Interior also certifies that the provisions in this rule that are not based upon counterpart Federal regulations 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.*). This determination is based on the fact that the provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers,

individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that a portion of the State provisions are based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that a portion of the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 2007.

H. Vann Weaver,

Acting Regional Director, Appalachian Region.

■ For the reasons set out in the preamble, 30 CFR part 946 is amended as set forth below:

PART 946—VIRGINIA

■ 1. The authority citation for part 946 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 946.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 946.15 Approval of Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
March 12, 2007	October 18, 2007	4 VAC 25–130–842.15(d), Review of decision not to inspect or enforce.

[FR Doc. E7–20559 Filed 10–17–07; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–148]

Drawbridge Operation Regulations; Taunton River, Fall River and Somerset, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the old Brightman Street bascule bridge across the Taunton River at mile 1.8, between Fall River and Somerset, Massachusetts. Under this temporary deviation, in effect from 6 a.m. on October 13, 2007 through 5 p.m. on October 27, 2007, the bridge shall open on signal after a one-hour advance notice is given by calling the number posted at the bridge. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from 6 a.m. on October 13, 2007 through 5 p.m. on October 27, 2007.

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

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

SUPPLEMENTARY INFORMATION: The old Brightman Street bascule bridge, across the Taunton River at mile 1.8, between Fall River and Somerset, Massachusetts, has a vertical clearance in the closed position of 27 feet at mean high water and 31 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.619.

The owner of the bridge, Massachusetts Highway Department (MHD), requested a temporary deviation to facilitate scheduled bridge maintenance and structural repairs to the sidewalks at the old Brightman Street bascule bridge.

Under this temporary deviation, in effect from 6 a.m. on October 13, 2007 through 5 p.m. on October 27, 2007, the old Brightman Street bascule bridge shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

This work was scheduled during the time of year when the one upstream facility is closed and no deliveries are scheduled. The recreational boat marinas were contacted and have no objection to the one-hour advance notice.

An 18′ x 43′ construction work barge may be located in the channel during the prosecution of this bridge maintenance. The work barge will move upon request by calling the bridge tender either on the land line (508) 672–5111 or on VHF channels 13 and 16.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

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

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

Dated: October 9, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 07–5155 Filed 10–15–07; 4:19 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–07–020]

RIN 1625–AA09

Drawbridge Operation Regulations; Ouachita River, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the draw of the U.S. 165 bridge, mile 110.1, on the Ouachita River at Columbia, Louisiana. The drawbridge has been removed from the waterway. Therefore, the regulation controlling the operation of the drawbridge is no longer necessary.

DATES: This rule is effective October 18, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 2.107f, in the Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator (314) 269–2378.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The U.S. 165 bridge was removed from the waterway and replaced by a fixed high-level bridge. Since the drawbridge no longer exists, the operating schedule in 33 CFR 117.483 for this bridge is no longer needed and is being removed. Notice and comment on this action is not necessary, as there is no need for the regulation to exist any longer.

For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**.

Background and Purpose

On May 31, 2001 the Coast Guard issued a permit, later amended on March 20, 2006, for a fixed, high-level bridge to replace the U.S. 165 bridge, mile 110.1, on the Ouachita River at Columbia, LA. Land traffic has been shifted to the replacement bridge and the drawbridge, governed by 33 CFR 117.483, has been removed from the waterway.

Discussion of Rule

This final rule amends 33 CFR 117.483 by removing the regulations covering U.S. 165 bridge, mile 110.1 at Columbia, as that bridge has been removed from the waterway.

Regulatory Evaluation

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

A special operating regulation was established for the drawbridge. This drawbridge has been removed from the waterway, making the regulation unnecessary. Vessel traffic can continue to pass under the new fixed bridge without interference. Therefore, we expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule, to remove an obsolete drawbridge regulation, will have no impact on any small entities.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore this rule is categorically excluded under figure 2–1, paragraph 32(e) of the Instruction from further environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this regulation alters the normal operating conditions of the drawbridge, it falls within this exclusion. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Revise § 117.483 to read as follows:

§ 117.483 Ouachita River.

The draw of the S8 Bridge, mile 57.5, at Harrisonburg, shall open on signal if at least one hour notice is given.

Dated: September 18, 2007.

Joel R. Whitehead,

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

[FR Doc. E7–20602 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2007–0912; FRL–8483–3]

Approval and Promulgation of Implementation Plans; State of Missouri; Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Kansas City and St. Louis portions of the Missouri State Implementation Plan (SIP). This revision consists of transportation conformity criteria and procedures related to interagency consultation and enforceability of certain transportation-related control measures and mitigation measures.

DATES: This direct final rule will be effective December 17, 2007, without further notice, unless EPA receives adverse comment by November 19, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2007–0912, by one of the following methods:

1. *http://www.regulations.gov.* Follow the online instructions for submitting comments.
2. *E-mail: hamilton.heather@epa.gov.*
3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. *Hand Delivery or Courier:* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2007–0912. 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 through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://*

www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m. excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Transportation Conformity
II. Background for This Action
III. State Submittal and EPA Evaluation
IV. Public Comment and Final Action
V. Statutory and Executive Order Reviews

I. Transportation Conformity

Transportation conformity is required under section 176(c) of the Clean Air Act (CAA or Act) to ensure that Federally supported highway, transit projects, and other activities are consistent with (''conform to'') the purpose of the SIP. Conformity currently applies to areas that are designated nonattainment and to areas that have been redesignated to attainment after 1990 (maintenance areas) with plans developed under section 175A of the CAA for the following transportation related criteria pollutants: Ozone, particulate matter ($PM_{2.5}$ and PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2).

Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS). The transportation conformity regulation is found in 40 CFR part 93 and provisions related to conformity SIPs are found in 40 CFR 51.390.

II. Background for This Action

EPA promulgated the Federal transportation conformity criteria and procedures (the conformity rule) on November 24, 1993. Among other things, the rule required states to address all provisions of the conformity rule in their SIPs (conformity SIPs). Under 40 CFR 51.390, most sections of the conformity rule were required to be copied verbatim. States were also required to tailor all or portions of the following three sections of the conformity rule to meet their state's individual circumstances: 40 CFR 93.105, which addresses consultation procedures; 40 CFR 93.122(a)(4)(ii), which addresses written commitments to control measures that are not included in a metropolitan planning organization's (MPO's) transportation plan and transportation improvement program that must be obtained prior to a conformity determination, and the requirement that such commitments, when they exist, must be fulfilled; and 40 CFR 93.125(c), which addresses written commitments to mitigation measures that must be obtained prior to a project-level conformity determination, and the requirement that project sponsors must comply with such commitments, when they exist.

On August 10, 2005, the ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users'' (SAFETEA–LU) was signed into law. SAFETEA–LU revised section 176(c) of the Clean Air Act's transportation conformity provisions. One of the changes streamlines the requirements for conformity SIPs. Under SAFETEA–LU, states are required to address and tailor only three sections of the conformity rule in their conformity SIPs: 40 CFR 93.105, 40 CFR 93.122(a)(4)(ii), and, 40 CFR 93.125(c), described above. In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule. These changes took effect on August 10, 2005, when SAFETEA–LU was signed into law.

III. State Submittal and EPA Evaluation

The SIP revisions submitted to EPA on July 27, 2007, consist of the Kansas City and St. Louis Transportation Conformity Requirements (10 Code of State Regulations (CSR) 10–2.390, and 10 CSR 10–5.480, respectively). These rules replace the previous revision effective on December 30, 2005.

The Kansas City conformity rule will apply only if the area is designated or redesignated to nonattainment. The Kansas City area was previously a maintenance area for the 1-hour ozone standard. When the 1-hour ozone standard was revoked, conformity was no longer required. The area is currently designated attainment for the 8-hour ozone standard.

The revisions to the Kansas City and St. Louis conformity rules were updated to be consistent with the transportation conformity-related provisions of SAFETEA–LU as previously described in this document. Revisions were made to definitions, interagency consultation procedures (including processes, roles and responsibilities, consultation opportunities, recordkeeping and conflict resolution), and the requirements to fulfill commitments to control measures and mitigation measures.

The submittal documents public notice and hearing for this SIP revision in compliance with CAA section 110(l) and 40 CFR 51.102.

We have reviewed the submittal to assure consistency with the current Clean Air Act, as amended by SAFETEA–LU, and EPA regulations (40 CFR part 93 and 40 CFR 51.390) governing state procedures for transportation conformity and interagency consultation and have concluded that the submittal is approvable. Details of our review are set forth in a technical support document, which has been included in the docket for this action.

IV. Public Comment and Final Action

Under section 110(k) of the Act, and for the reasons set forth above, EPA is taking action to approve the Kansas City area and St. Louis area transportation

conformity requirements as revisions to the Missouri SIP.

We do not expect objection to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submittal. If we receive adverse comments by November 19, 2007, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 17, 2007. This will incorporate these transportation conformity procedures into the federally-enforceable SIP and thereby replace the previous versions. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. 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 approves state law implementing a Federal standard and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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 December 17, 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).)

List of Subjects in 40 CFR Part 52

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

Dated: October 5, 2007.

William Rice,

Acting Regional Administrator, Region 7.

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

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

■ 2. In § 52.1320 the table in paragraph (c) is amended by revising the entries for 10–2.390 under Chapter 2 and 10–5.480 under Chapter 5 to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.390	Kansas City Area Transportation Conformity Requirements.	7/30/07	10/18/07 *[insert FR page number where the document begins]*.	
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area 10				
*	*	*	*	*
10–5.480	St. Louis Area Transportation Conformity Requirements.	7/30/07	10/18/07 *[insert FR page number where the document begins]*.	
*	*	*	*	*

[FR Doc. E7–20375 Filed 10–17–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2005–VA–0012; FRL–8484–4]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Virginia; Control of Total Reduced Sulfur From Pulp and Paper Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a Section 111(d) Plan revision submitted by the Commonwealth of Virginia. The revision consists of amendments to the regulation that controls total reduced sulfur (TRS) from pulp and paper mills. This action is being taken under the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on November 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2005–VA–0012. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: LaKeshia Robertson, (215) 814–2113, or by e-mail at *robertson.lakeshia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 3, 2007 (72 FR 36413), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of amendments to Virginia's Section 111(d) Plan to control TRS from pulp and paper mills (9 VAC 5, Chapter 40, Article 13, Rule 4–13). The formal SIP revision was submitted by the Commonwealth of Virginia on June 20, 2005. Other specific requirements of Virginia's plan to control TRS from pulp and paper mills and the rational for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed.

Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or

approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *.'' The opinion concludes that ''[r]egarding (10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

III. Final Action

EPA is approving the amendments to an existing regulation (9 VAC 5, Chapter 40, Article 13, Rule 4–13) as a revision to the Virginia Section 111(d) Plan submitted on June 20, 2005.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, 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 approves a state rule implementing a Federal standard.

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.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 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, approving the amendments to Virginia's Section 111(d) Plan, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: October 10, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart VV—Virginia

■ 2. Section 62.11610 is amended by adding paragraph (d) to read as follows:

§ 62.11610 Identification of plan.

* * * * *

(d) On June 20, 2005, the Commonwealth of Virginia submitted changes to its 111(d) Plan. The changes consist of amendments to 9 VAC 5, Chapter 40, Part II, Article 13, Sections 5–40–1660, 5–40–1670 (definitions of Agreement (removed), Cross recovery furnace (revised), Neutral sulfite semichemical pulping operation (added), New design recovery furnace (added), Pulp and paper mill (added), Semichemical pulping process (added), Straight kraft recovery furnace (revised), Total reduced sulfur (revised)), 5–40–1690, 5–40–1750, 5–40–1770B. and C., 5–40–1780D., and 5–40–1810. The State effective date is April 1, 1999.

[FR Doc. E7–20597 Filed 10–17–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 222

[Docket No. FRA–2007–27285, Notice No. 2]

RIN 2130–AB86

Use of Locomotive Horns at Highway-Rail Grade Crossings; Technical Amendments to Appendix D

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On August 9, 2007, FRA published a direct final rule in the **Federal Register** which made technical amendments to Appendix D of 49 CFR Part 222. As reflected in DOT Docket No. FRA–2007–27285, FRA did not receive any comments or requests for an oral hearing on the direct final rule. Therefore, FRA is issuing this document to confirm that the direct final rule took effect on October 9, 2007, the date specified in the rule.

DATES: The direct final rule published at 72 FR 44790, August 9, 2007, is confirmed effective October 9, 2007.

FOR FURTHER INFORMATION CONTACT: Ronald Ries, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: (202) 493–6299); or Kathryn Shelton, Office of Chief Counsel, Mail Stop 10, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: (202) 493–6038).

SUPPLEMENTARY INFORMATION: Pursuant to FRA's direct final rulemaking procedures set forth at 49 CFR 211.33, FRA is issuing this document to inform the public that it has not received any comments or requests for an oral hearing on the direct final rule that was published in the **Federal Register** on August 9, 2007 (72 FR 44790). The direct final rule made technical amendments to Appendix D of 49 CFR Part 222 to update information contained in the appendix and inform the public of the most recent value of the Nationwide Significant Risk Threshold. As no comments or requests for an oral hearing were received by FRA, this document informs the public that the effective date of the direct final rule remains as October 9, 2007, the date specified in the rule.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

Issued in Washington, DC, on October 15, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–20605 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AG70

Injurious Wildlife Species; Black Carp (Mylopharyngodon piceus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) adds all forms of live black carp (*Mylopharyngodon piceus*), gametes, viable eggs, and hybrids to the list of injurious fish under the Lacey Act. By this action, the Service prohibits the importation into or transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States of live black carp, gametes, viable eggs, and hybrids. The best available information indicates that this action is necessary to protect the interests of wildlife and wildlife resources from the purposeful or accidental introduction and subsequent establishment of black carp in the ecosystems of the United States. Live black carp, gametes, viable eggs, and hybrids can be imported only by permit for scientific, medical, educational, or zoological purposes, or without a permit by Federal agencies solely for their own use. Interstate transportation of live black carp, gametes, viable eggs, and hybrids currently held within the United States will be allowed only by permit. Interstate transportation permits may be issued for scientific, medical, educational, or zoological purposes.

DATES: This rule is effective for all forms of live black carp on November 19, 2007.

FOR FURTHER INFORMATION CONTACT: Kari Duncan, Chief, Branch of Invasive Species, Division of Environmental Quality, at (703) 358–2464 or *kari_duncan@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

In February 2000, the U.S. Fish and Wildlife Service (Service or we) received a petition from the Mississippi Interstate Cooperative Resources Association (MICRA) to list the black carp (*Mylopharyngodon piceus*) under the injurious wildlife provision of the Lacey Act (18 U.S.C. 42). The petition was based upon concerns about the potential impacts of black carp on native freshwater mussels and snails in the Mississippi River basin. In October 2002, the Service received a petition signed by 25 members of Congress representing the Great Lakes region to add black, bighead, and silver carp to the list of injurious wildlife under the Lacey Act. A follow-up letter identified seven additional Legislators who supported the petition.

Summary of Previous Actions

On June 2, 2000, we published in the **Federal Register** (65 FR 35314) an advance notice of proposed rulemaking (ANPR) to seek comments on whether or not we should propose to list black carp

as injurious under the Lacey Act. The comment period on the ANPR was open for 60 days, until August 1, 2000. During that comment period, we received 124 comments. We considered those comments in our development of a proposed rule to add all forms of live black carp to the list of injurious fishes under the Lacey Act, which we published in the **Federal Register** on July 30, 2002 (67 FR 49280). We opened the public comment period on the proposed rule for 60 days, until September 30, 2002. We received 82 comments on the proposed rule. On June 4, 2003, in an effort to gather more economic and ecological information on our proposed action, we reopened the public comment period on the proposed rule for an additional 30 days, until August 4, 2003 (68 FR 33431). We received 21 comments during the reopened comment period. On August 30, 2005, we published in the **Federal Register** (70 FR 51326) a document announcing the availability of the draft environmental assessment and draft economic analysis, including the initial regulatory flexibility analysis, for the proposed rule, and seeking public comments on those draft documents and on listing only the diploid (fertile) form of black carp. The public comment period for this August 30, 2005, document was originally 60 days, ending October 31, 2005; however on October 27, 2005, we published a document (70 FR 61933) extending the comment period by an additional 45 days, until December 16, 2005. During the 105-day comment period, we received 89 comments. Therefore, in total, the Service received 316 comments during the four public comment periods.

We reviewed all comments we received for substantive issues and information regarding the injurious nature of black carp. Many States and conservation organizations support listing diploid and triploid black carp. Aquaculture industry groups and fish production facility owners do not support listing triploid black carp, but most are amenable to listing diploid black carp. We have grouped similar comments into issues; we present these issues and our responses below.

Comments Received on the Proposed Rule

Many comments provided specific black carp scientific and economic data pertaining to use and alternatives to use, distribution, impacts, spread, level of risk of introduction, diploid and triploid fish, certification of triploid fish, and the potential effects of an injurious listing. We appreciate the information and data provided and have considered it in preparing our final determination to add live black carp, gametes, viable eggs, and hybrids to the list of injurious fishes under the Lacey Act.

Issue: Many respondents expressed concern about the potential negative impacts of black carp to mussels, the cultured pearl industry, snails, and water quality; declines in trust resources (imperiled mussels, birds, turtles, and fish) if black carp are introduced and the cascading impacts to tourism and recreation in local economies; costs to control black carp; and costs to eradicate (and mitigate impacts of) black carp from U.S. waters once introduced.

Response: The Service agrees with the respondents' comments on these issues. The biological characteristics of black carp and their potential to be injurious to the U.S. wildlife and wildlife resources are the bases for our decision to add live black carp to the list of injurious fishes under the Lacey Act. The likelihood or feasibility of eradication from natural waters due to a lack of tools, regardless of cost, was considered in our evaluation and is part of the basis for this final rule. Since eradication is highly unlikely, mitigation for impacts would be extremely difficult.

Issue: Many respondents expressed concern about the establishment of black carp in new areas through adjacent waterways, and about the ability of facilities to contain triploid or diploid black carp within their ponds due to the challenges of preventing release due to filter clogs, during levee problems, and during floods. These respondents felt that black carp would inevitably escape into U.S. waters.

Response: Based on the Service's finding, the ability and effectiveness of measures to prevent escape or establishment are low, and this issue is part of the basis for this final rule.

Issue: Several respondents stated that the ecological impacts of black carp are difficult to predict.

Response: The Lacey Act directs the Service to look at the injury or potential injury caused by a species when we are making a listing determination. Once we have determined that a species meets the standard of injuriousness under the Act, we must take the appropriate action to add it to the list of injurious wildlife. While the specific impacts of black carp (locations or species) are difficult to predict, black carp have had negative impacts on mollusk populations in similar habitats in other countries. Such impacts to mollusks are highly likely to occur in the United States. In addition, there are potential negative impacts to other species, such as fish, turtles, and nutrient cycles, if algae mats develop in the absence of filter-feeding mollusks.

Issue: Several respondents noted that the efficiency of black carp in controlling snails in culture ponds foreshadows the probable efficiency of black carp in eating mollusks in the wild.

Response: We agree; black carp are prolific eaters and are highly specialized to eat mollusks. Where mollusks are available, black carp will feed almost exclusively on them, and in similar quantities, whether the carp are diploid or triploid fish.

Issue: One respondent stated that it makes little difference what a species might do after it escapes and becomes entrenched in the wild if there is little or no threat that it will escape in the first place; with no threat, there is no need for rule.

Response: The Service disagrees with this comment. The impacts caused by an introduced species vary based on the life history of the introduced species, the level of infestation, and the impacts it causes on native wildlife and wildlife resources.

Furthermore, it may take many years to realize the full impacts of the introduction of aquatic species on wildlife and wildlife resources. We believe that preventing the introduction and spread of nonnative species is more cost-effective than trying to control an established invader. The recent captures of diploid and triploid black carp from the wild, perhaps dating back 10 years, confirm that black carp are escaping or being released into the environment. Additionally, there are numerous examples from other countries where black carp have become established in habitats similar to those found in the United States.

Issue: A few respondents stated that there is no evidence of impacts to native mussels and snails because there are no black carp in the wild. Additionally, several commenters noted that black carp have been in the United States for 30 years and haven't been found in the wild.

Response: While black carp were first imported in the 1980s, they weren't widely used and transported until the late 1990s. The first black carp found in the wild was in 2003; several more have been captured from natural waters of the United States since then. The potential risks of harm to native mollusks from black carp have been presented in peer-reviewed scientific research. This research, combined with the presence of black carp captured in natural waters of the United States, provides evidence sufficient to demonstrate that black carp

will escape into the wild and injure native mussels and snails.

Issue: Several commenters stated that black carp impacts are strictly dependent on the number of fish present and that a few triploids would not have a considerable impact on native snails and mussels; hundreds of thousands would, but that would happen only if fertile diploid black carp would establish breeding populations.

Response: Given that the black carps' diet consists primarily of mollusks, we find that non-breeding black carp are highly likely to have negative impacts on native mussels and snails, particularly in local areas. Triploid black carp, which can live 15 or more years, could have a considerable impact on local mollusk populations, as they feed almost exclusively on these types of organisms, including those designated as threatened and endangered species under the Endangered Species Act, and they would compete with native fish for food. Even a few introduced black carp could impact mollusk populations in local areas, as they have been shown to be effective at eating nearly all of the mollusks where they have been stocked.

Issue: Many respondents expressed concern that listing triploid and diploid black carp could result in unintended adverse environmental impacts. Restricting interstate transport of triploid black carp will create an incentive for States without farmers skilled in triploid technologies to produce, sell, and distribute greater numbers of fertile diploid black carp for use within States without a triploid supply, which would increase the chance of release of reproducing adults. Because producing diploids is easier, a final rule prohibiting importation and interstate transport of triploid and diploid black carp could result in greater numbers of fertile black carp being distributed in the United States.

Response: The Service acknowledges that by adding triploid and diploid black carp to the list of injurious wildlife, thereby prohibiting their importation and interstate transport, the risk of more diploids being utilized exists. However, the States regulate the fish allowed to be used in facilities within their State boundaries and could assess the acceptable level of environmental and economic risks of diploid carp in their permitting processes. Several States that currently import triploid black carp from Arkansas do possess diploids and could potentially produce triploids or diploids for use within State boundaries. We believe that prohibiting interstate transportation and importation of black carp by listing black carp as injurious under the Lacey Act is our best means of limiting the range expansion of that species.

Issue: Similarly, a few respondents expressed concerns regarding the potential for increased use of diploid black carp in Mississippi. They stated that by prohibiting interstate transportation of triploid and diploid black carp, catfish farmers in Mississippi would be forced to stock diploid black carp. Some Mississippi farmers possess diploid broodstock but have never spawned triploid black carp and may be unable for technical reasons to produce enough triploids for use by farmers in Mississippi.

Response: The Service shares this concern, and we hope that States will implement alternative control methods. In addition to the 5 years that have elapsed since our publication of the proposed rule, the effective date of the final rule is delayed 30 days after the date of its publication in the **Federal Register**, a delay which will assist industry and States in preparing for the effects resulting from the implementation of the final rule. Having found that black carp are injurious to the wildlife and wildlife resources of the United States, the Service has received no facts that would justify delaying the effective date of the final rule beyond the 30 days provided by law.

Issue: Some commenters expressed concern about being held responsible under the Lacey Act if black carp were inadvertently transported across state lines.

Response: Once the final rule is effective, any interstate transport without a valid permit of live black carp across state lines is a violation of the Lacey Act. The Service recognizes that there are situations where a person or company may inadvertently transport black carp across state lines, such as when transporting juvenile grass carp, which can be difficult to distinguish from juvenile black carp, or when transporting catfish to processing plants. The Service would welcome the opportunity to work with those affected by this rule to help develop best management practices and Hazard Analysis and Critical Control Point (HACCP) plans that may be implemented as a means of preventing the inadvertent transport of live black carp. The Service focuses its resources on investigating and prosecuting those who act without taking steps to comply with the law.

In addition, this rule prohibits the transportation of live black carp, gametes, and viable eggs. Transportation of dead black carp across state lines would not be a violation of law.

Issue: Several commenters relayed their concern about statements regarding parasite transmission from black carp and stated that there is no evidence that black carp are likely to infect other species with exotic diseases, serve as intermediate hosts, or otherwise transfer parasite diseases more so than any other fish species already present in natural systems. Parasites are irrelevant because not a single new disease organism has been linked to black carp imported in the last 25 years. A listing based on potential parasites does not make sense, because there is no disease inspection for any fish. In addition, black carp are more likely to reduce disease incidence in other fish species by controlling snails that may spread disease.

Response: While no new pathogen introductions are known to be attributed to black carp in the United States, Spring Viremia of Carp virus was recently discovered in the United States from other carps; if infected, black carp introduced to the wild could spread this virus. New importations of black carp for use as diploid broodstock could introduce new pathogens, but this is unlikely, as black carp are not currently imported. While it is possible that black carp may reduce disease incidence in other fish species by controlling snails that may spread disease, this possibility is extremely remote and unlikely outside of the context of aquaculture facilities because of the low probability of black carp locating and consuming a sufficient amount of disease-carrying snails in open waters to prevent the spread of disease to other fish species.

Issue: One commenter stated that the Service has no evidence that black carp serve as hosts for any parasite that infects humans, and that black carp would help break the parasite cycle if any existed. In addition, the commenter stated that black carp have been used to successfully control the snail host for *Schistosoma* problem in humans.

Response: Because black carp feed heavily on mollusks, the species serves as a reservoir host to many mollusk parasites, but black carp likely remains immune from the effects of the parasites and diseases. In certain parts of China, black carp have served as host to the Chinese liver fluke (*Clonorchis sinensis*), which causes Clonorchiasis, one of the most severe food-borne parasitic diseases of humans in China. Black carp have been reportedly used to successfully control snail hosts for *Schistosoma* in humans, which is a tropical and subtropical snail-borne disease that is most prevalent in sub-

Saharan Africa as well as the Middle East, South America, Southeastern Asia, southern China, and the Caribbean. According to the World Health Organization and the U.S. Centers for Disease Control, this disease does not occur in the United States, although a U.S. citizen may contract the disease while traveling.

Issue: Several respondents asked if black carp would enter the upper reaches of tributaries where threatened and endangered mussels exist since they ''inhabit lakes and lower reaches of large, fast moving rivers'' (67 FR 49280).

Response: Black carp have the ability to populate many different habitat types where there is a viable food source, including the upper and middle reaches of rivers, lakes, and reservoirs. Many species of mollusks inhabit lakes and lower reaches of rivers, in addition to upper tributaries, so those species are at risk if black carp are introduced.

Issue: Based on our statement that native fish would have to compete with black carp for food, one commenter asked why native fish species are not currently wiping out native mussels.

Response: Black carp will eat mollusks if they are available, as black carp are highly adapted to eat primarily mussels and snails. Many native molluscivore fish do not feed as exclusively on mussels and snails as black carp. Black carp are generally known as feeding specialists with respect to mollusks, but there is a risk to other potential prey species if mollusks become limited. Black carp may switch, as they do in Asia, to eating crayfishes and other crustaceans, many of which are already imperiled in U.S. waters. Black carp have a larger gape width than most native molluscivores and pose a greater threat to a wide variety of native mussels and snails. There are no known native fish with black carp's combination of size, morphology, and diet. Consequently, black carp could put a whole new suite of species not currently subject to fish predation at considerable risk and thus change ecosystem function by altering the existing food web.

The 1993 Office of Technology Assessment review of the impacts of non-native species introductions concluded that such introductions ''have had profound environmental consequences, exacting a significant toll on U.S. ecosystems.'' There is perhaps no clearer indication of the disruption of ecosystem function than the endangerment or extinction of one of its component species. Published reviews of the factors cited in native fish species extinctions and endangerment found that non-native fish introductions were second only to habitat alteration. More recent publications suggest that in some waters non-native fish introductions may in fact be an even stronger driver of extinction and population decline than habitat alteration.

Issue: One respondent noted that the discussion of population abundance of native freshwater mussels must address the allowed commercial harvest of mussels over the years.

Response: States regulate their commercial harvests of freshwater mussels to promote sustainable mussel populations. For example, a State may restrict the size or the species of mussels that are harvested to ensure a viable breeding population in a given bed. When predation of mussels from black carp is discussed, we assume that freshwater mussel populations are regulated by States for sustainable commercial harvest, where allowed.

Issue: One commenter asked what it would cost the Service to control black carp if they invaded rivers with endangered mollusks because the Endangered Species Act would mandate actions to prevent extinction.

Response: The Service has not developed an estimate for what it would cost to control black carp in rivers. Currently, there are no effective methods available to control black carp in river systems, without considerable damage to other species and drinking water. We believe that control would be very costly in terms of the negative impacts of control methods to non-target species, as well as the costs of the methods. Recovery plans that are developed for threatened and endangered species include actions that restore species and their habitats to viable levels, analyze and reduce or remove threats to those species, and ensure that those species do not decline in status. If control of black carp was identified as a means to recover a species, we would work with partners to develop and implement control methods, if possible.

Issue: Many respondents stated that there is no control method comparable to the effectiveness of black carp in controlling parasites. Only black carp and shoreline treatments of lime and/or copper sulfate/citric acid are effective.

Response: We acknowledge that, by themselves, black carp may be more cost effective than any other single control method. Research has shown that copper sulfate and hydrated lime are 90 percent or more effective in controlling snails in ponds. In addition, several native fish species or their hybrids are still being evaluated as alternatives to black carp, and some have been shown to be moderately effective at controlling snails, although not as effective as black carp alone. Researchers have noted that a combination of biological and chemical controls may be most effective, as there are instances (high vegetation, for example) where black carp cannot completely control snails.

Issue: One commenter noted that copper sulfate has not been very effective at controlling snails in hybrid striped bass ponds.

Response: We appreciate all data provided.

Issue: Several respondents stated that the Food and Drug Administration has not approved any chemicals that can reduce snail populations to the point that snail-borne diseases are no longer a serious threat to fish ponds. Because no one has been able to find a native fish to replace black carp, black carp are the only means of protection against these parasites.

Response: The Service disagrees with this statement. There are several effective chemical treatments to reduce snails in fish ponds; within certain water quality parameters, copper sulfate and hydrated lime have been shown to be more than 90 percent effective in killing snail populations. Bayluscide®-M 70% WP is a chemical treatment (EPA Reg. No. 75394–1) that can be used to eliminate snails from ponds after a severe infestation when the pond production is a total loss, in order to restock catfish. Several fish species have been shown to consume snails, though not as effectively as black carp, including redear sunfish and hybrid redear sunfish. We believe that a combination of biological and chemical methods may be more effective at snail control than any one treatment approach.

Issue: One commenter stated that the State-run fish production facilities of Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, and South Dakota—which use prophylactic procedures, such as periodic pond draining—have not reported any problems with parasites.

Response: We appreciate all information provided.

Issue: Several respondents asked us to consider the take of protected birds infected with adult flukes, or to provide funding for the costs associated to rid flukes from these birds with a vaccine if black carp are listed as injurious, since the American white pelican and perhaps a few other bird species are a host for the fluke and spread it to open waters through defecations.

Response: Although American white pelicans and most other native bird species are protected by the Migratory Bird Treaty Act (16 U.S.C. 703–712), our

Regional Migratory Bird Permit Offices do, in some cases, issue depredation permits to individuals experiencing economic losses caused by fish-eating birds at aquaculture facilities. However, it is not our policy to issue depredation permits for the take of migratory birds to reduce the occurrence of parasites. To learn more about migratory bird permits, go to: *http://www.fws.gov/policy/724fw2.html.* It is not the Service's mission to provide funds for commercial enterprises to reduce the occurrence of parasites.

Issue: Several respondents noted that the catfish industry needs black carp to control *Bolbophorus*, not to control the yellow grub.

Response: We recognize that there was confusion regarding the identity of the parasite causing problems in channel catfish, hybrid striped bass, and some baitfish ponds at the time we published the proposed rule (July 30, 2002, 67 FR 19280). *Bolbophorus damnificus* is listed later in this document as the primary parasite impacting catfish farms for which these farms may or do utilize black carp, although yellow grub (*Clinostomum marginatum*) has also impacted catfish facilities. Black carp are used to control yellow grub in hybrid striped bass and baitfish farms.

Issue: One commenter noted that there is a new host for *Bolbophorus*, a yet unidentified snail (perhaps *Drepanotrema* sp.) that was discovered in July 2003 in Arkansas catfish ponds and is not affected by copper sulfate.

Response: We acknowledge there may be other snail vectors for *Bolbophorus*. We have no information on this new snail or its potential impacts.

Issue: Several commenters noted that a snail, the red-rimmed melania (*Melanoides tuberculata*), has been found in at least 14 States and is a host for *Centrocestus formosanus.* Red-rimmed melania has an operculum that keeps chemicals from penetrating and killing it. Only black carp eat the red-rimmed melania; redear sunfish and freshwater drum will not eat this snail. Bayluscide would work, but cannot be used on farms that produce food fish.

Response: We understand that there are other trematode parasites that are of concern to commercial aquaculture production. The Service is also concerned about the impacts of those parasites on native species. However, the focus of this evaluation was on the injuriousness or potential injuriousness of all forms of black carp on the wildlife and wildlife resources of the United States.

Issue: Several respondents noted that, in addition to pelicans, there are other bird hosts of the snail trematodes.

Response: Research to date indicates that the American white pelican (*Pelecanus erythrorhynchos*) is the final host of *Bolbophorus damnificus,* while yellow grub is carried by the Great blue heron (*Ardea herodias*).

Issue: One respondent noted that hybrid striped bass farms are particularly dependent on black carp for control of the yellow grub (*Clinostomum complanatum*), which kills fingerlings and reduces adult marketability; that approximately 80 percent of fingerlings are protected from yellow grub by black carp; and that prior to importation of black carp in the early 1990s, it was common for a farm to lose as much as 50 percent of fingerlings to yellow grub.

Response: We note that *C. marginatum* is now the recognized species for yellow grub. Yellow grub impacts hybrid striped bass, and black carp may be the most effective single option to control the grub; however, other combinations of methods may be more effective than black carp.

Issue: Several respondents stated that the proposed rule ignores or is in direct opposition to the 1996 and 2001 U.S. Geological Survey (USGS) ''Risk Assessment on Black Carp'' that the Service helped prepare. The Service was asked to withdraw the proposed rule and instead implement the seven recommendations set forth in the 1996 and 2001 risk assessments.

Response: The purpose of creating the Aquatic Nuisance Species Task Force (ANSTF) Working Group, which drafted the 1996 ''Risk Assessment on Black Carp,'' was to evaluate the generic risk process methodology that was being developed for the ANSTF and to provide insights needed to adjust or correct the generic methodology. USGS led this Working Group. None of the black carp risk assessments were initiated or developed as injurious wildlife evaluation documents. The Service conducts its own evaluation to determine if a species meets the definition of injuriousness, and we used information that was relevant to the black carp injurious wildlife evaluation from the 1996 and 2001 USGS biological synopses and risk assessments and other sources. Because our authority allows us to regulate the importation and interstate transportation of listed injurious wildlife species, the Service did not request or endorse the development of the management recommendations for a regulatory process. The Service has contributed to implementing several of the management options identified in the 1996 and 2001 reports, and the options provided in all of the reports were considered in the rulemaking process. We also note that due to increased trematode infestations, the use of black carp has increased since the 1996 and 2001 recommendations were developed.

The eight recommendations from the Black Carp Working Group that were provided in addition to the 1996 risk assessment are listed below, with our responses. Note that at the time of the 1996 Working Group, black carp were in limited use for only yellow grub (*Clinostomum* sp.) infestations.

(1) All 100-percent black carp (exclusive of brood stock) must be certified triploids.

Service comment: We have not been provided documentation that each State requires the use of certified triploids in culture ponds.

(2) Brood stock must be restricted to and maintained in aquaculture facilities where the probability of escape or flooding is essentially zero.

Service comment: We leave intrastate regulation of brood stock to the States. Interstate transport of black carp is prohibited under the Lacey Act.

(3) Develop a mechanism for verifying the location and distribution of all live black carp (diploids and triploids).

Service comment: To our knowledge, States that allow the use of black carp are not tracking the locations of black carp stockings, nor are they aware of the exact number of black carp stocked at any given time. This would be a time-consuming and difficult task to develop and maintain, and the Service does not believe that tracking black carp stocking is an effective way to protect the wildlife and wildlife resources of the United States from black carp.

(4) Research to date suggests that black carp may not be particularly efficient in controlling snail populations in U.S. aquaculture facilities. Further use of black carp, experimental or otherwise, for testing their effectiveness in the control of disease-carrying snails, such as the yellow grub (*Clinostomum* sp.), must be restricted to triploid individuals.

Service comment: A great amount of new and revised data has been generated since the 1996 and 2001 biological synopses and risk assessments were conducted. Black carp have been found to be effective in controlling snails and are the preferred snail control in many catfish, hybrid striped bass, and other facilities. Some States restrict black carp use to triploids, while others permit diploids and triploids.

(5) Release of triploid black carp into any streams, lakes, or reservoirs should

be prohibited until there is additional research demonstrating that any such introduction will be beneficial (i.e., effective in controlling zebra mussels and Asian clams) and will not cause significant harm to native mussel and snail populations.

Service comment: States have the authority to regulate releases of black carp. We do not believe that triploid (or diploid) black carp should ever be stocked in open waters. In its 2005 biological synopsis and risk assessment on black carp, USGS updated the potential impacts of black carp and indicated that both the diploid and triploid forms would be expected to consume large quantities of mollusks.

(6) Black carp as a pathway for disease should be further investigated. Until this is done, no additional stocks of black carp should be brought into the country unless additional precautions are taken (water changes, only healthy fish that have been inspected by a veterinarian, etc.).

Service comment: The Service is concerned about the pathogens that may be introduced through black carp importations or spread. We are not aware of any recent importations of black carp into the United States. The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service, recently published an interim rule restricting importations of certain species that may carry Spring Viraemia of Carp virus, but USDA did not include import restrictions on black carp.

(7) Produce an identification guide to distinguish black carp from native and other nonindigenous fishes to reduce any risk of misidentification. For example, if black carp do become more common in U.S. aquaculture, there is a risk that the species would be unintentionally introduced as ''grass carp'' to some areas.

Service comment: We provided funding to the U.S. Geological Survey (USGS) to produce an identification guide; this guide was completed by USGS and distributed by the Service and USGS in 2005.

(8) Establish a quality assurance and education program for the above recommendations.

Service comment: We believe that educational programs, best management practices, and quality assurance programs should be developed by those entities that use black carp to ensure adherence to the recommendations identified in the risk assessments.

Issue: One commenter asked which recommendations from the 1996 final report are being implemented by various States.

Response: The Service does not have information from all 50 States as to which recommendations identified in the 1996 risk assessment are being implemented.

Issue: Several respondents stated that the proposed rule should have discussed the risks of diploid and triploid black carp independently. Risks to mussels are substantially different, and regulation should distinguish between the actions and risks of diploids versus triploids.

Response: We analyzed the environmental impact of these two alternatives in the environmental assessment and determined that there are unacceptable risks to native wildlife and wildlife resources from both diploid and triploid black carp. While the introduction of diploid black carp to U.S. waters would likely have greater impacts in perpetuity on native mollusks, long-lived triploid black carp can also have substantial impacts, particularly in local areas where they could decimate mollusk populations. Where mollusks are available, black carp will feed almost exclusively on them, and in similar quantities, whether they are diploid or triploid fish.

Issue: Several respondents stated that the proposed rule overestimates the risk of black carp escape and establishment.

Response: We considered the risks of triploid and diploid black carp separately in the environmental assessment, but we did not see the need to discuss them separately in the rule. Black carp, whether diploid or triploid, have the potential to feed on large quantities of freshwater mussels and snails before they die of old age. We do not believe the risk of black carp escape and establishment was overestimated, particularly in light of ongoing captures of black carp from natural waters of the United States.

Issue: One commenter noted that the use of the term ''established'' implies a breeding population of black carp and that the risk assessment (1996) states that ''assuming that there are no escapes * * * [it is] unlikely that a breeding population of black carp would become established in open U.S. waters.''

Response: The 1996 risk assessment does state that ''Assuming that there are no escapes of diploid individuals from breeding stocks (and no unauthorized shipments and subsequent releases or stockings of diploids), it is unlikely that a breeding population of black carp would become established in open U.S. waters.'' However, the updated 2005 Nico *et al.* biological synopsis and risk assessment also states that ''black carp, whether introduced individuals or a reproducing population, could pose a serious threat to many of the remaining populations of endangered and threatened mollusks,'' and ''because of their size and feeding habits, black carp have the potential to impact individual species of mollusks, hastening the decline of imperiled species.'' Furthermore, the 2005 document states that ''there are now confirmed records of black carp in the wild and the increased frequency of captures, particularly of diploid individuals, suggest that a wild population may already be established in the Mississippi River basin.''

Due to the black carps' longevity, size, and feeding habits, we believe that the introduction of individuals or populations of black carp in the United States is highly likely to hasten the decline of mollusk species.

Issue: One commenter stated that only triploid black carp are currently used for snail control in the United States and that these sterile fish are only allowed in Arkansas, Mississippi, and Missouri; about 30–50,000 black carp are utilized in any given year.

Response: We appreciate all data provided. We do note that North Carolina imports triploid black carp as well. If black carp are used at all, we hope that all States require the stocking of only certified triploid black carp; however, the Service has not been provided documentation from each State to that effect.

Issue: Several commenters stated that there is no case where the use of triploids has prevented the eventual escape and proliferation of exotic fishes.

Response: For this decision, we did not conduct a thorough evaluation of the effectiveness of triploidy in other fishes. Our analysis focused on the injuriousness or potential injuriousness of all forms of black carp.

Issue: Several respondents stated that juvenile black carp that have not yet reached an age to be ploidy evaluated have likely escaped from fish ponds. Consequently, diploid, as well as triploid, black carp have likely escaped into the wild.

Response: The Service acknowledges this possibility and also recognizes that industry has several safety measures in place to try to minimize escapes from ponds.

Issue: Several commenters stated that is incorrect to state or imply that the triploid grass carp program is a failure, because grass carp are found in natural waters due to a history of early introductions and intentional stockings of diploids and triploids.

Response: We do not view our Triploid Grass Carp Inspection and Certification Program as a failure.

Presence of diploid and triploid grass carp in the United States is a combination of widespread intentional introductions for weed control and establishment of feral populations due to unintentional introduction or escape. Grass carp were widely distributed throughout the United States during the 1970s prior to the establishment of our Triploid Grass Carp Inspection and Certification Program, and stockings continue. Feral grass carp were reported from open river systems during the 1970s. It was not until 1983 that a private fish hatchery in Arkansas produced the first triploid grass carp on a commercially viable scale. In 1985, the Service established a triploid grass carp ploidy inspection program to aid States that wished to receive only triploid grass carp. The triploid certification program for grass carp is completely voluntary, and the purpose of the program is to assure State agencies that no diploids will be shipped to these States within the confidence limits (95 percent confidence protocol) of the program. Juvenile black carp look very similar to juvenile grass carp, and there is high likelihood of misidentification of the two species. In addition, black carp could establish and thrive in the United States in habitats similar to those utilized by grass carp.

Issue: A number of commenters stated that the current methods of producing triploid fish do not ensure all fish are triploid; there is a range of effectiveness of induction procedures.

Response: We have received comments from many people agreeing that current induction methods do not produce 100 percent triploid lots of fish; the ranges provided to the Service were from 60 percent to near 95 percent.

Issue: Several commenters noted that there is no evidence in the literature that triploid black carp are reverting to diploids and that the reproductive potential of triploid black carp is essentially zero.

Response: The peer-reviewed studies that have been conducted for triploidy in grass carp have not been done on black carp. We recognize that grass carp and black carp are similar animals, but we cannot assume the applicability of grass carp studies for black carp. To date, functional sterility has not been confirmed in triploid black carp. While the reproductive potential of triploid black carp was evaluated, the focus of our injurious wildlife evaluation was on the injuriousness or potential injuriousness of all forms of black carp on wildlife and wildlife resources of the United States.

Issue: One respondent stated that the proposed rule was written to mislead readers concerning the situation facing fish farmers, because it doesn't include available information on current uses of black carp and the need for this fish.

Response: The Service did not write the proposed rule to mislead readers; we used the most accurate information that was available when we wrote the proposed rule. The Service has also provided four opportunities for public comment in an effort to gain the best available scientific and economic information. In this final rule, we have used additional and new information provided during the last 4 years, since the proposed rule was published.

Issue: One respondent noted that black carp have been in the United States for 30 years and are not a popular food fish. If there was potential to raise them for food, farmers would have begun raising them by now. Further, if States are restricted to triploids, raising black carp as food fish would be even less likely due to the cost of raising triploid fish.

Response: We appreciate the information provided and note that if we were not listing black carp as injurious wildlife, anyone could raise black carp for any purpose, if regulations allow it. The Service received information that canned black carp were preferred over tuna in blind taste tests.

Issue: Numerous industry respondents asked the Service to consider listing only diploid black carp, not triploid black carp.

Response: We considered the alternative of listing only diploid black carp and specifically asked for comment and data on this alternative in the August 30, 2005, to December 16, 2005, public comment period (70 FR 51326). Our decision to list diploid and triploid black carp as injurious wildlife under the Lacey Act is based solely on the biological characteristics of the fishes and the need to protect our native wildlife and wildlife resources. We have substantial scientific data that describes the harm that black carp cause when introduced outside of their native range and are likely to cause if populations are introduced in U.S. waters.

Issue: Many respondents expressed concern about enforcement challenges for distinguishing triploids and incidental transport of black carp in other fish shipments, because it is difficult to distinguish them from juvenile grass carp.

Response: Because diploid and triploid black carp look identical, we agree it would be difficult for law enforcement to distinguish between the two. At various life stages, black carp could be mistaken for grass carp and moved to new waters. We considered this concern in our evaluation.

Issue: Many respondents expressed concern about introductions of black carp to new waters from contamination of baitfish or bait buckets.

Response: The Service is also concerned about black carp being moved to new areas through bait bucket transfers. We considered this concern in our evaluation.

Issue: Several commenters noted that the proposed rule will not result in the destruction of existing broodstock, and reproductively viable black carp will continue to be held within the borders of Arkansas and Mississippi, where they will continue to be spawned for aquaculture use within each respective State's borders. The proposed rule will in no way impact intrastate movement of black carp.

Response: The Service agrees with these comments. An injurious wildlife listing prohibits importation and interstate transport of a species. Any regulation pertaining to the possession or use of black carp within States continues to be the responsibility of each State. Each State has the right to determine if the fish remain legal within that State's borders. Assuming black carp are legal in a given State, owners retain the right to possess the fish and to use them in any legal way according to State laws.

Issue: Several commenters stated that the proposed rule was in error when stating that testing individual fish to verify triploidy is not economically feasible. Testing individual fish is the industry standard for grass carp.

Response: The Service acknowledges that under the current program protocols, producers test every fish for ploidy status prior to certification sampling. However, the Service protocol for certifying triploid grass carp is to test a subsample (120 of 1,500 or more fish) of the entire lot of fish, not to test every fish, unless specifically requested and reimbursed by a recipient or the producer. We do not feel the proposed rule was in error when it stated that ''testing each fish would be cost-prohibitive.'' Costs would increase if each fish were individually tested for certification. Some respondents indicated that due to increased costs, they would buy less expensive diploids rather than paying more for certified triploids. Given the increased cost of testing each fish, chemical control methods might be more cost effective.

Issue: Several respondents stated that the ''Industry'' is willing to pay for certification of triploid black carp so that no Federal cost would be associated.

Response: While the Service is pleased to hear some industry members would be willing to pay for certification of triploid black carp, we do not have the authority to require certification of triploid black carp. We sincerely hope all users of black carp are currently paying producers to obtain certified triploid black carp, regardless of a requirement from a Federal agency.

Issue: Several commenters stated that all States that allow the use of black carp (Arkansas, Florida, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, and Texas) require triploid certification.

Response: The Service has not been provided data from each State showing that they require triploid certification in order for a use permit to be issued. As previously mentioned, we evaluated the alternative of not adding triploid black carp to the list of injurious wildlife, but the data indicated that both triploid and diploid black carp are injurious or potentially injurious to the wildlife and wildlife resources of the United States.

Issue: A number of commenters asked the Service to reinstate the triploid black carp certification program. Concerns over potential environmental impacts could be ameliorated by a mandated sterile triploid black carp program. In addition, the Service was asked to allow reputable hatcheries to maintain diploid carp, but to restrict sale of black carp to triploids with quality control, inspection, and third-party certification.

Response: During the period that the Service inspected black carp for ploidy status (1993–1999), there was voluntary participation by fish farmers in the certification; not every farm participated and bought the more expensive triploids. Those inspections were discontinued after the Service was petitioned to list black carp as injurious under the Lacey Act, and we do not intend to re-initiate black carp triploid certifications. The effectiveness of any triploid certification program is dependent upon effective inspection, certification, and enforcement programs that prevent the intentional or unintentional shipment of diploid individuals as triploids. To date, functional sterility has not been confirmed in triploid black carp. We have not been provided documentation by each State that allows use of black carp showing that State requires testing and certification of every black carp as triploid. The process could be required by States prior to permitting the use of black carp.

The triploid certification program for grass carp is completely voluntary, and the purpose of the program is to assure States that, within the limits of the program, no diploids will be shipped to their States. Based on scientific investigations published in peer-reviewed literature, triploid grass carp are functionally sterile. However, the triploid induction process is less than 100-percent effective, resulting in diploid and triploid grass carp that must be correctly identified and separated.

Issue: Several commenters asked the Service to conduct an environmental assessment.

Response: The Service conducted an environmental assessment on the impact to the environment of three alternatives to listing black carp as an injurious species. The final environmental assessment and the ''finding of no significant impact'' (FONSI) can be obtained at *http://www.fws.gov/contaminants/Issues/InvasiveSpecies.cfm.*

Issue: On August 29, 2007, the Service received a ''request for correction'' under the Information Quality Act (IQA). As provided for in OMB's government-wide Information Quality Guidelines, we have elected to use the existing, parallel process to reply (i.e., we are responding to the substance of the request in this response to comments).

Response: The primary concerns raised in the IQA request and the information proposed for correction had already been provided to the Service during the three comment periods associated with the proposed rule, the draft economic analysis, the initial regulatory flexibility analysis, and the draft environmental assessment. Thus this information had already been considered, and in many cases incorporated, during preparation of our final listing determination, final economic analysis, Final Regulatory Flexibility Analysis, and final environmental assessment. The key issues raised included economic impacts associated with trematode range expansion; economic impacts to the hybrid striped bass industry; our estimates of black carp use; distributional impacts; black carp consumption rates; and average catfish price per pound. The final economic analysis addresses the potential trematode range expansion with the impacts of a 20 percent annual increase for 10 years. The economic impacts of restricting black carp use in the hybrid striped bass industry are analyzed with a wide range of potential acres affected due to the uncertainty of the amount of use of black carp in striped bass production. The Service reviewed the range of estimates of acreage using black carp to control trematodes and settled on the most reliable source for the final economic analysis. Black carp consumption of 3–4 pounds of mollusks per day was supported by research findings and therefore was used in the final economic analysis. The long-term average price per pound of catfish of 70 cents per pound was used for the final economic analysis. After all information received during the public comment periods was incorporated into the final economic analysis, the total economic effect for catfish ranged from $30.5 to $37.7 million dollars for a 10-year present value. The few additional details raised in the request that had not been raised explicitly within the context of public comment did not suggest the need for additional changes to our analysis.

Peer Review

We asked three scientists who have knowledge of fisheries biology or invasive species to provide peer review of the proposed rule (67 FR 49280, July 30, 2002). The three peer reviewers had a few technical comments, which we incorporated into this final rule. All three peer reviewers concluded that the data and analyses we used in the proposed rule were appropriate and the conclusions we drew were logical and reasonable.

Description of the Final Rule

The regulations contained in 50 CFR part 16 implement the Lacey Act (18 U.S.C. 42), as amended. Under the terms of the injurious wildlife provisions of the Lacey Act, the Secretary of the Interior is authorized to prohibit the importation and interstate transportation of species designated by the Secretary as injurious. Injurious wildlife are those species, offspring, and eggs that are injurious to wildlife and wildlife resources, to human beings, and to the interests of forestry, horticulture, or agriculture of the United States. Wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, and reptiles are the only organisms that can be added to the injurious wildlife list. The lists of injurious wildlife are at 50 CFR 16.11–16.15.

By adding all forms of live black carp, gametes, viable eggs, and hybrids to the list of injurious wildlife, their importation into, or transportation between, States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever is prohibited, except by permit for zoological, educational, medical, or scientific purposes (in accordance with permit regulations at 50 CFR 16.22), or by Federal agencies

without a permit solely for their own use. Federal agencies who wish to import live black carp, gametes, viable eggs, and hybrids for their own use must file a written declaration with the District Director of Customs and the U.S. Fish and Wildlife Service Inspector at the port of entry. The interstate transportation of any live black carp, gametes, viable eggs, and hybrids currently held in the United States for any purpose is prohibited without a permit. No live black carp, gametes, viable eggs, or hybrids imported or transported under permit may be sold, donated, traded, loaned, or transferred to any other person or institution unless such person or institution has a permit issued by the U.S. Fish and Wildlife Service. Any regulation pertaining to the possession or use of live black carp, gametes, viable eggs, and hybrids within States continues to be the responsibility of each State.

Biology and Natural History

Black carp, a Cyprinid species also known as snail carp, black amur, or Chinese roach, is a freshwater fish that inhabits lakes and primarily lower reaches of large, fast-moving rivers and associated backwaters, including canals and reservoirs. Black carp can often exceed 1 meter (m) in length and weigh, on average, 15 kg (33 pounds). They reportedly can reach 1.5 m (5 feet) or more total length and weigh 70 kg (150 pounds) or more. In certain culture situations, black carp exhibit their most rapid increase in body length during ages 1 and 2 years, and their most rapid rate increase in body weight during ages 3 and 4 years. Fish stocked at lengths of around 13–15 cm have attained weights of nearly 4 kg after only 1 year. Individuals of the species are known to live to at least 15 years of age.

Black carp coloration varies from black to dark brown to greenish black on top and yellow to whitish on the underside. Pharyngeal (throat) teeth typically form a single row of 4 or 5 large molar-shaped teeth on each of their two arches. The size, number, and shape of the teeth change with age. Black carp adults and larger juveniles superficially appear very similar to grass carp (*Ctenopharyngodon idella*). Adult black carp may be distinguished from grass carp externally by the color and the more cylindrical form of the body, and internally by the pharyngeal teeth. Small juvenile black carp are more difficult to distinguish from young grass carp.

Native Range

The species inhabits most major drainages of eastern Asia from about 22° N to about 51° N latitude. The natural range of black carp includes much of the eastern half of China, parts of far eastern Russia, and possibly northern Vietnam. Published records of black carp from Taiwan and Japan likely represent introductions.

Habitat Use

Black carp typically inhabit the middle and bottom parts of the water column. Because of their large size, adults face few, if any, predators, though their drifting eggs and larvae are consumed by small fishes.

Reproduction and Growth

Black carp usually reach sexual maturity from 6 to 11 years of age, but can mature as young as 3 years of age. Males usually mature a year earlier than females. They reproduce annually in riverine environments. Pond-reared black carp can be induced to spawn two to three times a year. In their natural range, spawning occurs in late spring and summer, with water temperatures ranging from 20–30 °C and rising water levels. They spawn upstream in rivers and their eggs drift downstream. The eggs are carried by currents into floodplain lakes, smaller streams, and channels with little to no current. Female black carp produce 1–3 million eggs each year, depending on body size. Growth rates are dependent on food quantity and quality; black carp can weigh as much as 5 kg in 3 years. Black carp grow slowly if mollusks are not included in their diet.

Diet and Feeding Habits

Black carp feed on zooplankton and fingerlings when young. Larger juveniles and adult black carp are bottom feeders that almost exclusively eat mollusks (mussels and snails) when available, but can eat insects, shrimp, commercial fish feeds and macrophytes (aquatic plants). As adults, powerful teeth permit the black carp to crush the thick shells of large mollusks. Although black carp reportedly have small mouths for their size, they attain sizes and gape (mouth) widths much larger than most native mollusk-eating fish. Gape width increases with body length. Reports indicate that the fish can usually handle any food item that it can get into its mouth. Rates of consumption are varied in the literature, but a 4-year-old black carp was shown to eat, on average, 3 to 4 pounds of zebra mussels per day in pond culture.

History of Introduction and Use in the United States

Black carp originally entered the United States in 1973 as a ''contaminant'' in imported grass carp or other Chinese carp stocks. Black carp appear very similar to grass carp, specifically in terms of body size and shape, position and size of fins, and position and size of the eyes. Juveniles, in particular, are difficult to distinguish from young grass carp. The second introduction of black carp into the United States occurred in the early 1980s in Southeast fish production ponds for biological control of yellow grub (*Clinostomum marginatum*), a trematode parasite, and as a potential food fish. Black carp have become more commonly used and transported since the first importations, particularly in the late 1990s.

The predominant use of black carp in the United States is for biological control of snails that are intermediate hosts in the life cycle of several parasites, which affect cultured channel catfish (*Ictalurus punctatus*), hybrid striped bass (*Morone saxatilis* crossed with *M. chrysops*), and some baitfish (fathead minnow (*Pimephales promelas*), for example). Yellow grub is a parasite that infects fish, and can cause economic losses to baitfish and hybrid striped bass farmers. The life cycle of the grub involves snails and fishes as intermediate hosts and fish-eating birds as final hosts. A second trematode parasite, *Bolbophorus damnificus* (previously reported to be *B. confusus*), has also appeared in snails in channel catfish culture ponds, primarily in 1999, but does not infect hybrid striped bass. Fathead minnows have been shown to carry *B. damnificus* and another *Bolbophorus* species, named ''type 2''; this second species appears to infect hybrid striped bass. Mild active trematode infections reduce production by reducing feed consumption and increasing susceptibility to other bacterial infections or diseases. Fully developed metacercariae (parasite stage) does not appear to compromise the growth performance and health status of fish. Deleterious effects of *B. damnificus* are associated with the penetration of the parasite and the initial stages of encystment. Research has shown that once infected fish are removed from the source of the infection, chronic *B. damnificus* infections do not affect the growth potential of channel catfish or increase their susceptibility to Enteric Septicemia of Catfish (ESC).

Black carp have been or are currently being maintained in research and fish production facilities in at least Arkansas, Florida, Iowa, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, and Texas. According to data reported to the U.S. Geological Survey, as of 2005, black carp have been caught

from natural waters in Missouri, Illinois, Louisiana, and Arkansas.

As early as 1994, black carp fingerlings were delivered with catfish into the State of Missouri. In 2000, black carp were identified in a dealer's bait fish load. At least 300–400 were delivered in one week alone, which were distributed to and sold by bait stores throughout the State. Hundreds of young black carp were also accidentally included in shipments of live baitfish sent from Arkansas to bait dealers in Missouri as early as 1994.

There is a report of approximately 30 black carp escaping into open waters of the United States in the Osage River (Missouri River drainage) in April 1994, though this report is disputed by the facility owner. The first black carp reported captured from the wild was in March 2003 from Horseshoe Lake, Illinois. Analysis indicated that the fish was a 4-year-old triploid, and thus could not have escaped in 1994. A 9-year old black carp was captured in lower Red River, Louisiana, in April 2004 by a commercial fisher; testing of eye fluid indicated the fish was likely diploid. A 7-year-old black carp was captured in the lower Red River, Louisiana, in May 2004; this fish was also likely diploid. In June 2004, one black carp was collected in the Mississippi River near Lock and Dam 24 in Clarksville, Missouri; ploidy testing of this specimen was not possible. Another black carp was also collected from the main channel of the Mississippi River in Louisiana, near Simmesport in July 2004. The commercial fisher who captured the specimen sold it as a grass carp. In August 2004, a diploid black carp was collected from the Atchafalaya River at Simmesport, Louisiana. On April 5, 2005, a black carp was found in the White River, just north of DeVall's Bluff, Arkansas; the fish was sold before ploidy could be tested. The source of the introduction of these wild-caught fish is unknown.

These records include only self-reported documentations of black carp found in the wild; other escapes and captures in the wild may have occurred but have not been reported. Recent reports indicate that commercial fishers working in the Atchafalaya River basin have been catching 8 to 15 black carp per year, of unknown ploidy, since the early 1990s. It is not known whether black carp are reproducing in the wild; it is difficult to capture small, juvenile fish, especially when numbers are low as they would be for a new introduction. However, the continued captures of adult black carp in Louisiana and in other parts of the Mississippi River basin suggest that the species is reproducing and may be established.

Diploid and Triploid Black Carp

Black carp can either be triploids (presumed sterile) or diploids (capable of reproduction). Triploid fish are created by adding an additional chromosome set (3 total) to induce sterility. Triploidy is one management tool to prevent reproduction and control populations in stocked fish. Externally, triploid fish are indistinguishable from diploid fish. Fish farmers have been successful in inducing triploidy in both black carp and grass carp. Triploids can be distinguished from diploids by testing the red blood cells.

Fish ploidy (the number of sets of chromosomes in a cell or an organism) is most commonly tested during aquaculture production with a particle size analyzer (i.e., Coulter Counter® with channelyzer), which usually tests the red blood cell volume to determine if a fish is triploid or diploid. This method provides a rapid, relatively easy determination of ploidy. However, the size of blood cells differs naturally and there may be overlap between the size of diploid and triploid blood cells. Ploidy can also be tested using flow cytometry, one of the techniques having the greatest accuracy, which measures the amount of DNA in a blood or tissue cell. This method is more expensive and sample preparation takes longer.

Alternatives to Black Carp

In addition to black carp, snail populations in fish production ponds may be controlled by hydrated lime, copper sulfate, weed control, Bayluscide®-M 70% WP, crayfish, and potentially some native fish species. However, chemical treatment for snails can be limited in some areas, because chemical agents can be detrimental to fish or can have decreased effectiveness due to wind, temperature conditions, water chemistry, and pond size. Clearing of aquatic plants has been found to be effective in reducing snail numbers, but is time consuming in large-scale operations. Bayluscide-M 70% WP can be used as a molluscicide in aquaculture ponds, but fish from treated ponds cannot be harvested for 12 months. Also, Bayluscide®-M 70% WP is toxic to fingerlings and cannot be used near other sensitive fish species, such as paddlefish.

Black carp are used as a biological control because they eat infected snails in ponds but are not susceptible to the trematode. Controlling the trematodes by using black carp is preferable to other methods available for aquaculture producers. Other fishes that are indigenous to the United States, including the redear sunfish, redear hybrids, the pumpkinseed sunfish, and the freshwater drum, hold potential to be used for snail control in aquaculture ponds.

Potential Range in the United States

Where food is available, the black carp's range (survival and/or reproduction) in the United States would likely include most of the major tributaries of the large river systems, including the lower and upper Mississippi, Tennessee, White and Red in Arkansas, Sacramento/San Joaquin, Columbia, Snake, South Atlantic Gulf, and Great Lakes.

Factors That Contribute to Injuriousness

Introduction and Spread

The likelihood of release or escape of black carp is high. Diploid and triploid black carp have been found in the wild. Currently, the predominant use of black carp in the United States is for biological control of snails that are intermediate hosts in the life cycle of a trematode that affects fish being farmed for human consumption (channel catfish) or to be stocked in waters (hybrid striped bass), and that use has increased since the late 1990s. To a lesser extent, black carp are used to control snails in baitfish production ponds. Ninety-five percent of the catfish farms in production are located in the southeastern United States. The most likely source of introduction of black carp is through human movement. Much of the Mississippi River delta region is at moderate to high risk of natural disaster, including tornados, floods, and hurricanes. A natural disaster in the Southeast region is likely to result in the release of black carp from fish farms through flooding. An additional, though lower, risk of release associated with fish farming includes the movement of live black carp from farm ponds to natural waterways via predatory birds and mammals. Black carp are farm-raised in aquaculture facilities throughout Asia and Eastern Europe for human consumption. If black carp become popular for human consumption in the United States and are farmed on a larger scale, the associated risks of release would be similar to those described above. However, the risks would be of greater magnitude, as the black carp would be stocked at aquaculture facilities at a higher rate than they are currently stocked for biological control purposes.

If black carp were introduced into the wild, they would likely survive or

become established with or without reproduction. Moreover, black carp would likely spread throughout the large rivers of the United States, because no known limiting factors would preclude them from becoming established in U.S. waters. The black carp, a native of most Pacific drainages in eastern Asia, inhabits large river and lake habitats at the same latitudes as the United States and feeds on aquatic snails and mussels that are similar to those locally abundant in many of our rivers.

At various life stages, black carp could be mistaken for grass carp and moved to new waters through misidentification. They also could be moved to new areas through baitfish sales or bait bucket transfers.

Hybrids

Under artificial conditions, black carp have been crossed, with limited success, with grass carp, silver carp, bighead carp, common carp, and black bream (*Megalobrama terminalis*), but natural hybridization with other Asian carps has not been documented. Researchers have reported that offspring resulting from female black carp × male grass carp had pharyngeal teeth resembling those of black carp, but the pharyngeal teeth formula of hybrids was found to be highly variable. Teeth of hybrid individuals from the female grass carp × male black carp cross differed significantly from those of both parents. In these fish, the teeth were broad like that of black carp, but there was a small hook in the crown. Because of the variation, researchers could not predict what the type of feeding behavior and diet the hybrids would have in nature. Feeding habits of hybrids might be similar to those of pure black carp, thus eating primarily mollusks, or they might be closer to those of pure grass carp, consuming primarily aquatic vegetation, but the outcome of hybridization is unpredictable.

Potential Effects on Native Species

At all life stages, black carp will compete with native species for food. The fish can grow to lengths greater than 1 meter and could weigh from 30 to 150 pounds, depending upon age and food availability. Within their native range, black carp feed on species that are similar to our native mollusk species. Black carp are also known to eat freshwater shrimp, crawfish, and insects. Daily intake of food could be as high as 20 percent of body weight. Based on their feeding habits, black carp, if introduced or established, are highly likely to have a considerable impact on native mussel and snail populations. Entire beds of mussels may be very vulnerable to heavy predation by black carp. Mollusks are a food source for a variety of native animals, including fishes (redear sunfish, pumpkinseed sunfish, freshwater drum, snail bullhead, copper redhorse, river redhorse, robust redhorse, and several catfish and sucker species); river and lake turtles (sawbacks (*Graptemys* spp.) and musk turtles (*Sternotherus* spp.), including several that are Federally listed as endangered or threatened (*G. flavimaculata, G. oculifera* and *S. depressus*); birds (Everglades snail kite, scaup, limpkin, and canvasback); and mammals (raccoons, otters, and muskrats). Reduced mollusk abundance would result in reduced availability of food for those animals, and thus decrease biodiversity.

Although black carp reportedly have small mouths for their body size, they attain sizes much larger than most native mollusk-eating fish. There are no known native fish with the same combination of size, morphology, and diet. Consequently, black carp could put a whole new suite of species not currently subject to fish predation at substantial risk and thus considerably change ecosystem function by altering the existing food web.

Habitat Degradation

Although their potential to cause habitat destruction is low, black carp would likely impact stream communities where snails play an important role as grazers of attached algae and mussels act as filters for phytoplankton. Reduction of snail and mussel populations in those ecosystems would likely facilitate production of algae mats that may upset the natural balance of wildlife habitats.

Potential Pathogens

Black carp host many parasites and flukes, as well as bacterial and viral diseases that are likely to infect sport, food, or fish species on the Federal List of Endangered and Threatened Wildlife. They may also be immune, or serve as intermediate hosts, to the many parasites that use mollusks as intermediate hosts (some of which are harmful to humans). Black carp that are already in the United States pose little to no risk for introducing new pathogens, but any new imports could carry new pathogens. Black carp have been used to successfully control snail hosts for *Schistosoma* in humans, which according to the World Health Organization and the U.S. Centers for Disease Control does not occur in the United States, though a U.S. citizen may contract the disease while traveling.

Potential Impacts to Threatened and Endangered Wildlife

The likelihood and magnitude of effects of black carp on threatened and endangered species is high. As molluscivores, black carp have the potential to negatively affect threatened and endangered mollusks, fish, turtles, and waterfowl that rely on mollusks as a food source. Locally, introduced black carp, whether diploid or triploid, could severely deplete mollusk populations and further imperil the 106 mussels and snails designated as threatened or endangered under the Endangered Species Act (ESA). The United States, particularly the Southeast, has one of the world's most diverse aquatic mollusk faunas. Currently, about 300 taxa of freshwater mussels are recognized nationwide, and nearly 67 percent of this fauna are vulnerable to extinction or already extinct. Seventy species of the 297 mussels native to the United States are designated as endangered or threatened species under the ESA, and many other species have declined in abundance and distribution. Our nation's freshwater snail diversity is about 600 species, or about 15 percent, of the world's diversity of this faunal group. Nearly 10 percent of all freshwater snails are extinct, and 25 freshwater snails are designated as threatened or endangered under the ESA in the United States. The rate of imperilment of snails exceeds every other major animal group in North America, even freshwater mussels, due to dam construction, other habitat alterations, and pollution.

Based on their food habits, habitat preferences, and longevity, black carp could become established with or without reproduction in the habitat supporting most of the federally protected freshwater mussels and about one-third of the federally protected freshwater snails. Black carp are likely to also further threaten numerous other potential candidates for Federal protection. The establishment of black carp populations, with or without reproduction, particularly in the Mississippi drainages, has the potential to reduce mollusk populations to levels that would necessitate protection under the ESA for additional mollusks and other animals that depend on mollusks for food. Since many freshwater mollusks require a fish as an intermediate host for reproduction, the mussels that require native fishes to reproduce are likely to rapidly decline if their fish hosts are affected by black carp.

Even a few introduced black carp could impact mollusk populations in

local areas, as they have been shown to be effective at eating nearly all of the mollusks where they have been stocked. Freshwater mollusks play an important ecological role in maintaining the health of aquatic ecosystems.

To date, freshwater mollusks in the United States have not experienced the introduction of a nonindigenous invasive species in the form of a direct predator. Presence of diploid or triploid black carp could pose a serious threat to many of the remaining populations of endangered and threatened mollusks. Many species of native mollusk-eating fishes do not feed as exclusively on mussels and snails as black carp. Black carp are feeding specialists, but there is a risk that if mollusks become limited, black carp may switch to eating crayfishes and other crustaceans, many of which are imperiled. Black carp have a larger gape width than most native mollusk-eating fishes and pose a greater threat to native mussels and snails. The introduction of individuals or large populations of black carp in the Mississippi River could hasten the decline of mollusk species in the Mississippi River basin due to the black carp's longevity, size, and feeding habits. Entire beds of mussels may be very vulnerable to heavy predation by black carp.

Since some States allow diploid use of black carp, a reproducing population could become established in U.S. waters, thereby imperiling recovery of native freshwater mollusks that are designated as threatened or endangered species under the ESA and potentially degrading habitat for native fishes. Several States and the U.S. Fish and Wildlife Service are currently implementing programs to recover imperiled mollusk populations.

Other

The introduction or establishment of black carp may have negative impacts on humans primarily from the loss of native aquatic mollusk biodiversity and abundance. Freshwater mollusks play an important ecological role in maintaining the health of aquatic ecosystems. These losses would affect the aesthetic, recreational, and economic values currently provided by native mollusks and healthy ecosystems. Educational values would also be diminished through the loss of biodiversity and ecosystem health. Black carp also have the potential to negatively affect the cultured pearl industry through predation on commercial mussel species.

Factors That Reduce or Remove Injuriousness

Potential Introduction and Spread

Structural measures designed to prevent the escape or establishment of black carp in U.S. waters have proven to be ineffective, as black carp have been found in the wild. Most protective measures available to prevent escape of black carp from aquaculture facilities are expensive to install and maintain. Even with protective measures in place, it is unlikely these measures would eliminate risks of accidental escape from facilities; those facilities that are located in floodplains and susceptible to natural storm events are particularly vulnerable.

Detection and Response

Since widespread surveys of U.S. waterways are not conducted to establish species'' presence, barring a sporadic capture, it is unlikely that the existence of black carp would be discovered until the numbers were high enough to impact wildlife and wildlife resources. A delay in discovery would limit the ability and effectiveness to rapidly respond to the introduction and prevent establishment. It is highly unlikely that black carp could be eradicated from U.S. waterways, should they be introduced, unless they are found in unconnected waterbodies.

Potential Control

The ability to eradicate or control black carp populations depends on where they are found. If established in large lakes or river systems, eradication or control of black carp would be highly unlikely, and they would likely become permanent members of the fish community. No effective and feasible tools are currently available to manage black carp or other nonindigenous fish species, should they be introduced into river systems. Chemical piscicides are the best available option to reduce fish numbers, but their use on a largescale is prohibitively expensive, can cause mortality to non-target fish and aquatic species, is usually not accepted by the public, and requires repeated treatments. Chemicals rarely kill every fish, and not all life stages are equally susceptible to chemicals. Additionally, some areas cannot be effectively treated due the size of the area, the distribution of the target species, and the effects on the non-target species, for example.

Mollusk recovery programs require habitat restoration and removal of threats to the continued survival of the species. Re-establishment of extirpated mussel and snail populations, if biologically possible, is labor and cost intensive and would depend on eradication of black carp within the habitat of the mussels and snails.

Recovery of Disturbed Sites

Since effective measures to eradicate, manage, or control the spread of black carp once they are established with or without reproduction are not currently available, the ability to rehabilitate or recover ecosystems disturbed by the species is low. Significant risks associated with black carp escape relate to endangerment and local extinction of native mussels and snails. Re-establishment of extirpated mussel and snail populations, if biologically possible, is labor and cost intensive and would depend on prior eradication of black carp within the habitat.

Potential Pathogens

There is little to no risk of new pathogens being spread by black carp, unless new fish are imported. Controlling the spread of pathogens once black carp have been introduced in the wild is impracticable as each infected fish would need to be captured to prevent spread. It would be highly unlikely that each infected fish could be captured. Further, the pathogen may have already been passed on to other fish species by the time the infected black carp have been discovered.

Potential Ecological Benefits for Introduction

There is little, if any, ecological benefit from the introduction of black carp into open waters of the United States. While there are benefits to farmed fish from black carp introduction into aquaculture facilities, we have determined there are no ecological benefits to black carp introduction into natural waters of the United States. The introduction of black carp in open waters might provide a potential ecological benefit to native wildlife and wildlife resources if black carp could selectively consume non-native invasive mollusks, such as zebra mussels, without consuming native mollusks. However, there is no scientific evidence to support the notion that black carp would selectively prey on non-native invasive mollusks in open waters, and little evidence that they are capable of feeding on aggregate zebra mussels. The introduction of black carp in open waters might theoretically provide a potential ecological benefit to native wildlife by consuming snails that spread disease to other fish species, a function that black carp perform in aquaculture facilities such as fish ponds. However, outside of the context of aquaculture, the possibility of black

carp locating and consuming a sufficient amount of disease-carrying snails to prevent the spread disease to other fish species is too remote and unlikely to be identified as a benefit.

Risk of Use of Triploid Black Carp

We have received conflicting information on the effectiveness of triploidy induction techniques for black carp; some indicate effectiveness as high as 85–98 percent, while others experienced induction resulting in approximately 60 percent triploid fish lots. In general, and primarily for other fish species, the literature indicates that triploidy induction techniques usually do not produce 100 percent triploid fish.

As previously mentioned, fish ploidy (the number of sets of chromosomes in a cell or an organism) is most commonly tested during aquaculture production with a particle size analyzer (*i.e.*, Coulter Counter® with channelyzer), which usually tests the red blood cell volume to determine if it a fish is triploid or diploid. Ploidy can also be tested using flow cytometry, which measures the amount of DNA in a blood or tissue cell. This method is more expensive and sample preparation takes longer. As in all analytical techniques, rigid protocols must be observed to ensure that one can distinguish between triploid and diploid fish. If cell volume overlaps between diploid and triploid fish, then there may be an inherent error in the methodology. While testing red blood cell volume has been shown to be effective in verifying ploidy status in other fish (90 to 93.8 percent for saugeyes), it has not been shown to be 100 percent effective for black carp.

Research conducted at the USGS' Columbia Environmental Research Center demonstrated that the aquaculture industry standard for determining ploidy (i.e., the Coulter Counter® method) classified 1,000 black carp as triploid, but 2 of them were found to be diploid using flow cytometry. Followup sampling produced similar results and additional research is ongoing.

A small percentage of triploid fish produce functional sperm, but if spawning occurred, it is reported as highly unlikely that viable embryos would be produced (0.17 percent for grass carp). Other research, however, has shown that young have been produced. Extensive research has been conducted on triploid production of grass carp; that same level of research has not been conducted to validate that the grass carp methodology can be transferred to black carp.

While triploidy may impede breeding of black carp in the natural environment, non-breeding populations are still likely to have substantial negative impacts. Triploid black carp, which can live to be 15 or more years, can compete with native fish for food and locally prey on mollusks and fingerlings, including those designated as threatened and endangered species under the ESA.

While triploid black carp may not be able to reproduce, allowing black carp in commerce still presents problems. First, in order to have black carp for sale, someone must have reproducing pairs of the fish, which means that reproductively active fish could escape. Second, not all States require the use of certified triploids, so reproductively active fish could be found in otherwise triploid lots of fish. Finally, black carp will feed on native mollusks regardless of their reproductive capabilities. Black carp, whether diploid or triploid, have the potential to feed on large quantities of freshwater mussels and snails and have negative impacts on local native snail and mussel populations before they die of old age.

Conclusion

In summary, the Service finds all forms of live black carp, including gametes, viable eggs and hybrids, to be injurious to the interests of wildlife and wildlife resources of the United States because:

- Triploid and diploid black carp have escaped or been released into the wild;
- Black carp are highly likely to survive in U.S. waterways;
- Black carp are likely to spread because there are no known limiting factors;
- Black carp are highly likely to compete with native species, including threatened and endangered species, for food;
- Black carp are highly likely to feed on native mollusks, which is likely to negatively affect mollusks, as well as the native fish, turtles, and birds that rely on mollusks as a food source;
- It will be highly unlikely to prevent, eradicate, manage, or control the spread of black carp;
- It will be highly unlikely that ecosystems disturbed by the species would be rehabilitated or recovered;
- Non-breeding populations of black carp are likely to have substantial negative impacts on native snail and mussel populations, and
- There are no potential ecological benefits for U.S. waters from the introduction of black carp.

Required Determinations

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

This rule contains potential information collection activity for FWS Form 3–200–42, Import/Acquisition/Transport of Injurious Wildlife. Completion of this form would be necessary to apply for a permit to import, or transport across State lines, any live black carp, gametes, viable eggs, or hybrids for scientific, medical, educational, or zoological purposes. The Service already has approval from the Office of Management and Budget (OMB) to collect information for this special use permit under OMB control number 1018–0093. This approval has been submitted to OMB for renewal. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review

(a) In accordance with the criteria in Executive Order 12866, OMB has designated this rule as a significant regulatory action. The following analysis presents summary impacts associated with the final rule. For the detailed economic analysis, refer to *http://www.fws.gov/contaminants/ANS/ANSInjurious.cfm* or contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Black carp are not marketed as a foodfish, nor are they exported by U.S. farmers. However, they are used by the aquaculture industry to control trematodes in fish ponds. Because numbers of domestic black carp broodstock are adequate, the aquaculture industry does not currently import black carp from sources outside the United States and most likely will not resume imports.

Costs Incurred

The implementation of this final rule will affect the importation and interstate transport of live black carp, gametes, viable eggs, and hybrids. Costs will increase for those businesses that can no longer use black carp to control snail populations. For aquaculture facilities in States with no in-State source of live black carp, they will no longer be able to import black carp to manage snail populations. If farmers cannot use black carp, they will use the most cost-efficient treatment that is suitable to their pond conditions (i.e., chemical control, native species as biological control, or a combination). Affected businesses are limited to those that (1) use black carp, (2) are located in a State

that permits the use of black carp and does not produce black carp, and (3) produce black carp and ship black carp across State lines. States that do not allow the possession of any black carp include Alabama, Illinois, Indiana, Montana, New York, Ohio, and Tennessee. Businesses located in these States will not be affected. Furthermore, because black carp are produced within Arkansas, businesses located in that State will not incur additional costs, unless businesses inadvertently transport black carp across State lines and incur Lacey Act penalties.

To quantify the costs of listing diploid and triploid black carp as injurious wildlife on the aquaculture industry, the impacts on net revenue were estimated. Net revenue is the difference between the amount that farmers receive for their product and the costs incurred to produce that product. Impacts were quantified for the catfish and hybrid striped bass industries. Due to the lack of available data, the potential impacts to the baitfish industry were not estimated.

As noted by Tucker et al. (2004), ''economic losses resulting from infectious diseases are difficult to quantify because record keeping varies among farmers and many diseases go unreported.'' Estimating the potential impacts associated with adding black carp to the list of injurious species required a number of assumptions for the catfish, hybrid striped bass, and baitfish industries due to the uncertainties related to trematode outbreaks and the use of black carp to control those outbreaks. To account for these uncertainties, the economic analysis explored a variety of potential scenarios that may occur. The scenario with the maximum potential impact for each industry is presented below.

For the catfish industry, a number of assumptions were necessary. Assuming that (1) 4.1 percent of catfish farms use black carp, (2) demand for black carp will continue to increase 20 percent annually for the foreseeable future, (3) Arkansas continues producing triploid black carp, and (4) Alabama continues to prohibit black carp, then the estimated annualized lost net revenues will range between $22,061 and $454,201. Discounted at 3 percent, the 10-year present value impact will range between $483,000 and $9.9 million. Discounted at 7 percent, the 10-year present value impact will range between $391,000 and $8.0 million.

For the hybrid striped bass industry, the number of farms using black carp is unknown. Therefore, estimates were developed for three potential scenarios, including 10 percent, 26 percent, and 50 percent of hybrid striped bass farms using black carp. Due to limited data availability, the hybrid striped bass analysis assumes all States will be affected. Therefore, the impacts may be overestimated. Assuming (1) demand for black carp will increase 20 percent annually for the foreseeable future, and (2) 50 percent of hybrid striped bass farms use black carp, estimated annualized lost net revenues will be approximately $1.9 million. To calculate the present value for a 10-year time period, the social discount rates of 3 percent and 7 percent are applied per OMB guidance. Discounted at 3 percent, the 10-year present value impact to hybrid striped bass farms will be approximately $15.8 million. Discounted at 7 percent, the 10-year present value impact to hybrid striped bass farms will be approximately $12.9 million.

In addition to any increased losses associated with trematode outbreaks, farmers inadvertently shipping live black carp across State lines could face penalties for Lacey Act violations. The penalty for a Lacey Act violation is not more than 6 months in prison and a fine of not more than $5,000 for an individual and not more than $10,000 for an organization. The number of farmers that may inadvertently ship live black carp across State lines is unknown.

Businesses that produce black carp for sale across State lines will lose revenue from a smaller black carp market because they will no longer be able to ship across State lines. The potential impact is dependent on a variety of factors including the size of the market across State lines, the potential for businesses to increase production of black carp, and the potential for businesses to increase production of other species. Assuming the incidence of trematode outbreaks will increase at a rate of 20 percent per year, the impact to businesses producing black carp depends on whether they would have the capacity to increase black carp production. If businesses have the capacity to increase black carp production, then they would lose any potential increase in future revenue related to an increase in future demand for black carp. However, when the market for black carp is reduced due to this rule, businesses may also choose to increase production of other species. Thus, the response to a smaller black carp market is unknown, and the impacts to these businesses are uncertain.

Benefits Accrued

While not entirely eliminating black carp as a threat to wildlife and wildlife resources, this final rule will reduce the pathways and chances for black carp being unintentionally introduced into river systems and tributaries. This analysis does not estimate the decreased probability of unintentional introduction, or the decreased probability of a black carp population becoming established. The quantified benefits of this rule focus on the replacement costs of freshwater mussels, as they may be impacted the most from black carp predation. While other mollusks would be at risk, specific damages for them will not be modeled due to a lack of relevant data. It is important to note that calculating the replacement costs for mussels does not fully value their benefits to the ecosystem, use values, and non-use values. It simply attempts to show the lost value of the mussels through their estimated replacement costs. Ecosystem benefits are not quantified.

The replacement costs outlined by the American Fisheries Society are composed of production costs, restocking costs, and administration costs. Table 1 shows the avoided replacement costs to native mussel populations if only one triploid black carp is prevented from unintentional introduction.

TABLE 1.—10-YEAR BENEFITS IF ONE BLACK CARP ESCAPEMENT IS PREVENTED

	Low estimate	Moderate estimate	High estimate
Nominal value	$279,000	$325,000	$372,000
7 percent discount rate (present value)	210,000	245,000	280,000
3 percent discount rate (present value)	245,000	286,000	327,000

Summary Impacts

The table below summarizes the costs and benefits that are detailed in the above sections. These impacts are shown as 10-year impacts, discounted at 7 percent and 3 percent.

TABLE 2.—SUMMARY OF ECONOMIC IMPACTS

	10-year present value impacts	
	7 percent discount	3 percent discount
Costs:		
Catfish Industry	$391,000–$8.0 million	$483,000–$9.9 million.
Hybrid Striped Bass Industry	$12.9 million	$15.8 million.
Baitfish Industry	Unknown	Unknown.
Benefits (per each escape prevented)		
Freshwater Mussels	$210,000–$280,000	$245,000–$327,000.

(b) This rule will not create inconsistencies with other Federal agencies' actions. This rule pertains only to regulations promulgated by the U.S. Fish and Wildlife Service under the Lacey Act. No other agencies are involved in these regulations.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule does not affect entitlement programs. This rule is aimed at regulating the importation and movement of nonindigenous species that have the potential to cause significant economic and other impacts on natural resources that are the trust responsibility of the Federal government.

(d) OMB has determined that this rule raises novel legal or policy issues.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal 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 government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). A regulatory flexibility analysis was prepared to accompany this rule. Please refer to *http://www.fws.gov/contaminants/ANS/ANSInjurious.cfm* for the document. Our responses to comments we received on the initial regulatory flexibility analysis are included in the final regulatory flexibility analysis.

Channel catfish, hybrid striped bass, and baitfish producers that use black carp will be affected by this rule. Only some businesses in certain states will be affected by this rulemaking. Affected businesses are limited to those that (1) use black carp, and (2) are located in a State that permits the use of black carp and does not produce black carp. States that do not allow the possession of any black carp include Alabama, Illinois, Indiana, Montana, New York, Ohio, and Tennessee. Businesses located in these States will not be affected. Furthermore, businesses located in Arkansas will not incur additional snail-control costs because black carp are produced within the State. Businesses located in Arkansas or other States producing black carp for sale in States that do not produce black carp may experience reduced revenues because black carp will be prohibited from sale in interstate commerce. An evaluation of these reduced revenues was not performed because businesses located in these States did not provide information relevant to such an evaluation. Farmers inadvertently shipping live black carp across State lines could face penalties for Lacey Act violations. The penalty for a Lacey Act violation is not more than 6 months in prison and a fine of not more than $5,000 for an individual and not more than $10,000 for an organization.

It is beyond the scope of this analysis to determine the likelihood of a business inadvertently shipping black carp.

The U.S. Small Business Administration defines a ''small business'' as one with annual revenue that meets or is below the established size standard, which is $750,000 for ''Finfish Farming and Fish Hatcheries'' businesses (NAICS 112511). The most recent data detailing business revenue for aquaculture farms comes from the 1998 Census of Aquaculture. The Census determined that approximately 89 percent of catfish farms, 97 percent of baitfish farms, and 91 percent of hybrid striped bass farms had sales of less than $750,000 annually. These percentages are extrapolated to the year 2006 to determine the number of small businesses affected by this rule.

For the catfish industry, the number of affected small businesses will increase from 28 farms in 2007, to 146 farms in 2016. This impact represents between 3 percent and 14 percent of catfish farms nationwide. Depending on the severity of the trematode infestation, individual farms may lose between $700 to $14,400 in annual net revenue. Depending on the severity of the infestation, there is potential that some catfish farms may close if they cannot use black carp to control losses. Catfish farms with severe infestations may not be able to cover the costs of production. Though unverified, according to public comments received, a few farms have closed due to severe trematode infestations. The number of farms that may close as a result of listing black carp is uncertain.

The nationwide use of black carp in hybrid striped bass farms is unknown. The only information available is that 26 percent of North Carolina hybrid striped bass producers use black carp to control snails. To account for this uncertainty, the hybrid striped bass analysis presented a range of potentially affected acreage: 10 percent, 26 percent, and 50 percent. An assumption that 50 percent of hybrid striped bass farms use black carp results in 163 small hybrid striped bass farms being impacted. In the short run (2007 to 2011), the annual impact will be about $5,857 per farm. In the long run (2012 to 2016), the annual

impact will be about $16,279 per farm. The estimated net revenue impacts are presented in nominal dollars. Depending on the severity of the infestation, there is potential that some hybrid striped bass farms may go out of business. The number of hybrid striped bass farms that may close is uncertain.

Adequate data for the baitfish industry were not available to estimate the impact of listing black carp. The number of baitfish farms that use black carp for biological control and the impacts of trematode infestations are unknown, so impacts on small baitfish businesses cannot be estimated. Depending on the severity of the infestation, there is potential that some baitfish farms may go out of business. The number of baitfish farms that may close is uncertain.

Our responses to comments we received on the draft economic analysis are attached to the final economic analysis. Please refer to *http://www.fws.gov/contaminants/ANS/ANSInjurious.cfm* for the final economic analysis.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The 10-year present value of net revenue losses to the catfish and hybrid striped bass industries are estimated to range between $3.0 million and $21.0 million discounted at 7 percent and between $3.6 million and $25.8 million discounted at 3 percent. Due to the limit of detailed data for the hybrid striped bass industry, this analysis did not account for farms in Arkansas and Alabama not being impacted, which would cause our estimate to be inflated. Furthermore, data for the baitfish industry were unavailable so the potential impacts were not quantified, and that estimate may be underestimated. In addition to the losses associated with trematode outbreaks, farmers inadvertently shipping live black carp across State lines could face penalties for Lacey Act violations. The penalty for a Lacey Act violation is not more than 6 months in prison and not more than a $5,000 fine for an individual and not more than a $10,000 fine for an organization.

(b) Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. If farmers cannot use black carp, they will use the most cost-efficient treatment that is suitable to their pond conditions. Depending on pond or tank conditions, it is assumed that operators will choose to treat their ponds with hydrated lime, redear sunfish, or copper sulfate. It is unknown which treatment operators will choose. Costs will increase for those businesses that can no longer use black carp to control snail populations. There is potential that some businesses may go out of business. The number of farms that may close is uncertain. There will most likely not be a major increase for consumers in the cost of catfish. The increase for consumers in costs of hybrid striped bass and baitfish is unknown.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Farmers without an in-State source of triploid black carp will no longer have the option to use black carp to manage snail populations. The use of chemicals or other snail-eating fish, or some combination of chemical and biological control, will still be available to farmers to help mitigate losses, depending on pond conditions.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule would not prohibit intrastate transport or any use of black carp within State boundaries. Any regulations concerning the use of black carp within an individual State is the responsibility of that State. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule would not impose significant requirements or limitations on private property use.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule would not have substantial direct effects on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, we determine that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order. The rule has been reviewed to eliminate drafting errors and ambiguity, was written to minimize litigation, provides a clear legal standard for affected conduct rather than a general standard, and promotes simplification and burden reduction.

National Environmental Policy Act

We have prepared an Environmental Assessment (EA) in conjunction with this rulemaking, and have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Responses to comments received on the draft EA are attached to the final EA. For a copy of the EA, contact the individual identified above in the section **FOR FURTHER INFORMATION CONTACT**, or access the document at *http://www.fws.gov/contaminants/ANS/ANSInjurious.cfm.*

This action is being taken to protect the natural resources of the United States. Adding diploid and triploid black carp to the list of injurious wildlife is intended to prevent this species' further introduction and establishment in the natural waters of the United States by prohibiting their importation and interstate transport, and thereby protect wildlife and wildlife resources of the United States.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule involves the importation and interstate movement of all forms of live black carp, gametes,

eggs, and hybrids. We are unaware of trade in this species by Tribes.

Effects on Energy

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action, and no Statement of Energy Effects is required.

References Cited

A complete list of references used in this rulemaking is available upon request from the Branch of Invasive Species (see the **FOR FURTHER INFORMATION CONTACT** section).

List of Subjects in 50 CFR Part 16

Fish, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

■ For the reasons discussed in the preamble, the U.S. Fish and Wildlife Service amends part 16, subchapter B of Chapter I, Title 40 of the Code of Federal Regulations as set forth below.

PART 16—[AMENDED]

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 18 U.S.C. 42.

■ 2. Amend § 16.13 as follows:

■ a. By removing the word ''and'' at the end of paragraph (a)(2)(iv)(BB);

■ b. By removing the period at the end of paragraph (a)(2)(v) and adding in its place ''; and''; and

■ c. By adding a new paragraph (a)(2)(vi) to read as set forth below.

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a) * * *

(2) * * *

(vi) Any live fish, gametes, viable eggs, or hybrids of the species black carp, *Mylopharyngodon piceus.*

* * * * *

Dated: October 12, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 07–5141 Filed 10–17–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 071011590–7591–01]

RIN 0648–XD38

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 841 nm^2 (2,885 km^2), southeast of Machias, Maine, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours October 20, 2007, through 2400 hours November 3, 2007.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP Web site at *http://www.nero.noaa.gov/whaletrp/.*

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) Require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15-day period and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On October 5, 2007, an aerial survey reported and aggregation of three right whales in the proximity of 44°15′ N latitude and 67°11′ W longitude. The position lies approximately 30nm southeast of Machias, Maine. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15-day restricted period unless it is modified in the manner described in this temporary rule.

The DAM Zone is bound by the following coordinates:

44°35′ N., 67°33′ W (NW Corner)
44°35′ N., 67°01′ W and follow the EEZ south to 43°56′ N., 67°22′ W
43°56′ N., 67°41′ W
44°32′ N., 67°41′ W and follow the coastline north to 44°35′ N., 67°33′ W (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Nearshore Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: One at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours October 20, 2007, through 2400 hours November 3, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA Web site, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete.

Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3).

Dated: October 12, 2007.

Samuel D. Rauch III,

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

[FR Doc. 07–5133 Filed 10–12–07; 3:34 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XD32

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Non-American Fisheries Act Crab Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for the 2007 Pacific cod sideboard limits apportioned to non-American Fisheries Act (AFA) crab vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 Pacific cod sideboard limits apportioned to non-AFA crab vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 14, 2007, until 2400 hrs, A.l.t., December 31, 2007.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 800.

The 2007 Pacific cod sideboard limits apportioned to non-AFA crab vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA is 1,635 metric tons (mt) for the GOA, as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007).

In accordance with § 680.22(e)(2)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 Pacific cod sideboard limits apportioned to non-AFA crab vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a sideboard directed fishing allowance for Pacific cod as 1,625 mt in the Gulf of Alaska. The remaining 10 mt in the Gulf of Alaska will be set aside as bycatch to support other anticipated groundfish fisheries. In accordance with § 680.22(e)(3), the Regional Administrator finds that this sideboard directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by non-AFA crab vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public

interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the sideboard directed fishing closure of Pacific cod apportioned to non-AFA crab vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 10, 2007.

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

This action is required by § 680.22 and is exempt from review under Executive Order 12866.

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

Dated: October 12, 2007.

Emily H. Menashes

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

[FR Doc. 07–5132 Filed 10–12–07; 3:34 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XD41

Fisheries of the Economic Exclusive Zone Off Alaska; Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using trawl gear in the Gulf of Alaska (GOA), except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This closure also does not apply to fishing by vessels participating in the cooperative fishery in the Rockfish Pilot Program for the Central GOA. This action is necessary to prevent exceeding the 2007 Pacific halibut prohibited species catch (PSC) limit specified for trawl gear in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 15, 2007, through 2400 hrs, A.l.t., December 31, 2007.

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

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

The 2007 Pacific halibut PSC limit for vessels using trawl was established as 2,000 metric tons by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007, as corrected by 72 FR 13217, March 21, 2007). The fishery was closed on October 8, 2007 (72 FR 57888, October 11, 2007) and was reopened on October 10, 2007.

The Administrator, Alaska Region, has determined, in accordance with § 679.21(d)(7)(i), that the 2007 Pacific halibut PSC limit allocated to vessels using trawl gear in the GOA will soon be reached. Therefore, NMFS is prohibiting directed fishing for groundfish by vessels using trawl gear in the GOA, except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock. This closure also does not apply to fishing by vessels participating in the cooperative fishery in the Rockfish Pilot Program for the Central GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay closing directed fishing for groundfish by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 12, 2007.

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

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: October 15, 2007.

Alan D. Risenhoover

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

[FR Doc. 07–5146 Filed 10–15–07; 2:42 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 201
Thursday, October 18, 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 ENERGY

10 CFR Part 430

[Docket No. EERE–2007–BT–STD–0010]

RIN 1904–AA89

Energy Efficiency Program for Certain Commercial and Industrial Equipment: Public Meeting and Availability of the Framework Document for Residential Clothes Dryers and Room Air Conditioners; Correction

AGENCY: Department of Energy (DOE).

ACTION: Notice of public meeting and availability of the Framework Document; correction.

SUMMARY: DOE published in the **Federal Register**, Tuesday, October 9, 2007, a notice Energy Efficiency for Certain Commercial and Industrial Equipment: Public Meeting and Availability of the Framework Document for Residential Clothes Dryers and Room Air Conditioners. In that notice, there was an error in the date for accepting comments.

FOR FURTHER INFORMATION CONTACT: Stephen Witkowski, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–7463. E-mail: *Stephen.Witkowski@ee.doe.gov*.

Correction

In proposed rule FR Doc. E7–19808 appearing on page 57254 in the issue of Tuesday, October 9, 2007, the following correction should be made:

On page 57255, second column, the date in lines twenty-six and twenty-seven is corrected to read: November 7, 2007.

Issued in Washington, DC on October 12, 2007.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E7–20555 Filed 10–17–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 16

[Docket ID OCC–2007–0016]

RIN 1557–AD04

Securities Offering Disclosure Rules

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend its securities offering disclosure rules at part 16 so that the organizing group of a national bank in organization will, in most cases, not need to provide audited financial statements as part of a public offering of securities.

DATES: Comments must be received by December 17, 2007.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''Regulations.gov'':* Go to *http://www.regulations.gov,* select ''Comptroller of the Currency'' from the agency drop-down menu, then click ''Submit.'' In the ''Docket ID'' column, click on ''OCC–2007–0016'' to submit or view public comments and to view supporting and related materials for this notice of proposed rulemaking. The ''User Tips'' link at the top of the Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *E-mail: regs.comments@occ.treas.gov*.
- *Fax:* (202) 874–4448.
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 1–5, Washington, DC 20219.
- *Hand Delivery/Courier:* 250 E Street, SW., Attn: Public Information Room, Mail Stop 1–5, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2007–0016'' in your comment. In general, OCC will enter all comments received into the docket and publish them on Regulations.gov without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials by any of the following methods:

- *Viewing Comments Electronically:* Go to *http://www.regulations.gov,* select ''Comptroller of the Currency'' from the agency drop-down menu, then click ''Submit.'' In the ''Docket ID'' column, click on ''OCC–2007–0016'' to view public comments for this notice of proposed rulemaking.
- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–5043. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.
- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, Legislative and Regulatory Activities Division, (202) 874–4487; Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090; Ted Dowd, Senior Attorney, Securities and Corporate Practices, Division, (202) 874–5210; Beverly Evans, Director, Licensing Activities, (202) 874–5060.

SUPPLEMENTARY INFORMATION:

I. Background

12 CFR part 16 generally requires national bank securities offerings to conform to Securities and Exchange Commission (SEC) offering rules and procedures set forth in the Securities Act of 1933 (33 Act).[1] Part 16 cross-references SEC requirements for securities registration statements, including the requirement that companies provide audited financial statements.[2] This requirement applies to ''developmental stage'' companies, which includes entities that are analogous to national bank charter applicants.[3] Thus, through the OCC's incorporation of these SEC requirements, national bank charter applicants are required to provide audited financial statements in connection with their registration statements filed with the OCC for an offer and sale of securities.

This notice of proposed rulemaking (NPRM) is part of an ongoing OCC effort to reduce unnecessary regulatory burden on national banks, including applicants for national bank charters. For example, the OCC is working with the other federal banking agencies to produce a report required by section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), which directs the federal banking agencies to identify regulations that are outdated, unnecessary, or unduly burdensome, and to eliminate them if appropriate. The OCC also recently proposed comprehensive regulatory revisions aimed at reducing regulatory burden by, among other things, removing obsolete provisions, streamlining procedures required in connection with particular types of changes in structure and the conduct of certain activities, and incorporating into our rules interpretive opinions that the OCC has previously published.[4]

As a complement to these burden reducing measures, the OCC also has sought to identify the considerations most relevant to organizing groups for new community banks. This review encompasses both the standards and the processes that the OCC applies to such applicants.

The requirement for an organizing group of a national bank charter applicant to have audited financial statements may not be warranted in many cases. The process can be time-consuming and expensive. Applicants for a national bank charter have often found it difficult to schedule timely audits. This has resulted in costly delays for their securities offerings. Even after an auditing firm has been hired and the audit has been completed, there is a risk that an audit will become stale and need to be updated before the OCC can declare the registration statement effective.[5]

Moreover, an audited financial statement adds little that benefits potential investors, since there is no national bank business being transacted during the organizational phase, and the bank's financial statements typically are rudimentary, reflecting little more than the bank account of the organizing group and organizational expenses incurred.

Finally, the OCC typically does not need to rely on audited financial statements in deciding applications for *de novo* national bank charters. In the case of national banks in organization before the OCC, unlike the establishment of most businesses whose registration statements are regulated by the SEC, the chartering of *de novo* national banks is a lengthy and comprehensive process that includes extensive ongoing review of the proposed bank's management, financial resources, and business plan. This process provides the OCC the opportunity to carefully consider, on the basis of detailed information, whether the organizing group has the expertise and resources to operate a viable national bank.

II. The Proposal

For the reasons stated above, the OCC is proposing to amend part 16 to provide a general waiver of the requirement for an organizing group seeking to establish a national bank charter to use audited financial statements as part of a registration statement for the public offering of securities. The term ''organizing group'' would have the meaning set forth in 12 CFR 5.20(d)(6) of this chapter.

Under this proposed revision, however, the OCC would retain the authority to require an organizing group to furnish audited financial statements if the OCC concludes that to do so would be in the interest of investors or would further the safe and sound operation of a national bank. Examples of when the OCC may require audited financial statements include situations where review of the registration statement, or any other aspect of the organizing group's application to charter a national bank, uncovers incomplete or inaccurate information about the organizing group's finances or capital, or other material inaccuracies or misstatements.

III. Regulatory Analysis

Regulatory Flexibility Act

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under Section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

This change would reduce the costs and expenses associated with the formation of a national bank and will not have a significant economic impact. Therefore, pursuant to Section 605(b) of the RFA, the OCC hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not needed.

Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866. We have concluded that the changes made by this rule will not have an annual effect on the economy of $100 million or more. The OCC further concludes that this proposal does not meet any of the other standards for a significant regulatory action set forth in Executive Order 12866.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The information collection requirements contained in this notice of proposed rulemaking have been submitted to OMB for review and approval under existing OMB control number 1557–0120 (Securities Offering Disclosure Rules).

The OCC is proposing to revise part 16 to add a waiver of audited financial statements for the organizing group of a national bank charter applicant for any

[1] *See* Securities Offering Disclosure Rules, 59 FR 54789, 90 (Nov. 2, 1994) (Final Rule).

[2] Regulation S–X, 17 CFR 210.3–01(a); Regulation S–B, 17 CFR 228.310(a).

[3] *See* Rule 1–02(h), Regulation S–X, 17 CFR 210.1–02(h).

[4] 74 FR 36550 (July 3, 2007).

[5] Regulations S–X and S–B require that audited financial statements that are 135 days older than the effective date of the registration statement be updated with interim financial statements. 17 CFR 210.3–12 and 228.310.

registration statement for bank securities submitted by such group. The PRA burden in part 16 is currently approved under OMB Control No. 1557–0120. Therefore, we submitted the entire information collection for review. The numbers below reflect the entire burden for part 16 following adoption of the rule and the review of the entire information collection to ensure accuracy of the estimates.

Title of Information Collection: Securities Offering Disclosure Rules—12 CFR Part 16.

OMB Number: 1557–0120.

Estimated Number of Respondents: 48.

Estimated Number of Responses: 48.

Average Hours per Response: 9.375.

Total Estimated Annual Burden: 450.

Affected Public: National bank charter applicants.

Estimated Net Burden Change: −60 hours.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, Section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this proposal is not subject to Section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 16

National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 16—SECURITIES OFFERING DISCLOSURE RULES

1. The authority citation for part 16 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.* and 93a.

2. Add § 16.15(e) to read as follows:

§ 16.15 Form and content.

* * * * *

(e) Notwithstanding paragraph (a) of this section, an organizing group seeking to establish a national bank charter pursuant to § 5.20 of this chapter shall not be required to include audited financial statements as part of its registration statement, unless the OCC determines that factors particular to the proposal indicate that inclusion of such statements would be in the interest of investors or would further the safe and sound operation of a national bank. The term ''organizing group'' shall have the meaning set forth in § 5.20(d)(6) of this chapter.

Dated: October 12, 2007.

John C. Dugan,

Comptroller of the Currency.

[FR Doc. E7–20600 Filed 10–17–07; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 600

[Docket No. 2007N–0284]

Revision of the Requirements for Live Vaccine Processing; Companion to Direct Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations by providing options to the existing requirement for the processing of live vaccines. FDA is proposing to amend the regulations due to advances in technology that will allow processing of live vaccines to be performed in multiproduct manufacturing areas. We are publishing this rule because the existing requirement regarding facilities and equipment for processing live vaccines is too prescriptive and is no longer necessary. We are taking this action as part of our continuing effort to reduce the burden of unnecessary regulations on industry and to revise outdated regulations without diminishing public health protection. This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**.

DATES: Submit written comments or electronic comments by January 2, 2008.

ADDRESSES: You may submit comments, identified by Docket No. 2007N–0284, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No. 2007N–0284 for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments see the ''Request for Comments'' heading in section VII of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

Live organisms are used in the production of certain vaccine products.

These live organisms are generally used as source material for further manufacture into final products used in the prevention, treatment, or cure of a disease or condition of human beings. Live organisms pose a challenge to manufacturers in the prevention of cross contamination of other products and manufacturing areas. Some live organisms used in manufacturing may be harmful to humans, especially immunocompromised patients. To ensure the safety of a biological product manufactured in the same building or area in which live organisms are utilized, tight controls are needed to avoid the release of any live organisms into the manufacturing environment and to prevent cross contamination of other products manufactured in the same building or area.

Current FDA regulations strictly limit how live vaccine processing may be performed. Current § 600.11(e)(4) (21 CFR 600.11(e)(4)) requires that: (1) Space used for processing a live vaccine must be decontaminated before processing is started and must not be used for any other purpose during the vaccine processing; (2) live vaccine processing areas must be isolated from and independent of any space used for any other purpose by being either in a separate building, in a separate wing of a building, or in quarters at the blind end of a corridor; (3) the processing area must include adequate space and equipment for all processing steps up to, but not including, filling into final containers; and (4) test procedures that potentially involve the presence of microorganisms other than the vaccine strains, or the use of tissue culture cell lines other than primary cultures, must not be conducted in space used for processing live vaccine.

We are proposing to revise § 600.11(e)(4) to allow greater flexibility for vaccine manufacturers regarding the buildings and equipment used for live vaccine processing. The proposed revisions provide for the use of modern manufacturing approaches to assist vaccine manufacturers who engage in live vaccine processing, e.g., manufacturers of influenza virus vaccines. The proposed revisions provide that live vaccine processing steps may be performed in multiproduct manufacturing buildings and areas when appropriate controls exist to prevent cross contamination of other products and areas. We recognize that advances in facility, utility, system, and equipment design, as well as in sterilization, decontamination, and disinfection technologies have increased the ability of manufacturers to control the manufacture of biological products and the equipment used in their manufacture. The use of appropriate controls, procedures, and processes provides an adequate degree of confidence that a product meets the expected levels of safety, purity, and potency. Areas of special concern, such as containment, decontamination, sterilization, and disinfection can be addressed using currently available controls, procedures, and processes. The scope of this regulation is limited to all live vaccine processing steps up to, but not including, filling into final containers. In section II of this document, we identify each of the changes included in this proposed rule.

II. Highlights of the Proposed Rule

We are proposing to revise § 600.11(e)(4) to require that live vaccine processing be performed under appropriate controls to prevent cross contamination of other products and other manufacturing areas within the building. We regard an area as a specific room or set of rooms within a building associated with the manufacturing of any one product or multiple products.

Proposed § 600.11(e)(4)(i) is analogous to the preexisting § 600.11(e)(4). In proposed § 600.11(e)(4)(i)(A), we provide that a manufacturer can use an area that is either in a separate building, in a separate wing of a building, or in quarters at the blind end of a corridor and includes adequate space and equipment for all processing steps up to, but not including, filling into final containers. In proposed § 600.11(e)(4)(i)(B), we require that a manufacturer not use the manufacturing space for conducting test procedures that potentially involve the presence of microorganisms other than the vaccine strains or the use of tissue culture cell lines other than primary cultures.

In proposed § 600.11(e)(4)(ii), if manufacturing is conducted in a multiproduct manufacturing building or area, we require appropriate controls including procedural controls, and where necessary, process containment, to prevent cross contamination of other products and other manufacturing areas within the building. In addition, we are requiring that all product, equipment, and personnel movement between distinct live vaccine processing areas and between live vaccine processing areas and other manufacturing areas up to, but not including, filling in containers, must be conducted under conditions that will prevent cross contamination of other products and manufacturing areas within the building, including the introduction of live vaccine organisms into these other areas. Process containment is a system designed to mechanically isolate equipment or an area that involves manufacturing using live vaccine organisms. Procedural controls establish and perform effective decontamination, sterilization, and disinfection, as well as execute manufacturing procedures in such a manner as to prevent cross contamination with live vaccine organisms.

As part of their procedural controls, manufacturers must have written procedures and effective processes in place to adequately remove or decontaminate live vaccine organisms from manufacturing areas and from equipment for subsequent manufacture of other products. Written procedures must be in place for verification that processes to remove or decontaminate live vaccine organisms have been followed. All potential routes of cross contamination to other manufacturing areas should be addressed, including movement of persons (e.g., technical, maintenance, delivery, management personnel, and visitors), equipment, and in-process materials. Live vaccine organisms should not be removed from designated areas unless this can be done in a manner that prevents the cross contamination of other products and manufacturing areas. These procedural controls will provide a level of assurance that products made in areas where live vaccines are manufactured remain safe, pure, and potent.

III. Legal Authority

FDA is issuing this regulation under the biological products provisions of the Public Health Service Act (PHS Act) (42 U.S.C. 262 and 264), and the drugs and general administrative provisions of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 331, 351–353, 355, 360, 371, and 374). Under these provisions of the PHS Act and the act, we have the authority to issue and enforce regulations designed to ensure that biological products are safe, effective, pure, and potent, and to prevent the introduction, transmission, and spread of communicable disease.

IV. Companion Document to Direct Final Rulemaking

This proposed rule is a companion to the direct final rule published in the final rules section of this issue of the **Federal Register**. This companion proposed rule provides the procedural framework to finalize the rule in the event that the direct final rule receives any significant adverse comment and is withdrawn. The comment period for this companion proposed rule runs concurrently with the comment period for the direct final rule. Any comments

received under this companion proposed rule will also be considered as comments regarding the direct final rule. We are publishing the direct final rule because the rule is noncontroversial, and we do not anticipate that it will receive any significant adverse comments.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a regulation change in addition to those in the rule would not be considered a significant adverse comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this rule and that provision can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of a significant adverse comment.

If no significant adverse comment is received in response to the direct final rule, no further action will be taken related to this companion proposed rule. Instead, we will publish a confirmation document, before the effective date of the direct final rule, confirming that the direct final rule will go into effect on March 18, 2008. Additional information about direct rulemaking procedures is set forth in a guidance published in the **Federal Register** of November 21, 1997 (62 FR 62466).

V. Analysis of Impacts

A. Review Under Executive Order 12866, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act of 1995

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). 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 agency believes that this proposed rule is not an economically significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this proposed rule would provide increased flexibility for the processing of live vaccines, it would decrease overall compliance costs. Therefore, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $127 million, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1–year expenditure that would meet or exceed this amount.

B. Environmental Impact

The agency has determined under 21 CFR 25.31(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

C. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VI. The Paperwork Reduction Act of 1995

This proposed rule contains no new collections of information. The collection of information under § 600.11(e)(4) is covered by OMB control numbers 0910–0139 (expires September 30, 2008) and 0910–0308 (expires July 31, 2008). Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) is not required.

VII. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 600 be amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

1. The authority citation for 21 CFR part 600 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374; 42 U.S.C. 216, 262, 263, 263a, 264, 300aa–25.

2. Section 600.11 is amended by revising paragraph (e)(4) to read as follows:

§ 600.11 Physical establishment, equipment, animals, and care.

* * * * *

(e) * * *

(4) *Live vaccine processing.* Live vaccine processing must be performed under appropriate controls to prevent cross contamination of other products and other manufacturing areas within the building. Appropriate controls must include, at a minimum:

(i)(A) Using a dedicated manufacturing area that is either in a

separate building, in a separate wing of a building, or in quarters at the blind end of a corridor and includes adequate space and equipment for all processing steps up to, but not including, filling into final containers; and

(B) Not conducting test procedures that potentially involve the presence of microorganisms other than the vaccine strains or the use of tissue culture cell lines other than primary cultures in space used for processing live vaccine; or

(ii) If manufacturing is conducted in a multiproduct manufacturing building or area, using procedural controls, and where necessary, process containment. Process containment is deemed to be necessary unless procedural controls are sufficient to prevent cross contamination of other products and other manufacturing areas within the building. Process containment is a system designed to mechanically isolate equipment or an area that involves manufacturing using live vaccine organisms. All product, equipment, and personnel movement between distinct live vaccine processing areas and between live vaccine processing areas and other manufacturing areas, up to, but not including, filling in final containers, must be conducted under conditions that will prevent cross contamination of other products and manufacturing areas within the building, including the introduction of live vaccine organisms into other areas. In addition, written procedures and effective processes must be in place to adequately remove or decontaminate live vaccine organisms from the manufacturing area and equipment for subsequent manufacture of other products. Written procedures must be in place for verification that processes to remove or decontaminate live vaccine organisms have been followed.

* * * * *

Dated: July 30, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–20609 Filed 10–17–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 502, 522, 559 and 573

RIN 3141–AA23

Facility License Standards

AGENCY: National Indian Gaming Commission (''NIGC'' or ''Commission'').

ACTION: Proposed rules.

SUMMARY: The proposed rules add new sections and a new part to the Commission's regulations in order to ensure that each place, facility or location where class II or class III gaming will occur is located on Indian lands eligible for gaming as required by the Indian Gaming Regulatory Act. The rules are also intended to ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

DATES: Submit comments on or before December 3, 2007.

ADDRESSES: Comments can be mailed, faxed, or e-mailed. Mail comments to ''Comments on Facility Licensing Standards,'' National Indian Gaming Commission, 1441 L Street, NW., Washington, DC 20005, Attn: Jerrie Moore, Legal Assistant. Comments may be faxed to 202–632–7066 (not a toll-free number). Comments may be sent electronically to *licensing_regulations@nigc.gov*.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman, Acting General Counsel, at (202) 632–7003; fax (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 17, 1988, Congress enacted the Indian Gaming Regulatory Act (''IGRA'' or ''Act''), 25 U.S.C. 2701–21, creating the National Indian Gaming Commission (''NIGC'' or ''Commission'') and developing a comprehensive framework for the regulation of gaming on Indian lands. 25 U.S.C. 2702. The NIGC was granted, among other things, oversight and enforcement authority, including the authority to monitor tribal compliance with the Act, Commission regulations, and tribal gaming ordinances.

First, the IGRA allows gaming on Indian lands pursuant to 25 U.S.C. 2703(4), although it contains a general prohibition against gaming on lands acquired into trust by the United States for the benefit of the tribe after the Act's effective date of October 17, 1988, unless one of several exceptions are met. 25 U.S.C. 2719. The Commission has jurisdiction only over gaming operations on Indian lands and therefore must establish that it has jurisdiction as a prerequisite to its monitoring, enforcement, and oversight duties. 25 U.S.C. 2702(3).

Second, the NIGC needs to obtain information on a tribe's environmental and public health and safety laws to oversee the implementation of approved tribal gaming ordinances. Before opening a gaming operation, a tribe must adopt an ordinance governing gaming activities on its Indian lands. 25 U.S.C. 2710. The Act specifies a number of mandatory provisions to be contained in each tribal gaming ordinance and subjects such ordinances to agency review and the NIGC Chairman's approval. *Id.* Approval by the Chairman is predicated on the inclusion of each of the specified mandatory provisions in the tribal gaming ordinance. *Id.* Among these is a requirement that the ordinance must contain a provision ensuring that ''the construction and maintenance of the gaming operation, and the operation of that gaming is conducted in a manner that adequately protects the environment and the public health and safety.'' 25 U.S.C. 2710(b)(2)(E). Since 1993, when the Commission became operational, the Chairman has required each tribal gaming ordinance submitted for approval to include the express environmental and public health and safety statement set out in 25 U.S.C. 2710(b)(2)(E).

The Commission recognizes that tribal governments, as an incident of inherent tribal sovereignty, have broad autonomy and authority over internal tribal affairs, including, in particular, matters pertaining to tribal lands and the health and welfare of the people and the community. Moreover, the Commission is aware that the principle of tribal self-determination is a cornerstone of federal Indian law and policy and has remained so for more than a quarter century.

The Commission believes that tribes must have some form of basic laws in the following environmental and public health and safety areas: (1) Emergency preparedness, including but not limited to fire suppression, law enforcement and security; (2) food and potable water; (3) construction and maintenance; (4) hazardous materials; and (5) sanitation (both solid waste and wastewater). Accordingly, in 2002, the Commission issued an interpretive rule for environment, public health, and safety. 67 FR 46,109 (Jul. 12, 2002) (''Interpretive Rule'').

The NIGC has conducted many environment and public health and safety inspections since the issuance of the Interpretive Rule and has worked with a consultant to allow the agency to gain expertise in this area. Through this inspection process, the NIGC has identified weaknesses in tribal laws or enforcement thereof and has worked with tribes to cure deficiencies.

The Commission respects the rights of tribes to develop their own laws and be

governed by them. These rights must be viewed in conjunction with the IGRA mandate that the tribal governments and the NIGC have a responsibility to the gaming public and to gaming operation employees to ensure that their operations do not pose a risk to the health or safety of the public or the environment. 25 U.S.C. 2710(b)(2)(E); 25 CFR part 580.

In the years since the adoption of the Interpretive Rule, the Commission has identified several deficiencies in it. Namely, the Interpretive Rule does not assist the Commission in identifying what environmental and public health and safety laws apply to each gaming operation nor ensure that tribal gaming regulatory authorities are enforcing those laws. There is a need for a submission to the Commission of a certification by the tribe that it has identified laws applicable to its gaming operation and is in compliance with them together with a document listing those laws. A certification process would help tribes and the Commission to identify problem areas where laws are needed so that the NIGC may offer technical advice and encourage adoption and enforcement of appropriate laws. The new rules proposed today would not replace the Interpretive Rule but would work in conjunction with it.

II. Development of the Proposed Rules Through Consultation With Indian Tribes

The Commission identified a need for facility license standards to address Indian lands and environmental and public health and safety concerns in 2005. In accordance with its government-to-government consultation policy, 69 FR 16,973 (Mar. 31, 2004), the Commission consulted with Indian tribes so they could provide early and meaningful input regarding formulation of the proposed rules. Before it began drafting the proposed rules, the Commission advised tribes of its intent to create standards and asked tribes for comments and suggestions on licensing regulations covering both Indian lands and environmental and public health and safety standards at consultation sessions around the country beginning in October of 2005.

Thereafter, the Commission prepared draft facility licensing regulations covering Indian lands and environmental and public health and safety standards. A copy of the draft regulations was sent to leaders of all gaming tribes for comment on May 12, 2006. The NIGC also posted the draft on its Web site, *http://www.nigc.gov*, for public comment. Fifty-six tribes provided written comments. In addition, between May 12, 2006, and March 20, 2007, the Commission invited 309 tribes to meet with it in consultation asking, among other matters, for comment on the draft regulations. While some tribes declined the Commission's invitations, the Commission conducted over 53 separate government-to-government consultation meetings with individual tribes and their leaders or representatives.

The comments and suggestions received were carefully reviewed, and as a result, the Commission decided to redraft the regulations. Tribes questioned the NIGC's authority to issue the regulations for tribes conducting class III gaming and the NIGC's authority to issue regulations in this area overall. Tribes also challenged the first draft as unduly onerous and costly. The first draft applied to open as well as new gaming operations and required tribes to submit a signed legal opinion finding that the site was on IGRA Indian lands; a certification that the gaming site was on Indian lands; plat maps; copies of trust deeds; copies of any court decisions, settlement agreements, Congressional acts, Executive Orders, or Secretarial proclamations or decisions affecting title or ownership of the land; documentation on site ownership and leasehold interests; and documentation the site was located within reservation boundaries or was within tribal jurisdiction and the tribe exercised governmental power over it. The first draft had also required tribes to submit the table of contents of each applicable environmental and public health and safety law. The Commission agreed that the requirements to submit a signed legal opinion on the Indian lands status of gaming lands and the table of contents for each applicable environmental and public health and safety law would be unduly burdensome and expensive and therefore removed them.

The Commission sent a revised draft to leaders of all gaming tribes for comment on March 21, 2007, and posted the draft on its Web site, asking for comments by May 15, 2007. NIGC Press Release PR–63 06–2007. The comment period deadline was subsequently extended to May 30, 2007. NIGC Press Release PR–65 08–2007. The NIGC posted the initial request for comments and the extension letter on its Web site in order to obtain additional public comment. In addition, the Commission invited 273 tribes to meet with it in consultation asking, among other matters, for comment on the regulations. While some tribes declined the Commission's invitations, between March 20, 2007, and July 31, 2007, the Commission conducted over 60 separate government-to-government consultation meetings with individual tribes and their leaders or representatives. Tribes submitted 78 comments to the revised draft.

Comments on the revised draft were again carefully reviewed and considered by the Commission in formulating these proposed regulations. Tribes continued to question the NIGC's authority to issue the regulations. The Commission, however, continues to believe it has authority to issue licensing standards, determine whether a site constitutes Indian lands, and ensure tribal compliance with the environmental and public health and safety provision of the IGRA. The NIGC noted the continued concern of many tribes regarding the Indian lands submission burden and has substantially lessened the burden in the proposed rules published today as well as limited the submission requirements for this regulation to new gaming operations. The NIGC has therefore substantially reduced the Indian lands collection while requiring tribes to submit additional documentation if necessary.

The second draft also required all gaming tribes to amend their gaming ordinances within two years of the effective date of the regulations in order to incorporate specific environmental and public health and safety provisions into their gaming ordinance. The NIGC concurs with the commentators that the ordinance amendment concept is unnecessary and would prove unduly burdensome and costly both to the tribes and the agency and has removed this provision.

Tribes also commented that submission of a certification that the tribe is in compliance with applicable environmental and public health and safety laws and a list of those laws was burdensome and an infringement on tribal sovereignty. The Commission believes that the environmental and public health and safety requirements do not infringe on tribal sovereignty and are not unduly onerous. The requirements for environmental and public health and safety certifications and lists of laws appear to have been misconstrued as the regulations do not require tribes to adopt any specific laws or send in all of their laws, but are meant to keep the NIGC current on the status of the tribes' laws.

As of the date of publication, the Commission has to date conducted over 113 separate government-to-government consultation meetings with individual tribes and their leaders or representatives and received many

written comments on its drafts. Through these consultations, the Commission actively endeavored to provide all tribes with a reasonable and practical opportunity to meet and consult with the Commission on a government-to-government basis and provide early and meaningful tribal input regarding the formulation and implementation of these proposed rules.

III. Purpose and Scope

The proposed rules are intended to ensure that each place, facility, or location where class II or class III gaming will occur is located on Indian lands eligible for gaming under the IGRA. The proposed rules are also intended to assure that gaming facilities are constructed, maintained, and operated in a manner that adequately protects the environment and public health and safety. In addition, the proposed rules will allow the Commission to track the opening and closing of tribal gaming facilities. Each gaming place, facility, or location where a tribe conducts, or intends to conduct, class II or class III gaming pursuant to the IGRA would be subject to the proposed rules.

IV. Ordinance Submission Requirements of 25 CFR Part 522

The IGRA requires that gaming be on Indian lands eligible for gaming under the Act and that a tribe include in its ordinance a provision that ''construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.'' 25 U.S.C. 2710(b)(2)(E). The addition of paragraph (i) to 25 CFR 522.2, concerning ordinance submission requirements, directs that a tribe shall provide any Indian lands or environmental and public health and safety documentation that the Chairman requests at his or her discretion as needed.

V. Definitions for 25 CFR Part 502

The Commission proposes definitions for terms not previously defined in its regulations. These definitions would have general application to all of the NIGC regulations where the terms are used.

In the proposed rule, the Commission defines the term ''facility license'' to clarify the term used in 25 U.S.C. 2710(b)(1), which requires a tribe to issue a separate license for each place, facility, or location on Indian lands at which class II or class III gaming is or will be conducted.

The Commission also proposes to define the requirement in 25 U.S.C. 2710(b)(2)(E) that a tribal gaming ordinance must contain a provision ensuring that ''the construction and maintenance of the gaming operation, and the operation of that gaming is conducted in a manner that adequately protects the environment and the public health and safety.'' The Commission clarifies that this term means a tribe has identified and is enforcing laws applicable to its gaming operations in the areas of emergency preparedness, food and potable water, construction and maintenance, hazardous materials, and sanitation.

VI. Facility License Notifications, Renewals, and Submissions

Proposed 25 CFR part 559 sets forth standards for renewal of gaming facility licenses, standards for notification to the Commission when a facility license is renewed or terminated, and standards for notification to the Commission prior to the licensing and opening of new gaming facilities.

A tribe would submit a notice to the Chairman that it is considering issuing a facility license to a new facility at least one hundred and twenty (120) days before opening. The notice would contain the name, address, legal description and tract number of the property. Other information would be required if the deed for the property is not maintained by the Bureau of Indian Affairs, Department of the Interior. In that case, the tribe would submit a copy of the deed and documentation of the property's ownership. Charitable events lasting not more than one week would be excluded from this requirement.

In addition, proposed part 559 would require renewals of facility licenses at least once every three years. A copy of each facility license would be sent to the Chairman within thirty days of issuance, with a supporting certification that the tribe has identified and enforces applicable environmental and public health and safety laws and a list of those laws. The Chairman has discretion to request additional Indian lands or environmental and public health and safety documentation as needed. Further, a tribe would notify the Chairman if a facility license is terminated or not renewed, or if the facility closes.

VII. Order of Temporary Closure

Proposed 25 CFR 573.6(a)(4) amends the current regulation, which already allows the Chairman to order temporary closure of a facility when a gaming facility operates without a license from a tribe. The amendment would correct the faulty citation to be replaced with the correct citation. The amended rule would also allow the Chairman to issue an order of temporary closure if a gaming facility operates without a facility license in violation of proposed rule 25 CFR part 559.

Regulatory Matters

Regulatory Flexibility Act

The proposed rules will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The proposed rules are not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rules do not have an annual effect on the economy of $100 million or more. The rules will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions and do not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The Commission, as an independent regulatory agency within the Department of the Interior, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1). Regardless, the proposed rules do not impose an unfunded mandate on state, local, or tribal governments or on the private sector of more than $100 million per year. Thus, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the Commission has determined that the proposed rules do not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the proposed rules do not unduly burden the judicial system and meet the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the proposed rules do not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

The proposed rules require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, and are subject to review by the Office of Management and Budget. The title, description, and respondent categories are discussed below, together with an estimate of the annual information collection burden.

With respect to the following collection of information, the Commission invites comments on: (1) Whether the proposed collection of information is necessary for proper performance of its functions, including whether the information would have practical utility; (2) the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Indian Gaming Facility Documentation and Certification, proposed 25 CFR part 559.

Summary of information and description of need:

The IGRA establishes that Indian gaming may be conducted only on Indian lands. 25 U.S.C. 2703(4), 2710(a)(1), 2710(b)(1), 2710(d)(1). The IGRA further provides that the Indian lands outside of a tribe's reservation boundaries as of the effective date of the Act, October 17, 1988, must be held in trust by the United States for the tribe or tribal member(s) as of October 17, 1988. 25 U.S.C. 2719(a). If not, the site must meet one of the exceptions from 25 U.S.C. 2719(b). To carry out its regulatory requirements, the Commission must know the status of lands where tribal gaming is occurring. Without the required showing that gaming is conducted on ''Indian lands,'' it is unclear whether the NIGC or the State exercises jurisdiction over the gaming.

In addition, a September 2005 report by the Office of Inspector General (''OIG'') for the United States Department of the Interior (''DOI'') recommended that the NIGC establish a process by which tribes that have taken land into trust since 1988 certify the lands' status and establish and maintain a database containing eligibility information and/or lands determinations for all Indian gaming operations. The NIGC has established an Indian lands database and seeks to populate the database with information on new gaming facilities. The data will be utilized for internal reporting and recordkeeping purposes; to determine jurisdiction and legality of gaming; and to respond to inquiries from other government agencies and Congress regarding where Indian gaming is occurring and proposed. Any public requests for information contained in the database will be subject to the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act of 1974, 5 U.S.C. 552a, and 25 U.S.C. 2716.

Proposed section 559.2 requires that a tribe submit a notice to the NIGC at least one hundred and twenty (120) days before a new gaming facility will be opened, alerting the agency that a facility license is under consideration. The notice will contain the name and address of the property; the legal description of the property; a copy of any deeds or trust documents to the property if not maintained by the Bureau of Indian Affairs, Department of the Interior (''BIA''), the tract number for the property as assigned by the BIA Land Title Records Offices (''LTRO''), or a short explanation as to why no deed exists; and documentation on the property's ownership if not maintained by the BIA.

The notice and its information provide necessary data without which the NIGC is unable easily to identify the site or to verify that a gaming site will be on eligible Indian lands pursuant to the IGRA and enter that information into the agency's Indian lands database.

First, the name and address of the future facility are needed by the NIGC in order to identify the site and are needed for the agency's Indian lands database. Second, the NIGC is constrained in its attempts to research the gaming eligibility status of a site under the IGRA without a legal description and LTRO tract number. Although many deeds and ownership documentation are maintained at BIA LTRO, without information from a tribe regarding the address, legal description, and tract number of where gaming is to be conducted, the NIGC cannot reliably or efficiently know which deeds to request. Previous requests to the BIA indicate that the BIA is often unable to assist the NIGC without a legal description and tract number of the land. The legal description and tract number also allow the NIGC to work with the BIA to verify, for example, whether land is within or contiguous to 1988 reservation boundaries, is within an Oklahoma former reservation, or is within the last reservation boundaries not in Oklahoma. *See* 25 U.S.C. 2703(4), 2719. Third, the NIGC is requesting that tribes submit deeds not maintained by the BIA. Tribes often operate their own real estate offices and maintain their trust deeds themselves. If no deed was ever issued for the property, the tribe is in the best position to explain why no deed was issued. Moreover, if land is owned in fee, the tribe should have obtained a copy of the deed in the course of developing the new project. Documentation of ownership indicates that the land is owned by the tribe or a tribal member and is an indication of jurisdiction. A tribe is required to have jurisdiction and exercise governmental power over its gaming lands. *See* 25 U.S.C. 2703(4), 2710(b)(1). The Commission presumes that a tribe has both jurisdiction and exercises governmental power on its reservation lands but needs to ensure this for all off-reservation sites as they are threshold requirements for tracts to be considered Indian lands. 25 U.S.C. 2703(4), 2710, and 2719.

Proposed part 559 also requires that each gaming facility license be renewed at least once every three years and that a tribe must submit a copy of each new facility license to the NIGC within 30 days of issuance. Supporting documentation submitted with the new facility license includes a tribal certification that a tribe has identified and enforces the environmental and public health and safety laws applicable to its gaming operation and a document listing the applicable laws.

The NIGC requires the certification and list of laws in order to identify what environmental and public health and safety standards apply to each gaming operation and to ensure that tribal gaming regulatory authorities are enforcing the standards for the gaming operations. The certification and list would allow the Commission to rely on a tribe's assertion that it is in compliance with applicable laws.

Respondents:

This information request is specific to tribal governments that operate gaming facilities and to tribal governments considering opening new gaming facilities in accordance with the IGRA. The maximum number of potential respondents is approximately 562, the number of federally recognized Indian

tribes. *See* Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs, 72 FR 13,648 (Mar. 22, 2007). Currently, approximately 226 tribes operate approximately 419 gaming facilities.

Information Collection Burden:

The proposed rules require tribes opening new gaming facilities to submit: (1) The facility name; (2) mailing addresses, legal descriptions, and LTRO tract numbers for the proposed gaming site; and (3) copy of the trust deed(s) and documentation on site ownership if not maintained by the BIA. If a tribe maintains its real property deeds through contract with the BIA, it will have ready access to the legal description and LTRO tract number. There could be some burden on the tribe to learn the legal description of the property. The legal description can be obtained from the county recorder's office, through working with the BIA, or from the tribe's own realty office. There would also be a minimal burden on the tribe to locate a copy of a deed or to write a brief explanation that no deed was ever issued for the property in the rare instances where this is so on tribal reservation lands. Likewise, there would be a burden on tribes to provide documentation of ownership if not maintained by the BIA. Such documentation can be obtained from the county recorder's office or from the tribe's own realty office if contracted to maintain such information. The NIGC believes that providing a legal description, LTRO tract number, trust deed, or land ownership information could require investment of time only. This portion of the information request will not be recurring and tribes will only be required under this proposed rule to comply with the information request if they plan on opening a new tribal facility. In general, the NIGC believes tribes wishing to open gaming establishments on fee lands would need to obtain this information as part of the normal course of business. Therefore, the Indian lands portion of the rule would add only limited additional expense to Indian gaming operations.

The proposed rule further requires submission at least once every three years of: (1) A copy of each gaming site's facility license; and (2) a tribal certification that it has identified and is in compliance with applicable environment and public health and safety laws. The document listing the applicable laws must be included with the first submission only. After that, if no changes are made to the list, the tribe only needs to certify to the NIGC that no substantial modifications were made to the list. The NIGC believes that there will be minimal burden for a tribe to identify the laws applicable to its gaming operation. Tribes should already be aware of and enforcing laws applicable to their gaming operations so the time and cost associated with a certification and list of laws should be minimal. One-time costs may be incurred by tribal governments drafting and adopting laws if there are none in the identified areas.

Over the past year, the Commission requested Indian lands information from several tribes for existing facilities. The information collection there was substantially greater than that contained in the proposed rule. The NIGC had asked tribes to provide a legal description, a copy of the trust deed, a map of the property, documentation from the BIA on its decision to take the land into trust, and a legal analysis of why each open tribal gaming site qualified as Indian lands eligible for gaming under the IGRA. Tribes reported that the collection took approximately 4 hours if the information had already been compiled. Tribes conducting gaming on pre-IGRA trust lands estimated 20 hours of response time and tribes gaming under an exception in 25 U.S.C. 2719(b) estimated up to 80 hours of response time with an average estimated range of costs for each facility of approximately $350 (20 hours × $17.50) to $1,400 (80 hours × $17.50). The Commission expects that the most of the response time and cost will be eliminated under the current information request as the NIGC is requesting only name and address of the property; the legal description of the property; a copy of any deeds to the property if not maintained by the BIA, or a short explanation as to why no deed exists; and documentation on the property's ownership if not maintained by the BIA. The Commission estimates that the hour burden will drop to 2 hours at a cost of $35 (2 × $17.50) under the proposed rule if the BIA maintains the deed and documentation of site ownership, going up to 10 hours at a cost of $175 (10 × $17.50) if the BIA does not maintain such information. The NIGC expects to work with the BIA to establish a process for obtaining lands information that is held by the BIA.

Additionally, under the proposed rule, the Commission's collection of information on Indian lands would require submission of information on future facilities; it is unlikely that a tribe would have to provide information on more than one facility at a time or very many times over the course of several years.

The Commission has requested copies of environmental and public health and safety laws from many tribes in preparation for inspections under the Interpretive Rule, 67 FR 46,109 (Jul. 12, 2002), but has not asked tribes to report the time required to provide the information. This information collection request is for a copy of each gaming site's facility license, a tribal certification that it has identified and is in compliance with applicable environment and public health and safety (''EPHS'') laws, and a document listing the titles of those laws other than federal laws.

The NIGC believes that there will be minimal burden for a tribe to identify the laws applicable to its gaming operation, other than federal laws, in the areas of emergency preparedness, food and water, construction and maintenance, hazardous materials, and sanitation. Tribes should already be aware of and enforcing laws applicable to their gaming operations so time and cost associated with a certification and list of laws should be minimal. The estimated hour burden of assembling EPHS laws and creating a list is 3–8 hours, or approximately $52.50 (3 × 17.50) to $140 (8 × $17.50) depending on whether the tribe already maintains such a list.

Once every three years, a tribe could incur costs of hiring consultants, attorneys, engineers, or inspectors to certify compliance with applicable EPHS laws, and this is estimated to be $1,000 to $7,000 for inspection and certification. One estimate was for a series of inspectors over 3–5 days at a total cost of $5,000–$7,000.

Potentially, a few tribes will have to make significant changes to their infrastructure before a certificate of compliance can be issued. In such cases, the costs may be estimated as ranging from $40,000 to $250,000 and include ongoing compliance costs in addition to inspection costs. The wide range of costs depends on whether a tribe has already developed and identified applicable EPHS laws and has an ongoing program aimed at assuring the public health and safety. The higher cost estimates came from operations with full-time EPHS employees and represent the overall cost of the tribe's EPHS program rather than simply costs associated with inspection and certification. Operations with full-time EPHS employees pay for them as part of the overall cost of the tribe's EPHS program rather than as costs associated with inspection and certification. The costs associated with the customary and usual business practice of maintaining EPHS and fixing code violations are not

a direct result of a certification requirement, but rather required already by tribal laws, including the tribal gaming ordinance, which requires a tribe to construct, maintain, and operate its gaming facilities in a manner that protects the public pursuant to 25 U.S.C. 2710(b)(2)(E). The hour cost of having the appropriate tribal entity create a certification after the inspections is estimated at 2 hours for a cost of $35 (2 × $17.50).

Also, if a tribe does not have laws in one of the enumerated areas, it may require employment of an attorney or other specialist to research other laws in this area and may require the attorney to draft tribal law if the tribe opts not to adopt a uniform code or law of another jurisdiction. The NIGC estimates the cost for this as approximately $5,000–$10,000.

The proposed rule also requires an information collection if a facility license is terminated or not renewed or if a gaming place, facility, or location closes. The NIGC believes the tribe will create documentation for this through governmental meeting minutes or through a notification to the gaming operation and need only forward a copy of that information to the Commission. The estimated hour burden of forwarding this information to the Commission is a half hour for approximately $8.75 (.5 × $17.50).

Comments: Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3507(d), the Commission has submitted a copy of this proposed rule to OMB for its review and approval of this information collection. Interested persons are requested to send comments regarding the burden, estimates, or any other aspect of the information collection, including suggestions for reducing the burden: (1) Directly to the Office of Information and Regulatory Affairs, OMB, Attn: Desk Officer for the National Indian Gaming Commission, 725 17th Street NW., Washington, DC 20503; and (2) to Penny J. Coleman, Acting General Counsel, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005 or via fax (202) 632–7066 (not a toll-free number) or via e-mail at *licensing_regulations@nigc.gov*. Comments are due November 19, 2007.

List of Subjects in 25 CFR Parts 502, 522, 559, and 573

Gambling, Indians—lands, Indians—tribal government, Reporting and recordkeeping requirements.

Text of the Proposed Rules

For the reasons set forth in the preamble, the Commission proposes to amend its regulations at 25 CFR Chapter III as follows:

PART 502—DEFINITIONS OF THIS CHAPTER

1. The authority citation for part 502 continues to read as follows:

Authority: 25 U.S.C. 2701 *et seq.*

2. Add new § 502.22 to read as follows:

§ 502.22 Construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.

Construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety means a tribe has identified and enforces laws, resolutions, codes, policies or procedures applicable to each gaming place, facility or location that protect the environment and the public health and safety, including standards negotiated under a tribal-state compact. Laws, resolutions, codes, policies or procedures in this area shall cover, at a minimum:

(a) Emergency preparedness, including but not limited to fire suppression, law enforcement, and security;

(b) Food and potable water;

(c) Construction and maintenance;

(d) Hazardous materials;

(e) Sanitation (both solid waste and wastewater); and

(f) Other environmental or public health and safety standards adopted by the tribe in light of climate, geography, and other local conditions and applicable to its gaming facilities, places or locations.

3. Add new § 502.23 to read as follows:

§ 502.23 Facility license.

Facility license means a separate license issued by a tribe to each place, facility, or location on Indian lands where the tribe elects to allow class II or III gaming.

PART 522—SUBMISSION OF GAMING ORDINANCE OR RESOLUTION

4. The authority citation for part 522 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

5. Add new paragraph (i) to § 522.2 to read as follows:

§ 522.2 Submission requirements.

(i) A tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request as needed.

6. Add new part 559 to read as follows:

PART 559—FACILITY LICENSE NOTIFICATIONS, RENEWALS, AND SUBMISSIONS

Sec.

559.1 What is the scope and purpose of this part?
559.2 When must a tribe notify the Chairman that it is considering issuing a new facility license?
559.3 How often must a facility license be renewed?
559.4 When must a tribe submit a copy of a facility license to the Chairman?
559.5 What must a tribe submit to the Chairman with the copy of each facility license that has been issued?
559.6 Does a tribe need to notify the Chairman if a facility license is terminated or not renewed or if a gaming place, facility, or location closes?
559.7 May the Chairman request Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?
559.8 May a tribe submit documents required by this part electronically?

Authority: 25 U.S.C. 2701, 2702(3), 2703(4), 2705, 2706, 2710 and 2719.

§ 559.1 What is the scope and purpose of this part?

(a) The purpose of this part is to ensure that each place, facility, or location where class II or III gaming will occur is located on Indian lands eligible for gaming and that the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety pursuant to the Indian Gaming Regulatory Act.

(b) Each gaming place, facility, or location conducting class II or III gaming pursuant to the Indian Gaming Regulatory Act or on which a tribe intends to conduct class II or III gaming pursuant to the Indian Gaming Regulatory Act is subject to the requirements of this part.

§ 559.2 When must a tribe notify the Chairman that it is considering issuing a new facility license?

(a) A tribe shall submit to the Chairman a notice that a facility license is under consideration for issuance at least 120 days before opening any new place, facility, or location on Indian lands where class II or III gaming will occur. The notice shall contain the following:

(1) The name and address of the property;

(2) A legal description of the property;

(3) The tract number for the property as assigned by the Bureau of Indian Affairs, Land Title and Records Offices;

(4) If not maintained by the Bureau of Indian Affairs, Department of the Interior, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist; and

(5) If not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of the property's ownership.

(b) A tribe does not need to submit to the Chairman a notice that a facility license is under consideration for issuance for occasional charitable events lasting not more than a week.

§ 559.3 How often must a facility license be renewed?

At least once every three years, a tribe shall issue a separate facility license to each existing place, facility or location on Indian lands where a tribe elects to allow gaming.

§ 559.4 When must a tribe submit a copy of a facility license to the Chairman?

A tribe must submit to the Chairman a copy of each issued facility license within 30 days of issuance.

§ 559.5 What must a tribe submit to the Chairman with the copy of each facility license that has been issued?

(a) A tribe shall submit to the Chairman with each facility license an attestation certifying that by issuing the facility license:

(1) The tribe has identified the environmental and public health and safety laws applicable to its gaming operation;

(2) The tribe is in compliance with those laws; and

(3) The tribe has ensured and is ensuring that the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.

(b) A document listing all laws, resolutions, codes, policies or procedures identified by the tribe as applicable to its gaming operations, other than Federal laws, in the following areas:

(1) Emergency preparedness, including but not limited to fire suppression, law enforcement, and security;

(2) Food and potable water;

(3) Construction and maintenance;

(4) Hazardous materials;

(5) Sanitation (both solid waste and wastewater); and

(6) Other environmental or public health and safety standards adopted by the tribe in light of climate, geography, and other local conditions and applicable to its gaming facilities, places or locations.

(c) After the first submission of a document under paragraph (b) of this section, upon reissuing a license to an existing gaming place, facility, or location, and in lieu of complying with paragraph (b) of this section, a tribe may certify to the Chairman that it has not substantially modified its laws protecting the environment and public health and safety.

§ 559.6 Does a tribe need to notify the Chairman if a facility license is terminated or not renewed or if a gaming place, facility, or location closes?

A tribe must notify the Chairman within 30 days if a facility license is terminated or not renewed or if a gaming place, facility, or location closes or reopens.

§ 559.7 May the Chairman request Indian lands or environmental and public health and safety documentation regarding any gaming place, facility, or location where gaming will occur?

A tribe shall provide Indian lands or environmental and public health and safety documentation that the Chairman may in his or her discretion request as needed.

§ 559.8 May a tribe submit documents required by this part electronically?

Yes. Tribes wishing to submit documents electronically should contact the Commission for guidance on acceptable document formats and means of transmission.

PART 573—ENFORCEMENT

7. The authority citation for part 573 continues to read as follows:

Authority: 25 U.S.C. 2705(a)(1), 2706, 2713, 2715.

8. Amend § 573.6 by revising paragraph (a)(4) to read as follows:

§ 573.6 Order of temporary closure.

(a) * * *

* * * * *

(4) A gaming operation operates for business without a license from a tribe, in violation of part 522 or part 559 of this chapter.

* * * * *

Dated: October 11, 2007.

Philip N. Hogen,

Chairman.

Cloyce V. Choney,

Commissioner.

Norman H. DesRosiers,

Commissioner.

[FR Doc. E7–20541 Filed 10–17–07; 8:45 am]

BILLING CODE 7565–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4003

RIN 1212–AB15

Rules for Administrative Review of Agency Decisions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: Pension Benefit Guaranty Corporation (PBGC) proposes amending its regulation on Administrative Review of Agency Decisions (29 CFR part 4003) to clarify that the agency's Appeals Board may refer certain categories of appeals to other PBGC departments for a written response and to remove determinations under section 4022A of the Employee Retirement Income Security Act of 1974 (ERISA) from the scope of part 4003. The proposed amendments also include minor clarifying and technical changes to the rules for administrative review of agency decisions.

DATES: Comments must be submitted on or before December 17, 2007.

ADDRESSES: Comments, identified by Regulatory Information Number (RIN) 1212–AB15, may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *E-mail: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

All submissions must include the Regulatory Information Number for this rulemaking (1212–AB15). Comments received, including personal information provided, will be posted to *http://www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or

calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Joseph J. Shelton, Attorney, Office of the General Counsel or Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Background

Current Rules for Administrative Review of Agency Decisions

PBGC administers the pension plan termination insurance program under Title IV of ERISA. Under PBGC's regulation for Administrative Review of Agency Decisions, persons aggrieved by certain PBGC determinations may appeal to the agency's Appeals Board. 29 CFR part 4003.

The powers of the Appeals Board are set forth in, among other places, § 4003.58 of the regulations. It states that ''the Appeals Board may request the submission of any information or the appearance of any person it considers necessary to resolve a matter before it and to enter any order it considers necessary for or appropriate to the disposition of any matter before it.'' 29 CFR 4003.58. The decision of the Appeals Board constitutes final agency action by PBGC with respect to the determination which was the subject of the appeal and is binding on all parties who participated in the appeal. 29 CFR 4003.59(b).

The Appeals Board reviews the following categories of determinations:

- Determinations that a plan is not covered under section 4021 of ERISA;
- Determinations under section 4022(a) or (c) or section 4022A(a) of ERISA with respect to benefit entitlement of participants and beneficiaries under covered plans and determinations that a domestic relations order is or is not a qualified domestic relations order under section 206(d)(3) of ERISA and section 414(p) of the Internal Revenue Code;
- Determinations under section 4022(b) or (c), section 4022A(b) through (e), or section 4022B of ERISA of the amount of benefits payable to participants and beneficiaries under covered plans;
- Determinations of the amount of money subject to recapture under section 4045 of ERISA;
- Determinations of the amount of liability under section 4062(b)(1), section 4063, or section 4064 of ERISA; and
- Determinations that the amount of a participant's or beneficiary's benefit under section 4050(a)(3) of ERISA has been correctly computed based on the designated benefit paid to PBGC under section 4050(b)(2) of ERISA, or that the designated benefit is correct, but only to the extent that the benefit to be paid does not exceed the participant's or beneficiary's guaranteed benefit.

29 CFR 4003.1(b)(5) through (b)(10). Additionally, nothing in part 4003 limits the authority of PBGC to review, either upon request or on its own initiative, a determination to which part 4003 does not apply when, in its discretion, it determines that it would be appropriate to do so. 29 CFR 4003.1(c)(1).

A person who is adversely affected by a determination involving any of the matters listed above has not exhausted his or her administrative remedies, and thus may not challenge the determination in court, until he or she has filed an appeal under § 4003.51 and a decision granting or denying the relief requested has been issued by the Appeals Board. 29 CFR 4003.7. An appeal must be filed within 45 days after the date of the determination being appealed, unless the appellant requests an extension of time to file within the 45-day period and the request is granted. 29 CFR 4003.52, 4003.4, 4003.5.

An appeal must be in writing, be clearly designated as an appeal, contain a statement of the ground on which it is based and the relief sought, reference all pertinent information already in the possession of PBGC, and include any additional information or data that the appellant believes is relevant. 29 CFR 4003.54. The filing of an appeal generally stays the effectiveness of a determination until a decision on the appeal has been issued by the Appeals Board. 29 CFR 4003.22(a), (b).

Appeals Board's Current Practice of Referring Certain Appeals to Other PBGC Departments

This proposed regulation formalizes the Appeals Board's practice of referring certain routine appeals, such as those that allege a mistake of fact or that request a more detailed benefit explanation, to other PBGC departments or Appeals Board staff for a written response. The practice began after the agency concluded that other PBGC departments, such as the Benefits Administration and Payment Department (BAPD), could handle these types of appeals efficiently given their familiarity with the relevant facts underlying the initial benefit determinations.

At the same time, the agency concluded that it would be appropriate for Appeals Board staff (rather than the Appeals Board) to respond to untimely and premature appeals, as well as appeals alleging that benefit reductions required by law will work a financial hardship. Appeals Board staff provide support to the Appeals Board in the areas of receipt, review, and closing of appeals and other correspondence. Appeals Board staff also analyze incoming correspondence to determine whether it should be addressed by the Appeals Board as an appeal, referred to another PBGC department, such as BAPD, or retained by Appeals Board staff for response as an inquiry, extension request, or a request for additional information.

In 2006, approximately 35% of the appeals received by the Appeals Board involved simple factual disputes, or requested only a more detailed explanation of a benefit determination. These appeals were referred to other PBGC departments for a response and were answered, on average, within 45 days. In situations where PBGC's initial determination is incorrect, BAPD can quickly resolve the matter, without the need for an Appeals Board decision, by issuing a corrected benefit determination. Similarly, if an appellant only requests—in the form of an appeal—a more detailed explanation of his or her initial benefit determination, BAPD can quickly provide a detailed explanation given its familiarity with the initial determination and the relevant participant data.

Under current practice, when an appeal is referred to another PBGC department or Appeals Board staff for a written response, the time period for filing a request for Appeals Board review is extended for an additional 30 days from the date of the written response. As discussed more fully below, under the proposed regulation, the time period for filing a request for Appeals Board review would be extended for an additional 45 days from the date of the PBGC department's or Appeals Board staff's written response.

Summary of Proposed Amendments

Powers of the Appeals Board

The proposed regulation would amend § 4003.58 of the regulations to clarify that the Appeals Board may refer

certain appeals to other PBGC departments or Appeals Board staff for a response. Appeals that would be subject to referral include those that (1) request an explanation of a covered initial benefit determination, (2) dispute specific data used in a covered initial determination, such as date of hire, date of retirement, date of termination of employment, length of service, compensation, marital status, and the form of benefit elected; or (3) request an explanation of the limits on benefits payable by PBGC under part 4022, subpart B, such as the maximum guaranteeable benefit and phase-in.

The PBGC department's or Appeals Board staff's response would be in writing and address the matters raised in the appeal. Alternatively, appeals referred to BAPD could be answered in the form of a corrected benefit determination. The written response or corrected benefit determination would provide that the appellant may file a written request for review by the Appeals Board within 45 days of the date of the written response or corrected benefit determination. If a written request for review is not filed with the Appeals Board within 45 days, the Appeals Board would not review the case and the initial determination or corrected benefit determination would become effective under § 4003.22(a).

A written response or corrected benefit determination would not be a decision of the Appeals Board within the meaning of § 4003.59 of the regulations. Thus, a person who is issued such a response or corrected benefit determination would not have exhausted his or her administrative remedies under § 4003.7 of the regulations unless and until he or she files a request for review by the Appeals Board and a decision granting or denying the relief requested has been issued.

Removal of Determinations Under ERISA Section 4022A

Under PBGC's multiemployer program, when a plan becomes insolvent, PBGC provides financial assistance to the plan sufficient to pay guaranteed benefits to participants and administrative expenses. Section 4022A of ERISA sets forth PBGC's guarantee for multiemployer pension plan benefits. A multiemployer plan is considered insolvent if the plan is unable to pay benefits (at least equal to PBGC's guaranteed benefit limit) when due. The plan must repay this financial assistance in accordance with terms and conditions specified by PBGC.

Unlike the situation with single-employer plans, however, PBGC does not trustee or otherwise assume responsibility for the liabilities of a financially troubled multiemployer plan. As a result, PBGC does not issue determinations under section 4022A of ERISA with respect to benefit entitlement of participants and beneficiaries. Accordingly, PBGC proposes to amend § 4003.1(b)(6) and (7) to remove the reference to section 4022A. The effect of this amendment would be to remove determinations under section 4022A from the scope of part 4003.

Contents of Appeal

Under this proposal, § 4003.54(3) and (4) of the regulation would be amended to reflect the plain language used in the ''Your Right to Appeal'' brochure that currently accompanies all benefit determinations and is available on PBGC's Web site, *http://www.pbgc.gov.*

Section 4003.54(3) states that an appeal shall ''[c]ontain a statement of the grounds upon which it is brought and the relief sought.'' Addressing the same requirement, the brochure states that an appeal must ''[s]pecifically explain why PBGC's determination is wrong and the result you are seeking.'' The proposed regulation would replace the language in § 4003.54(3) with language similar to that which is currently used in the brochure.

PBGC also proposes to amend § 4003.54(4) of the regulation, which states that an appeal shall ''[r]eference all pertinent information already in the possession of the PBGC and include any additional information believed to be relevant.'' Addressing the same requirement, the ''Your Right to Appeal'' brochure states, in part, that an appeal must ''[d]escribe the relevant information you believe is known by PBGC and include copies of documents that provide additional information that the Appeals Board should consider.'' The proposed regulation would replace the language in § 4003.54(4) with language similar to that which is currently used in the brochure.

Where To File

PBGC proposes to amend § 4003.53 of the regulations, which provides information on where to file an appeal, to remove the filing address for appeals and requests for filing extensions because it is no longer accurate. In its place, PBGC would incorporate § 4000.4, which provides general instructions on where to file submissions to PBGC.

Replacing the Term ''Executive Director'' With ''Director'' in Part 4003

On August 17, 2006, the President signed into law the Pension Protection Act of 2006, Pub. L. 109–280 (''PPA 2006''). Section 411 of PPA 2006 amended section 4002(a) of ERISA to state that PBGC shall be administered by a *Director*, who shall be appointed by the President, by and with the advice and consent of the Senate. Thus, PBGC proposes to replace all references to the term ''Executive Director'' in part 4003 with the term ''Director.'' *See* §§ 4003.2 (Definitions), 4003.4 (Extension of time); 4003.33 (Where to submit request for reconsideration), 4003.35 (Final decision on request for reconsideration); and 4003.60 (Referral of appeal to the Executive Director).

Applicability

The amendments in this proposed rule would be applicable to appeals filed on or after the effective date of the final rule.

Compliance With Rulemaking Guidelines

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866. Pursuant to section 1(b)(1) of E.O. 12866 (as amended by Executive Order 13422), PBGC has determined that regulatory action is required in this area. Principally, this regulatory action is necessary to update PBGC's rules for administrative review of agency decisions to accurately reflect the agency's appeals handling procedures. In addition, because PBGC does not issue determinations under section 4022A of ERISA with respect to benefit entitlement of participants and beneficiaries, the proposed rule would remove determinations under section 4022A of ERISA from the scope of part 4003. Finally, the proposed rule contains minor clarifying and technical changes to the rules for administrative review of agency decisions that will streamline the appeals process and make the rules governing administrative appeals easier to understand.

As a rule of agency organization, procedure, or practice, this rule is exempt from notice and public comment and delayed effective date requirements of section 553 of the Administrative Procedure Act. Because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply to this rule. *See* 5 U.S.C. 601(2), 603, and 604. However, because the PBGC wishes to provide an opportunity for public

comment, this rule is being published as a proposed rule.

PBGC has determined that these proposed changes do not modify the information collection requirements under Administrative Appeals (OMB control number 1212–0061, expires 1/31/10).

List of Subjects in 29 CFR Part 4003

Administrative practice and procedure, Organization and functions (Government agencies), Pension insurance, Pensions.

For the reasons given above, PBGC proposes to amend 29 CFR part 4003 as follows:

PART 4003—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

1. The authority citation for part 4003 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

2. In § 4003.1:

a. Paragraph (b)(6) is amended by removing the words ''or section 4022A(a)''.

b. Paragraph (b)(7) is amended by removing the words ''(c), section 4022A(b) through (e), or'' and adding in their place the words ''(c) or''.

3. In § 4003.2:

a. The definition of *Appeals Board* is amended by removing the word ''Executive''.

b. The definition of *Director* is amended by removing the word ''Executive'' where it appears twice in the definition.

4. In § 4003.4, paragraph (b) is amended by removing the word ''Executive''.

5. Section 4003.33 is amended by removing the word ''Executive''.

6. In § 4033.35, paragraph (a)(2) is amended by removing the word ''Executive'' where it appears twice in the paragraph.

7. Section 4003.53 is amended by removing the words ''Appeals Board, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026'' and adding in their place the words ''Appeals Board''.

8. In § 4003.54, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 4003.54 Contents of appeal.

(a) * * *

(3) Specifically explain why PBGC's determination is wrong and the result the appellant is seeking;

(4) Describe the relevant information the appellant believes is known by PBGC, and summarize any other information the appellant believes is relevant. It is important to include copies of any documentation that support the appellant's claim or the appellant's assertions about this information;

* * * * *

9. In § 4003.58:

a. The existing text of the section is redesignated as paragraph (a).

b. A new paragraph (b) is added to read as follows:

§ 4003.58 Powers of the Appeals Board.

* * * * *

(b) The Appeals Board may refer certain appeals to another PBGC department or to Appeals Board staff to provide a response to the appellant. The response from another PBGC department or Board staff shall be in writing and address the matters raised in the appeal. The response may be in the form of an explanation or corrected benefit determination. In either case, the appellant will have 45 calendar-days from the date of the response to file a written request for review by the Appeals Board. If a written request for review is not filed with the Appeals Board within the 45-calendar-day period the determination shall become effective pursuant to § 4003.22(a).

(1) Appeals that may be referred to another PBGC department or to the Board staff include those that—

(i) Request an explanation of the initial determination being appealed;

(ii) Dispute specific data used in the determination, such as date of hire, date of retirement, date of termination of employment, length of service, compensation, marital status and form of benefit elected; or

(iii) Request an explanation of the limits on benefits payable by PBGC under part 4022, subpart B, such as the maximum guaranteeable benefit and phase-in of the PBGC guarantee.

(2) An explanation or corrected benefit determination issued under this subsection is not considered a decision of the Appeals Board. If an appellant aggrieved by PBGC's initial determination is issued an explanation or corrected benefit determination under this section, the appellant has not exhausted his or her administrative remedies until the appellant has filed a timely request with the Appeals Board for review and the Appeals Board has issued a decision granting or denying the relief requested. See § 4003.7 of this part.

10. In § 4003.60:

a. The section heading is amended by removing the word ''Executive''.

b. The text of the section is amended by removing the word ''Executive'' wherever it appears.

Issued in Washington, DC, this 12th day of October 2007.

Charles E. F. Millard,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E7–20538 Filed 10–17–07; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 217

[DOD–2007–OS–0001; 0790–AI19]

Service Academies

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of Defense proposes to revise and update policy guidance and oversight of the Military Service Academies. This proposed rule implements 10 U.S.C. 403, 603, and 903 for the establishment and operation of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

DATES: Comments must be received by December 17, 2007.

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

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

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Brenda Leong, Office of the Under Secretary of Defense (Personnel and Readiness), 4000 Defense Pentagon, Washington, DC 20301–4000 (telephone: (703) 695–5529).

SUPPLEMENTARY INFORMATION: In accordance with the guidance in the Deputy Secretary of Defense memorandum, ''DoD Directives Review—Phase II,'' July 2005, this document proposes to revise the existing part and incorporates two other

DoD documents, DoD Directive 1332.23 and DoD Instruction 1025.4. It is the single DoD document that provides policy, assigns responsibilities, and prescribes procedures for operations and oversight of the Service academies.

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

It has been determined that 32 CFR part 217 is not a significant regulatory action. The proposed rule does not:

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

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

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

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

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

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

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

It has been certified that this proposed 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 proposed rule establishes procedures to establish and operate three Military Service Academies in implementation of 10 U.S.C. 403, 603, and 903.

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

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

Executive Order 13132, ''Federalism''

It has been certified that this proposed rule does not have federalism implications, as set forth in Executive Order 13132. This proposed 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 217

Colleges and universities, Education.

Accordingly, 32 CFR part 217 is proposed to be added to read as follows:

PART 217—SERVICE ACADEMIES

Sec.
217.1 Purpose.
217.2 Applicability.
217.3 Definitions.
217.4 Policy.
217.5 Responsibilities.
217.6 Procedures.
217.7 Information requirements.
Appendix A to Part 217—Applicant Briefing Item on Separation Policy
Appendix B to Part 217—Academy Assessment Report and Preparatory School Assessment Report (Format)
Appendix C to Part 217—Service Academy Resources Summary Report (Sample)
Appendix D to Part 217—Calculation for Cost per Graduate (CPG)

Authority: 10 U.S.C. 403, 603, and 903.

§ 217.1 Purpose.

This part establishes policy, assigns responsibilities, and prescribes procedures for DoD oversight of the Service academies.

§ 217.2. Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities, all other organizational entities in the Department (hereafter referred to collectively as the ''DoD Components''), and cadets and midshipmen of the Service academies.

§ 217.3 Definitions.

Academic year. Timeframe that begins the first day of the fall semester and ends on the last day of the spring semester.

Academy(ies). Refers to the U.S. Military, the U.S. Naval, or the U.S. Air Force Academy.

Academy preparatory schools. (1) Postsecondary educational institutions operated by each of the Military Departments to provide enhanced opportunities for selected candidates to be appointed to the academies. The schools provide an avenue for effective transition to the academy environment. They prepare selected candidates for admission who are judged to need additional preparation in academics, physical fitness, or character development. Each school's programs of instruction shall focus on academic preparation and on those areas of personal and physical preparation that reflect the mission of both the academy and the Service concerned.

(2) Faculty members shall:

(i) Possess academic expertise and teaching prowess.

(ii) Exemplify high standards of conduct and performance.

(iii) Be expected to participate in the full spectrum of the school's programs, to include providing leadership, exemplary conduct and moral behavior for cadets and midshipmen to emulate, as well as involvement in the development of curricular and extracurricular activities. Curriculum design shall recognize academic preparation as the priority purpose; associated programs shall capitalize on economies and efficiencies.

(3) Preparatory school programs shall provide tailored individual instruction to strengthen candidate abilities and to correct deficiencies in academic areas emphasized by the academies. Additionally, preparatory school programs shall provide supplementary instruction in military orientation, physical development, athletics, leadership, character development and other specific areas of interest determined by the Secretary of the Military Department concerned.

Active duty lists. A list of officers serving on active duty. Officers are listed by the Armed Force of which they are members in order of seniority. (*See* title 10, United States Code (U.S.C.), Section 620 for additional information.)

Agreement. Under this part, the agreement signed by a cadet and/or midshipman under 10 U.S.C. 2005, 4348(a), 6959(a), or 9348(a).

Appointment. Applicants who are selected for admission to the academies are appointed by the President as cadets or midshipmen. (*See* definition ''Nomination''). Those who complete the course of instruction at an academy may be appointed as a commissioned officer in the Armed Forces.

Boards of visitors. 10 U.S.C. Chapters 403, 603, and 903 define the composition and purpose of those boards. Annually, those boards visit the academies and provide a report to the President of their views and recommendations about the academies.

Cadets and midshipmen. U.S. citizens or foreign students approved by Under Secretary of Defense for Personnel and Readiness (USD(P&R)), appointed to one

of the Service academies, and took the oath as cadets or midshipmen.

Cadets and midshipmen from foreign countries. (1) Foreign students may receive instruction at an academy; the number may not exceed the limits in 10 U.S.C. Chapters 403, 603, and 903. Such instruction shall be on a reimbursable basis. The Under Secretary of Defense for Policy (USD(P)) shall designate the countries from which candidates may be selected and may waive reimbursement, either wholly or partially.

(2) Not more than three foreign students from a single country may be enrolled at a single academy without approval. Requests for such approval shall be submitted by the Secretary concerned, endorsed by the USD(P), and approved by the USD(P&R). The enrollment restriction does not apply to students participating in exchange programs of up to 2 semesters duration.

Cost of education. Costs attributable directly to educating a person at a Service academy under regulations prescribed by the Secretary of the Military Department concerned and approved by the Office of the USD(P&R) and the Office of the Under Secretary of Defense (Comptroller/Chief Financial Officer (USD(C/CFO)). Such costs include a reasonable charge for the provided education, books, supplies, room, board, transportation, and other miscellaneous items furnished at Government expense. Excluded are the costs for cadet or midshipman pay and allowances, under 37 U.S.C. 203, for uniforms, military training, and support for nonacademic military operations.

Development of Cadets and Midshipmen. (1) Development of cadets and midshipmen are prescribed in 10 U.S.C. Chapters 403, 603, and 903 and this part.

(2) The normal course of instruction at an academy is 4 years with selected, promising cadets or midshipmen pursuing longer terms when required to meet academy educational or graduation requirements. The Secretaries of the Military Departments shall arrange the course of instruction so cadets or midshipmen are not required to attend classes on Sunday.

(3) Each academy shall provide for development of military and leadership skills and physical fitness in addition to academic preparation. A broad program of physical fitness and conditioning, as well as intramural and intercollegiate athletic programs, shall be provided as an integral part of individual development.

(4) The practice of hazing is prohibited by law, 10 U.S.C. 4352, 6964, and 9352.

(5) An important component in the growth of cadets or midshipmen is the leadership development system. Its purpose is to motivate graduates to seek leadership responsibilities and enable them to think clearly, decide wisely, and act decisively under pressure and in a variety of leadership situations. Leadership development systems shall be based on the following:

(i) Positive leadership, equal opportunity, and respect for one another's value, beliefs, and personal dignity.

(ii) Leaders work to eliminate dysfunctional stress. The Secretaries of the Military Departments concerned and Superintendents have wide latitude in determining knowledge requirements and procedures for the development and indoctrination of cadets and midshipmen. Memorization of trivia, such as complete menus for meals, is generally inappropriate. Establishment of such requirements shall be closely monitored.

(iii) Bearing, fitness, and posture are important to effective leadership, and contribute to overall well-being. Exaggerated forms of posture, speech, or movement (such as ''hugging walls'') generally do not constitute proper military bearing. Establishment of such requirements shall be closely monitored and used only with the knowledge and approval of the Academy Superintendents.

(iv) Leadership development systems must provide for role models; opportunities to learn, practice, and receive feedback; and access to support. Direct support to leadership development shall be provided by concurrent and relevant coursework, athletic competition, and hands-on experience to create interplay between learning the theory of leadership in the classroom, while learning the practice of leadership outside the classroom.

(6) The highest ethical and moral standards are expected of the officer corps. The honor systems of the academies shall support that expectation by enforcing adherence to standards of behavior embodied in the honor codes or concepts of the academies. Violations of honor standards may constitute a basis for disenrollment.

(7) The sustainment of high performance standards ensures cadets and midshipmen who are unwilling or unable to successfully complete the program of instruction at the academy are identified expeditiously. Cadets or midshipmen who are identified as ''deficient'' in conduct, studies, or physical fitness, and recommended for disenrollment from any academy may not, unless recommended by an academic or academy board, be returned or reappointed to an academy. Those cadets or midshipmen selected for return shall be reappointed consistent with the criteria prescribed by the board.

Disenrollment. The voluntary or involuntary termination of a cadet or midshipman status from one of the Service academies.

Graduation and commission. (1) Cadets and midshipmen who complete all requirements prescribed by the Secretary of the Military Department for graduation and appointment may be awarded a bachelor of science degree and are eligible to be commissioned, in accordance with 10 U.S.C. Chapters 33, 403, 603, and 903.

(2) Graduation leave shall be administered in accordance with 10 U.S.C. 702.

(3) Officers appointed from cadet or midshipman status shall not be voluntarily released from active duty, principally to pursue the benefits of another career, during the initial 2 years of active commissioned service, unless approved by the USD(P&R).

Hazing. Any unauthorized assumption of authority by a cadet or midshipman whereby another cadet or midshipman suffers or is exposed to any cruelty, indignity, humiliation, oppression, or the deprivation or abridgment of any right. The Secretaries of the Military Departments or the Superintendents of the academies may issue regulations that augment this definition to amplify or clarify local guidelines.

Honor code (Concept). A prescribed standard of ethical behavior applicable to cadets or midshipmen as determined by the Secretary of the Military Department concerned.

Inter-service appointment. To be considered qualified for inter-Service appointment, applicants must meet all graduation requirements and all requirements for commissioning in the gaining Service; both the gaining and the losing Secretary of the Military Department concerned, or their designees, must concur in the appointment. Disagreements shall be resolved by USD(P&R). In accordance with 10 U.S.C. Chapter 33, not more than 12.5 percent of a graduating class from any academy may be commissioned in Armed Forces not under the jurisdiction of the Military Department administering that academy.

Management of cadets and midshipmen. (1) Cadet and midshipman pay is prescribed by 37 U.S.C. 203(c).

(2) Cadet and midshipman disenrollment shall be managed in accordance with the procedures in this part. Individuals failing to complete the required course of Academy instruction (including disenrollment for academics, conduct, honor code violations or for physical deficiency) shall be disenrolled and must either serve an appropriate active duty period, or if ordered by the Secretary of the Military Department concerned, must reimburse the United States under 10 U.S.C. 2005 for education costs commensurate with time spent at the Academy. Individuals failing to complete the required active duty period or who are ordered by the Secretary of the Military Department concerned to reimburse the United States under 10 U.S.C. 2005 usually shall be required to reimburse the Government for education costs commensurate with time remaining on the active duty obligation when discharged. There may be circumstances that support the need to refrain from taking such an action. Such circumstances may include but not limited to a cadet's or midshipman's death, illness, injury, or other impairment which is not the result of the cadet's or midshipman's misconduct; or needs of the Service. The Secretaries of the Military Departments shall carefully review the circumstances involving a statutory repayment provision to determine whether such a decision is consistent with existing statutory requirements, personnel policies or management objectives, equity and good conscience, and the best interest of the United States.

(i) A cadet or midshipman who enters a Service academy from civilian status and who disenrolls during the first 2 years and prior to the start of the third academic year shall have no active duty obligation. A cadet or midshipman who disenrolls after the start of the third academic year and who is not suited for enlisted Military Service, shall be discharged in accordance with the current Military Service regulations that implement this part. All others shall be transfer to the active component in an enlisted status and ordered to active duty, or ordered to remit monetary recoupment commensurate with their attendance at the Academy, in accordance with the procedures in this part.

(ii) A cadet or midshipman who enters a Service academy from the Regular or Reserve component of any Military Service and who disenrolls shall incur a Military Service commitment in accordance with the procedures in this part.

(iii) A cadet or midshipman who enters a Service academy by way of its Preparatory School from civilian status and who disenrolls shall be managed by the policy as set forth in paragraph (f)(2)(i) of this section.

(3) As part of the annual assessment report as prescribed by this part, the Secretaries of the Military Departments concerned shall report the disposition of disenrolled cadets and midshipmen (i.e., specifying whether those disenrolled were ordered to active duty or were required to reimburse costs of education instead of active duty service).

(4) Cadets and midshipmen must complete all academy requirements to receive a commission and a degree. Cadets and midshipmen who become medically disqualified for appointment as a commissioned officer during their senior year, who otherwise would be qualified to complete the course of instruction and to be appointed as a commissioned officer, and who are capable of completing the academic course of instruction with their peers, shall be permitted to complete the academic course of instruction with award of an academic credential determined by the Secretary of the Military Department concerned.

(5) As set forth in 10 U.S.C. 1217, when the Secretary of the Military Department concerned determines a cadet or midshipman medically disqualified for appointment as a commissioned officer due to injury, illness, or disease aggravated or incurred in the line of duty while entitled to cadet or midshipman pay, the Secretary may retire the member with retired pay in accordance with 10 U.S.C. Chapter 61.

Nomination. The recommendation of candidates for vacancies at the academies, as set forth in 10 U.S.C. Chapters 403, 603, and 903, by one holding authority, including the President, the Vice President, the Members of Congress and the Delegates, certain Government officials of U.S. Possessions, the Secretaries of the Military Departments, and the Superintendents of the academies.

Nomination and appointment of cadets and midshipmen. (1) Nomination, appointment, admission, authorized strength and allocation of strength among nominating authorities for cadets and midshipmen is prescribed in 10 U.S.C. Chapters 403, 603, and 903 and this part.

(2) Cadets and midshipmen shall be appointed by the President. An appointment is conditional until the cadet or midshipman is admitted.

(3) Appointments shall be offered on a competitive basis to nominated candidates having the strongest potential for success as cadets or midshipmen, and ultimately as commissioned officers. The nominating sources shall be notified of candidates selected for appointment.

(4) Those selected for appointment must have demonstrated the following, through evaluations prescribed by the Secretary of the Military Department concerned:

(i) High standards of moral character, personal conduct, and integrity.

(ii) The potential to successfully complete the program of instruction.

(iii) An acceptable level of physical fitness.

(iv) Medical qualification for such appointment through examination procedures defined in DoD Directive 5154.25 and physical standards defined in DoD Directive 6130.3.

(5) The following specific eligibility criteria also shall guide selection:

(i) *Age.* Applicants must be at least 17 years of age and not have passed their 23rd birthday on July 1 of the year of entry into an academy.

(ii) *Citizenship.* Except foreigners admitted to the academies under 10 U.S.C. Chapters 403, 603, and 903 and this part, those appointed must be citizens or nationals of the United States.

(iii) *Domicile.* If nominated by an authority designated in the ''Congressional'' and ''U.S. Possession'' categories, defined in 10 U.S.C. Chapters 403, 603, and 903, applicants must be domiciled in the constituency of such authorities.

(iv) *Marital status.* Those appointed as cadets or midshipmen shall not be married and shall not have dependents.

(6) Any appointment as a cadet or midshipman shall be terminated when it is determined that the individual is Human Immunodeficiency Virus (HIV) positive or dependent on drugs or alcohol. Similarly, appointments shall be terminated for persons who refuse to consent to testing and evaluation for these conditions. Testing and a briefing about separation policies shall be conducted in accordance with procedures outlined in this part.

(7) The academies shall work to ensure timely disposition of appointments for medical evaluations of applicants. Issues relating to the administrative management of those evaluations that are not resolved to the satisfaction of the academies and the activity performing the evaluation shall be forwarded to the Office of the USD(P&R) for resolution.

(8) U.S. appointees must take and subscribe to an oath prescribed by the Secretary of the Military Department to be admitted to an academy. If a U.S. candidate for admission refuses to take and subscribe to the prescribed oath, the appointment is terminated.

Review and oversight. (1) Boards of Visitors of the academies are established and procedures prescribed by 10 U.S.C. Chapters 403, 603, and 903 to inquire into the efficiency and effectiveness of academy operations. The Board of Visitors shall submit written reports in accordance these chapters and a copy shall be forwarded to the USD(P&R) within 60 days of completion of the report.

(2) Oversight by the Inspector General of the Department of Defense (IG, DoD) shall be provided, in accordance with DoD Directive 5106.1 and Appendix 3 of title 5, Inspector General Act of 1978, as amended. When required, the Office of the USD(P&R) shall recommend to the IG, DoD, any areas of academy operations that merit specific review during the subsequent fiscal year.

(3) Annual conferences of the Superintendents shall be hosted by the academies on a rotating basis, and shall include the Commandants, the Deans, the Directors of admissions, the Directors of athletics, and others designated by the Superintendents. Conferees shall discuss matters of collective interest and shall identify plans to address areas requiring corrective action. The host Superintendent shall expeditiously provide a summary of issues and actions to the USD(P&R) following the conference.

Superintendent, dean, commandant, permanent professors, and director of admission.

(1) Positions established in the organization of each of the academies with duties as set forth in 10 U.S.C. Chapters 403, 603, and 903 and this part.

(2) There shall be at each academy a Superintendent, a Dean of the faculty, a Commandant, an athletic director, and a director of admissions. The Secretaries of the Military Departments may employ as many civilian faculty members as considered necessary.

(3) Positions of dean, director of admissions, and permanent professors held by military personnel shall be appointed by the President by and with the advice and consent of the Senate; the Superintendent and the Commandant shall be detailed to those positions by the President.

(4) The immediate governance of the academies is by their Superintendents, who also shall serve as the commanding officers of the academies and their military posts.

(5) The Superintendents shall be responsible for the day-to-day operation of the academies, and the welfare of cadets or midshipmen, and staff.

(6) The Deans of the faculties of the academies shall direct and manage the development and execution of an undergraduate curriculum that recognizes the requirement for graduates to understand technology, while gaining a sound historical perspective and an understanding of different cultures. The curricula shall be broadly based in the physical and social sciences, the study of languages and cultures in areas that the Department of Defense is engaged, and the arts and humanities.

(7) The Commandants shall direct and manage military education and training programs and exercise command over cadets or midshipmen, as determined by the Superintendents.

(8) The Directors of athletics shall direct and manage the intercollegiate athletic programs and other physical fitness programs, as determined by the Superintendents. Intercollegiate athletic programs shall be in full compliance with all applicable National Collegiate Athletics Associations rules and requirements.

(9) The academic faculties shall consist of civilian and military members in proportions determined by the Secretary of the Military Department concerned. Faculty members shall possess a mix of operational experience, academic expertise and teaching prowess. They shall exemplify the highest standards of ethical and moral conduct and performance established by the Secretaries of the Military Departments concerned, and the Superintendents concerned, consistent with this part. They shall participate in the full spectrum of academy programs and activities and the development of curricula. They shall actively participate in the professional, moral, and ethical development of cadets and midshipmen as role models, mentors, and through the enforcement of standards of behavior and conduct.

(10) Military personnel shall conduct themselves in accordance with the requirement of exemplary conduct as specified in 10 U.S.C. 3583, 5947 and 8583.

(11) The Superintendent shall ensure non-instructional staff consists of the minimum number of people consistent with effective achievement of the objectives of the academy and its military post.

(12) Compensation and benefits for civilian faculties shall be sufficiently competitive to achieve academic excellence at pay levels determined by the Secretary of the Military Department concerned (5 U.S.C. 5102(c)(10)).

(13) Additional guidance about organization of the academies is in 10 U.S.C. Chapters 403, 603, and 903.

§ 217.4 Policy.

As directed by 10 U.S.C. chapters 403, 603, and 903, the Secretaries of the Military Departments will establish and maintain a Service-specific military academy consistent with this part. The purpose of such academies is to provide an annual cohort of newly commissioned officers to each Service who has been immersed in the history, traditions, and professional values of the U.S. Armed Forces. The accession of those officers generates a core group of future officers who will exert positive peer influence to convey these traditions and values, sustaining professional attitudes, values, and beliefs essential to the long-term readiness and success of the Armed Forces. The Secretaries of the Military Departments will publish regulations for the establishment and operations of such academies.

§ 217.5 Responsibilities.

(a) The USD(P&R) shall:

(1) Serve as the DoD focal point for matters affecting the academies and resolve matters of conflict that may arise among the Military Departments.

(2) Assess operations of the academies based on reports prescribed in § 217.6(e) through (g) of this part and the annual reports of the Boards of Visitors of the academies.

(3) Establish policy and guidance to provide for oversight and management of the academies.

(4) Establish overall DoD policy and provide guidance for the conduct and administration of a uniform Service academy disenrollment policy.

(5) Monitor academy operations to ensure cost-effective employment of resources in the accomplishment of the academy missions, including systematic collection of information to predict and evaluate performance, attrition, and costs.

(6) Resolve disagreements between the gaining and losing Military Department arising under § 217.4(h) of this part.

(7) Approve/disapprove requests to exceed the foreign student limitation provision in § 217.4(d) of this part.

(8) During their initial 2 years of active commissioned service, approve the voluntary release from active duty of any officer appointed from cadet or midshipman status if that release is principally to pursue the benefits of another career.

(b) The USD(P) shall:

(1) Oversee the management of admission vacancies for foreign students.

(2) Designate countries from which foreign students may be selected.

(3) Issue implementing guidance as necessary, including waiver of tuition/fees reimbursement either wholly or partially.

(c) The USD(C/CFO) shall establish and publish the tuition rate for foreign students.

(d) The Director, Defense Finance and Accounting Service (DFAS), under the C/CFO, shall, with the coordination of the Superintendents, bill and collect reimbursements due to the Services academies for foreign students, except when those reimbursements have been waived by the USD(P). Questions on enrollment or reimbursement shall be identified to the USD(P&R) for resolution with the USD(P).

(e) The IG, DoD shall evaluate programs, as set forth in DoD Directive 5106.1 and Appendix 3 of title 5, Inspector General Act of 1978, as amended.

(f) The Assistant Secretary of Defense for Health Affairs, under the USD(P&R) shall accomplish the medical evaluation of applicants to the academies, through the DoD Medical Examination Review Board, as set forth in DoD Directive 5154.25.

(g) The Secretaries of the Military Departments shall:

(1) Comply with policies in 10 U.S.C. Chapters 33, 61, 403, 603, and 903 and Sections 702 and 2005 and this part.

(2) Ensure appropriate oversight and management of the academies, and

(3) Establish Service policy and publish regulations that implement policy, guidance and oversight of the academies.

(4) Prescribe a written agreement when providing a Service academy appointment to candidates who agree to conditions in § 217.6(c)(2) of this part and are otherwise qualified.

(5) Prescribe regulations on the following:

(i) A breach of a cadet's and/or midshipman's ''agreement to serve'' for the purpose of ordering that individual to active duty.

(ii) Procedures for determining whether such a breach has occurred.

(iii) Standards for determining the period of time for which a person may be ordered to serve on active duty under § 217.6 of this part. (See 10 U.S.C. 4348(c), 6959(c), and 9348(c)).

(6) Work with DFAS to establish and maintain jointly developed, uniform accounting procedures for determining the cost of education at their respective Service academies. These procedures shall be consistent with DoD 7000.14–R, Volume 11A, Chapter 6 and DoD Directive 5010.40. A standard method for computing reimbursement of the cost of education shall be in these procedures, and accounts receivable shall be recorded under the following:

(i) When a cadet or midshipman disenrolls or is disenrolled from a Service academy, establish an accounts receivable for the cost of education.

(ii) Reduce the accounts receivable proportionately to the period of active duty served by the disenrolled cadets or midshipmen.

(7) Prescribe the repayment procedures of an individual's outstanding debt so that the total amount due based on 37 U.S.C. 303a, monthly repayment schedules, repayment method, and other information clearly shall be explained in writing to the debtor.

(8) Ensure proper credit management and debt collection procedures are followed under DoD 7000.14–R,Volume 5, Chapters 28–32; and Volume 7A, Chapters 38 and 50 to include prescribing repayment procedures of an individual's outstanding Service academy financial obligation.

(9) Develop an organizational capability to collect, maintain, and submit information on resources in support of a Service academy, the Academy Preparatory School, and any other associated training programs.

§ 217.6 Procedures.

(a) *HIV, drug, and alcohol testing.* Within 72 hours of reception, new cadets or midshipmen shall undergo HIV, drug, and alcohol testing (by practicable scientific means), and shall be evaluated for drug and alcohol dependence. For such individuals, any appointment as a cadet or midshipman shall be terminated when it is determined the individual is HIV positive or dependent on drugs or alcohol. Similarly, appointments shall be terminated for persons who refuse to consent to such testing and evaluation. Also within 72 hours of reception, new cadets or midshipmen shall be briefed about separation policies for these conditions, per appendix A to this part.

(b) *Cadets or midshipmen from foreign countries.* (1) By the end of May of each year, the USD(C/CFO) shall establish the tuition rate for the succeeding school year and publish that rate to the Secretaries of the Military Departments, to the USD(P), and to the USD(P&R).

(2) By the end of June of each year, the USD(P) shall publish a listing of countries eligible to send students to the academies during the subsequent academic year, specifying reimbursement requirements. That listing shall be provided to the Secretaries of the Military Departments, to the USD(P&R), and to the cognizant U.S. Defense Attaché Offices (USDAOs) or the American Embassies, if no servicing USDAO exists.

(3) By the end of August of each year, the Superintendents shall extend application invitations, through applicable USDAOs (or the American Embassies), to each eligible country. Those invitations shall describe admissions procedures and define the country's official sponsorship responsibilities.

(4) The Superintendents shall manage the selection and notification of candidates and shall, with the assistance of the applicable USDAO or American Embassy, obtain written acknowledgment from the sending government of sponsorship responsibilities, and their agreement to reimburse tuition costs, when applicable.

(c) *Disenrollment of cadets and midshipmen*—(1) *Ordering disenrolled academy cadets and midshipmen to active enlisted service*—(i) A cadet or midshipman entering a Service academy directly from civilian status assumes a Military Service obligation (MSO) of 8 years, under 10 U.S.C. 651 and DoD Instruction 1304.25. If an appointment is terminated before graduation due to a cadet's or midshipman's breaching his or her agreement, or if a cadet or midshipman refuses to accept a commission following graduation, the MSO shall be equivalent to the period for which the member is ordered to serve on active duty or in the Reserve component in an applicable enlisted status. He or she may be ordered to active duty for a period not to exceed 4 years under 10 U.S.C. 4348(b), 6959(b), or 9343(b). The following policies apply to cadets or midshipmen disenrolled from a Service academy who entered the Service academy directly from civilian status:

(A) *Fourth and third classmen (first and second years).* A fourth or third classman disenrolling shall have no active duty obligation.

(B) *Second classmen (third year).* A second classman resigning before the start of the second class academic year or disenrolling for cause resulting from actions that occurred only before the start of the second class academic year shall be discharged as if he or she were a third classman.

(C) *Second or first classmen (third and fourth or subsequent years).* Any second or first classman who is

disenrolled and who, for reasons of demonstrated unsuitability, unfitness, or physical disqualification, is not suited for enlisted Military Service, shall be discharged in accordance with the current Military Service regulations that implement this part, to include monetary recoupment. Other second or first class cadets and midshipmen disenrolling after the beginning of the second class academic year, but before completing the course of instruction, may be transferred to the active component in an enlisted status and ordered to active duty for not less than 2 years, but not more than 4 years, under 10 U.S.C. 4348(b), 6959(b), or 9348(b).

(D) Any first classman completing the course of instruction and declining to accept an appointment as a commissioned officer may be transferred to the respective active component in an enlisted status and ordered to active duty for 4 years or transferred to a Reserve component under 10 U.S.C. 4348(b), 6959(b), and 9348(b) and in accordance with DoD Directive 1235.10.

(ii) The disposition of cadets and midshipmen entering a Service academy from the Regular or Reserve component of any Military Service (except those who enter a Service academy by way of its Preparatory School from civilian status) and then not completing the program shall be determined under 10 U.S.C. 516, as follows:

(A) *Fourth and third classmen (first and second years).* If disenrolled during the fourth or third class year, the cadet's or midshipman's Military Service commitment shall be equal to the time not served on the original enlistment contract, with all service as a cadet or midshipman counted as service under that contract. Those individuals with less than 1 year remaining in the original enlistment contract may be discharged on approval of the disenrollment by the Military Department concerned.

(B) *Second classmen (third year).* If disenrolled before the beginning of the second class academic year, the cadet's or midshipman's Military Service commitment shall be the same as in paragraph (c) (1) (ii) (A) of this section.

(C) *Second or first classmen (third and fourth or subsequent years).* If upper division class members (first and second classmen) are disenrolled for issues occurring after the beginning of the second class academic year, their Military Service commitment shall be the same as in paragraphs (c)(1)(i)(C) and (c)(1)(i)(D) of this section or shall be equal to the time not served on the original enlistment contract (with all service as a cadet or midshipman counted as service under that contract), whichever period is longer.

(D) A cadet or midshipman who entered into a Service academy from the Regular or Reserve component of the Military Service (other than those entering strictly from an enlisted contract arising from a Preparatory School) who is subsequently disenrolled from a Service academy and who, because of demonstrated unsuitability, unfitness, or physical disqualification, is not suited for enlisted Military Service shall be discharged under applicable regulations implementing DoD Directive 1332.14 or other Military Department regulations that specifically address disenrolling of cadets or midshipmen.

(E) Whether transferred to the Reserve component or reverted back to active duty status, the disenrolled cadets and midshipmen shall retain their prior enlisted grade.

(iii) The disposition of cadets and midshipmen entering a Service academy by way of its Preparatory School from civilian status and then not completing the program shall be managed under paragraph (c)(1)(1) of this section.

(iv) A cadet or midshipman tendering a resignation shall be required to state a reason for this action. A resignation may be accepted when in the interest of the Military Service. Accepting the resignation shall not in and of itself constitute a determination of the member's qualification for enlisted Military Service.

(v) Persons medically disqualified from further Military Service, or deceased, shall be separated and shall not be obligated further for Military Service or for reimbursing education costs (absent evidence of fraud, concealment, gross negligence, intentional misconduct, or misrepresentation).

(2) *Active duty commitment and reimbursement agreement for service academy students.* Cadets or midshipmen who are not ordered to active duty due to their misconduct or unsuitability, or because their petition for relief from an active duty obligation was approved by the Secretary of the Military Department concerned shall normally be required to reimburse the Government for the cost of their education.

(i) As a condition for providing education at a Service academy, the Secretary of the Military Department concerned shall require each cadet or midshipman enter into a written agreement in which he or she agrees to the following:

(A) To complete the educational requirements for graduation specified in the agreement and to serve on active duty for a period specified in the agreement if called to active duty or, at the option of the Secretary of the Military Department concerned, to reimburse the United States, as prescribed in paragraph (c)(2)(i)(C) of this section.

(B) If such cadet or midshipman fails to complete the educational requirements specified in the agreement, such person, if so ordered by the Secretary of the Military Department concerned, shall serve on active duty for a period specified in the agreement.

(C) If such person, at the discretion of the Secretary concerned or because of misconduct, voluntarily fails to complete the period of active duty specified in the agreement, he or she shall reimburse the United States in accordance with the requirements of 10 U.S.C. 2005 and 37 U.S.C. 303a.

(D) To such other terms and conditions as the Secretary concerned may prescribe to protect U.S. interests.

(ii) The obligation to reimburse the United States is a debt to the United States. A discharge in bankruptcy under 11 U.S.C. 523 shall not release a person from an obligation to reimburse the United States under the terms of an agreement prescribed in this part if the discharge order is entered less than 5 years after the date of the termination of the agreement or contract on which the debt is based, or in the absence of such agreement or contract, the date of the termination of the service on which the debt is based.

(3) *Agreements.* The agreement signed by cadets and midshipmen entering as fourth classmen shall contain the active duty, monetary recoupment, and discharge provisions in this part.

(4) *Change in status notification.* When a cadet or midshipman is disenrolled from a Service academy and discharged from the Service concerned, the Selective Service System shall be notified of the individual's status change.

(d) *Inter-service commissioning.* (1) Once all requirements for inter-Service appointments have been met, endorsements from the losing academy shall contain the applicants' current academic transcripts, order of merit standing and, if applicable, results of the gaining Service's testing for flight training or other qualification. Applications supported by the losing Military Department shall be forwarded to the gaining Military Department no later than November of the calendar year before graduation. The gaining Secretary of the Military Department

concerned, or designee, shall act on applications no later than the following January and shall immediately notify the losing Secretary of the Military Department concerned, or designee, of decisions. Affected cadets or midshipmen shall be expeditiously notified of the disposition of applications.

(2) Those selected for transfer shall be integrated within active duty lists (see § 217.3 of this part) of the gaining Military Service. When seniority on that list relies on academy class standing, they shall be initially integrated immediately following the cadet or midshipman holding equal numerical class standing at the academy of the gaining Military Department.

(e) *Academy assessment report.* Annually by November 30, using data as of September 30, the Secretaries of the Military Departments shall report to the USD(P&R) on the following, in the format specified in appendix B to this part:

(1) An assessment on the quality of oversight and management provided at the Service academy.

(2) The current and anticipated recruiting and admissions posture compared with that of the previous 5 years, with an assessment of the following:

(i) The number of applicants, nominees, and those selected.

(ii) Their quality (using ranking parameters employed by the academy, such as academic or athletic accomplishments and standard test scores).

(iii) Discussion of changes to entrance standards made in the past year, or planned.

(iv) Summary of admissions trends with demographic composition to include gender, ethnicity, and enlisted personnel.

(3) Attrition patterns for the previous 5 years by type of separation (e.g., medical, moral, physical, and academic), with an appraisal of whether attrition could be reduced without adverse impact on the quality of graduates. Define separations by class for each year and the associated active service obligations or reimbursements. A significant change in the attrition pattern should be assessed.

(4) Graduation rates for the previous 5 years with demographic composition of student classes including a discussion/assessment of performance in academics, in athletic programs, in professional military training, and in officer development programs.

(5) Significant changes to curricula implemented or planned in the past year, along with an appraisal of faculty manning and qualifications, including military and/or civilian mix.

(6) The institutional environment affecting cadets or midshipmen, including specific comments about the health of the leadership development and honor systems.

(7) The disposition of requests for inter-Service commissions that were submitted during the previous year. For cases where such requests were denied by the losing Service, the rationale supporting such decision(s) shall be provided.

(8) The adequacy of compensation and benefits for cadets or midshipmen and civilian faculty.

(9) Adequacy of resources and facilities, along with a discussion of major construction or maintenance starts that are being executed or are planned.

(10) Significant incidents of indiscipline during the reporting period, including violations of regulations or the Uniform Code of Military Justice (UCMJ) (10 U.S.C. Chapter 47), along with disposition and planned actions to reduce such indiscipline.

(11) Additional topics as desired by the Secretaries of the Military Departments.

(f) *Preparatory school assessment report.* Annually by November 30, using data as of September 30, the Secretaries shall report to the USD(P&R) the following, in the format specified in appendix B to this part:

(1) A 5-year summary of admissions trends with a demographic composition to include gender, race, former enlisted status, and recruited athletes.

(2) Attrition patterns for the previous 5 years with an assessment of the following:

(i) Type of separation (e.g., medical, moral, physical, or academic), with an appraisal of whether attrition could be reduced.

(ii) Comparison of attrition patterns while at the Service academy for Preparatory School graduates as compared to direct appointments to the Service academies.

(iii) Any significant change in the pattern.

(3) Academy admission rates for the past 5 preparatory school graduating classes with an assessment of the following:

(i) An appraisal of whether those rates can or should be adjusted.

(ii) Discussion of academic remediation effected by the preparatory school experience, as indicated by initial and subsequent evaluations of students.

(iii) The ratio, by demographic composition to include gender, race, former enlisted status, and recruited athletes, of Preparatory School students entering the Service academy to the students that entered the Preparatory School.

(4) Academy graduation rate of Preparatory School graduates and those appointed directly to the Service academies for the previous 5 years. Standards for admission of Preparatory School graduates to a Service academy shall be set at a sufficiently rigorous level to reasonably predict that Preparatory School graduates academy graduate rates will not significantly lag the graduate rate of those appointed directly to the Service academies. However, nothing in this part shall be read or applied to lower otherwise universally applicable graduation and commissioning requirements for Preparatory School graduates.

(5) Significant changes to curricula implemented or planned in the past year, along with an appraisal of faculty manning and qualifications, including military and/or civilian mix.

(6) The adequacy of compensation and benefits for those enrolled and civilian faculty.

(7) Adequacy of resources and facilities, along with a discussion of major basing, construction, or maintenance starts that are being executed or are planned.

(8) Significant incidents of indiscipline during the reporting period, including violations of regulations or the UCMJ (10 U.S.C. Chapter 47), along with disposition and planned actions to reduce indiscipline of an unusual nature, pattern, or frequency.

(9) Additional topics as desired by the Secretaries of the Military Departments.

(g) *Service academy resources report (SARR) and cost per graduate (CPG) computation.* The Secretaries of the Military Departments shall submit to the USD(P&R) annually for the prior fiscal year, no later than January 30, individual reports on the resources for their Service Academy (including the Academy Preparatory School) to include associated training programs. The completion instructions for this report are at appendix C to this part. The CPG computation is used to determine the costs for each member of a graduating class. Instructions for calculating the CPG are at appendix D to this part.

§ 217.7 Information requirements.

(a) The reporting requirements in § 217.6(e) and (f) of this part have been assigned Reports Control Symbol DD–P&R(A)1934 in accordance with DoD 8910.1–M.

(b) The reporting requirements in § 217.6(g) of this part has been assigned

DD–P&R(A)1912 in accordance with DoD 8910.1–M.

(c) The reports submitted by the Boards of Visitors and the summary of issues and actions provided by the Superintendents are exempt from licensing in accordance with the provisions of paragraph C4.4.3. of DoD 8910.1–M.

Appendix A to Part 217—Applicant Briefing Item on Separation Policy

1. *Individual responsibility.* As military members, individuals occupy a unique position in society. The individual represents the military establishment. That special status brings with it the responsibility to uphold and maintain the dignity and high standards of the U.S. Armed Forces at all times and in all places. The Armed Forces must also be ready at all times for worldwide deployment. That fact carries with it the requirement for military units and their members to possess high standards of morality, good order and discipline, and cohesion. As a result, military laws, rules, customs, and traditions include restrictions on his or her personal behavior that may be different from civilian life. Members of the Armed Forces may be involuntarily separated before their enlistment or term of service ends for various reasons established by law and military regulations. The below circumstances may be grounds for involuntary separation:

a. *Infractions.* The individual establishes a pattern of disciplinary infractions, discreditable involvement with civil or military authorities, or cause dissent or disrupt or degrade the mission of his or her unit. That may also include conduct of any nature that would bring discredit on the Armed Forces in the view of the civilian community.

b. *Dependency.* The term ''dependent'' includes spouses; natural, adoptive or stepchildren; or any other person for which an individual has a legally recognized obligation to provide support. Because the individual has a legal dependent, the individual is unable to perform his or her duties satisfactorily or the individual is unavailable for worldwide assignment or deployment.

c. *Weight control.* The individual fails to meet the weight control standards.

d. *Homosexuality.* Although the individual has not and will not be asked whether he or she is a ''heterosexual,'' ''homosexual,'' or ''bisexual,'' the individual should be aware that homosexual acts, or statements that demonstrate a propensity or intent to engage in homosexual acts, and homosexual marriages or attempted marriages are grounds for discharge from the Armed Forces. That means if the individual does one of the following, he or she could be involuntarily separated before his or her term of service ends:

(1) *Homosexual acts.* The individual engages in, attempts to engage in, or solicits another to engage in homosexual act or acts. A ''homosexual act'' means touching a person of the same sex or allowing such a person to touch the individual for the purpose of satisfying sexual desires (for example, hand-holding, kissing, or other physical contact of a sexual nature).

(2) *Homosexual statements.* The individual makes a statement that demonstrates a propensity or intent to engage in homosexual acts. That may include a statement by the individual that he or she is a homosexual or bisexual, or words to that effect. It also may include behavior that a reasonable person would believe was intended to convey the statement that the individual is a homosexual or bisexual.

(3) *Homosexual marriage.* The individual marries or attempts to marry a person of the same sex.

2. *Statements and acts to end military service.* The individual will not necessarily be discharged if those actions and statements listed in paragraphs 1.a.. through 1.d. of this appendix, are said or done solely to end his or her Military Service. However, he or she may be disciplined.

3. *Hazing, harassment or violence not tolerated.* The practice of hazing is prohibited by law (10 U.S.C. 4352, 6964, and 9352). A cadet or midshipman dismissed from an academy for hazing may not be reappointed as a cadet or midshipman at an academy. The Armed Forces do not tolerate harassment or violence against any Service member for any reason. Cadets and midshipmen must treat all Service members, at all times, with dignity and respect. Failure to do so may result in the individual being disciplined or involuntarily separated before his or her term of service ends.

Appendix B to Part 217—Academy Assessment Report and Preparatory School Assessment Report (Format)

1. *Introduction.* Cite this part as the reference. Include mission and goals of both the academy and Preparatory School. Provide a written statement about the adequacy and quality of oversight and management.

2. *Academy assessment report.*

a. Provide charts and graphs as necessary to support the written explanation on the following:

(1) The current and anticipated recruiting and admissions posture in contrast with that of the previous 5 years.

(2) Attrition patterns for the previous 5 years.

(3) Graduation rates for the previous 5 years.

(4) Provide a written statement on the following:

(a) The significant changes to curricula implemented or planned during the previous year.

(b) The institutional environment affecting cadets or midshipmen.

(c) The disposition of requests for inter-Service commission that were submitted during the previous year.

(d) The adequacy of compensation and benefits for cadets or midshipmen and civilian faculty.

(e) The adequacy of resources and facilities.

(f) Significant incidents of indiscipline during the reporting period.

(g) Additional topics as desired by the Secretaries of the Military Departments.

3. *Preparatory school assessment report.*

a. Provide charts and graphs as necessary to support the written explanation of the following:

(1) The 5-year summary of admissions trends.

(2) The attrition patterns for the previous 5 years.

(3) The academy admission rates for the past 5 preparatory school graduating classes.

(4) The academy graduation rate of Preparatory School graduates and those appointed directly to the Service academies for the previous 5 years.

b. Provide a written statement on the following:

(1) Significant changes to curricula implemented in the past year.

(2) The adequacy of compensation and benefits for those enrolled and civilian faculty.

(3) The adequacy of resources and facilities.

(4) Significant incidents of indiscipline during the reporting period.

(5) Additional topics as desired by the Secretaries of the Military Departments.

Appendix C to Part 217—Service Academy Resources Summary Report (Sample)

Each Military Department shall submit for its Service Academy (including the Academy Preparatory School), individual reports on its resources for the prior fiscal year to include associated training programs.

1. *Instructional activities.* Funding for each of the seven cost categories defined as academy-related activities.

a. *Academics (Dean and department).* Costs of the faculty, course curricula, and administrative costs of the academic departments. The academic program provides students with a required core curriculum and an opportunity to choose a variety of majors.

b. *Audiovisual.* Costs for the integrated visual information, visual information support systems and instructional technology systems in support of academic departments and other command activities.

c. *Academic computing center.* Costs for providing information technology and maintenance services to the academic departments and other mission areas. The specific information technology systems covered are hardware, operations, applications and networks.

d. *Faculty training.* The academy's share of the cost for military personnel obtaining the required advanced degrees for assignment to the academy. This category also includes the cost of current military personnel obtaining degrees for appointment to permanent positions and those personnel, both military and civilian, on sabbatical leave for professional development purposes.

e. *Military training.* Costs of those activities that contribute to the academy's program of providing military education and training to the cadets/midshipmen. This military training encompasses the use of the classroom, the field, and the military chain of command in the delivery of the program.

f. *Physical education.* Costs of those activities that directly contribute to the

academy's physical development program. These programs include intramural, curriculum and intercollegiate activities.

g. *Library.* Costs to administer and operate the library that serves as the cadets/midshipmen primary on-post facility for both academic research and recreational reading.

2. *Student-related activities.* Funding for each of the four cost categories defined as student-related activities.

a. *Cadet/midshipmen mess.* Cost for the operation of the cadet/midshipmen dining facility. This operation includes the ordering, storing, preparing, and serving of three meals per day to the cadets/midshipmen.

b. *Student services.* The student services costs promote the quality of life and well being of the cadets/midshipmen. The activities found under this category relate to the Chaplain, counseling and cultural programs.

c. *Registrar.* Costs associated with the recruitment and the institutional research efforts of the academy and prep school. Also included are the costs of counseling and administration of the cadet/midshipmen academic program.

d. *Student pay and allowances.* Total cost to the government for cadet/midshipmen pay and fringe benefits.

3. *Institutional support.* Funding for each of the 27 cost categories defined as institutional support activities.

a. *Medical.* Costs involved with the local delivery of medical, dental, and veterinary services for the benefit of cadets and active duty military personnel assigned to the academy.

b. *Band.* Cost of providing musical support for official ceremonies of the academy and support for cadet/midshipmen educational and training activities.

c. *Reproduction.* Costs for the academy's liaison with the Document Automation Production Service and costs for photocopier service, to include the costs to provide service to the academy for requisitioning, storing, and distributing DoD, service specific, and academy publications/forms.

d. *Administrative data processing.* Costs for those activities that provide information technology support to the academy's base operation areas. Included is the operation and equipment to support the academy's administrative systems, applications and networks.

e. *Civilian personnel.* Costs to provide centralized personnel services for the academy's civilian employees, which include the operating costs of the various employee training and development programs and include the academy's costs for Civilian Illness and Injury Compensation.

f. *Personnel administration.* Costs to provide centralized personnel services for the academy's cadet/midshipmen and active duty military personnel. Also included are costs for those administrative functions typical to a military installation, e.g., issuing installation regulations.

g. *Special services.* Costs for the operation of the installation's Morale, Welfare, and Recreational programs.

h. *Other personnel services.* Costs for those personnel and administrative services that, among others, focus on programs dealing with the family and installation safety.

i. *Utility services.* The academy's cost for purchased utilities (natural gas, electricity) and the operating costs of the various utility generating and or operating plants (steam, water treatment, sewage disposal).

j. *Custodial services.* Labor, both in-house and contracted out, and supply costs for janitorial services at the academy, including procurement oversight of contractor operations.

k. *Fire protection.* Cost of the operation of the academy's fire prevention and protection program that also includes the controlling of hazardous material incidents.

l. *Maintenance and engineering.* The administrative and direct cost to plan, design, construct, repair and maintain all real property facilities to include utility distribution systems, roads and grounds. However, individual project costs, over the current statutory limitation on use of Operation and Maintenance funds for construction (currently $750K), in the Sustainment, Restoration, and Modernization program will be excluded because costs above this threshold are considered investment costs as opposed to operating costs.

m. *Communications.* This category includes the cost to provide an extensive voice communication capability at the academy. In addition to purchased services, this category includes the cost to manage, repair and maintain the entire communication system that delivers this service.

n. *Transportation and equipment maintenance.* Cost of the academy's transportation system that includes General Services Administration vehicle lease charges, repair parts for tactical vehicles, and the in-house and/or contracted out vehicle operations and maintenance costs. Also included are the costs of the local transportation office, which deals primarily, but not exclusively, with the movement of household goods. Contracted work may include the repair and maintenance of firearms, office equipment, etc.

o. *Commissary and food services.* Costs, excluding food, to operate the enlisted personnel dining facilities as well as the academy's share of the operating costs of the Defense Commissary Agency.

p. *Supply and services operation.* Costs associated with the procurement, receiving, storage, issuing, material management, property accountability, and disposal of the installation's expendable/non-expendable supplies and equipment, including the costs associated with the laundry and dry cleaning operations to include surveillance of contractor operations.

q. *Logistic activities.* The administration and management costs to supervise the transportation and supply functions of the installation and to administer and operate the installation's memorial affairs program is included as part of this definition.

r. *Comptroller.* The cost of the academy's resource management function. Included are financial and accounting operations, program and budget formulation and execution, manpower and equipment management, commercial activities, and the academy's internal review program.

s. *Security.* Cost of providing security, maintaining discipline, enforcing laws and regulations on the installation, including the costs associated with terrorism counteraction activities, installation evacuation plans, and liaison with DoD intelligence agencies.

t. *Preparatory school.* Cost to operate the academy's Preparatory School including candidate pay.

u. *Civilian permanent change of station costs.* Costs authorized under the Joint Travel Regulations for hiring or transferring civilian personnel.

v. *Military support unit.* Military units that provide general support to the installation. Also included are the costs to purchase furniture and to provide administrative support for the unaccompanied personnel housing program.

w. *Museum.* The cost of keeping and exhibiting the collection of historical equipment, accouterments, arms, clothing, and works of art, etc. that relate to the profession of arms, in general, and the academy specifically.

x. *Public affairs.* The cost of providing a centralized office that functions as the academy's focal point in communicating with the general public and civilian organizations such as television, radio and the print media.

y. *Command and staff.* The administrative costs identified as command and staff elements under the Superintendent.

z. *All other functions.* Those costs of the academy operation not identified elsewhere.

aa. *Other Installation Annexes.* That portion of the medical and base operation costs of any annex, subpost, and/or installation that support academy operations.

Attachment to Appendix C to Part 217—Service Academy Resources Summary Report, June 2005

BILLING CODE 5001–06–P

SERVICE ACADEMY RESOURCES SUMMARY REPORT
(Dollars in Thousands)

REPORT CONTROL SYMBOL
DD-P&R(A)1912

SERVICE ACADEMY | FISCAL YEAR | DATE PREPARED *(YYYYMMDD)*

COST CATEGORY	OPERATIONS AND MAINTENANCE APPROPRIATION			MILITARY PERSONNEL APPRO-PRIATION	TOTAL DOLLARS	PERSONNEL STRENGTH		
	LABOR	OTHER	TOTAL			MILITARY	CIVILIAN	OTHER
INSTRUCTIONAL ACTIVITIES								
ACADEMICS *(Dean and Staff)*	12,406.0	4,343.0	16,749.0	37,006.0	53,755.0	383	204	587
AUDIO VISUAL	2,382.0	1,092.0	3,474.0	236.0	3,710.0	2	42	44
ACADEMIC COMPUTING CENTER	4,146.0	4,065.0	8,211.0	1,069.0	9,280.0	15	67	82
FACULTY TRAINING	0.0	952.0	952.0	5,289.0	6,241.0	17	0	17
MILITARY TRAINING	2,118.0	6,915.0	9,033.0	12,304.0	21,337.0	123	45	168
PHYSICAL EDUCATION	4,024.0	4,214.0	8,238.0	2,047.0	10,285.0	22	69	91
LIBRARY	1,946.0	847.0	2,793.0	0.0	2,793.0	0	40	40
SUB-TOTAL - INSTRUCTIONAL SUPPORT	27,022.0	22,428.0	49,450.0	57,951.0	107,401.0	562	467	1,029
STUDENT RELATED ACTIVITIES								
CADETS/MIDSHIPMEN MESS	4,805.0	4,547.0	9,352.0	89.0	9,441.0	1	120	121
STUDENT SERVICES	3,258.0	409.0	3,667.0	399.0	4,066.0	4	116	120
REGISTRAR	2,548.0	1,759.0	4,307.0	1,741.0	6,048.0	19	48	67
STUDENT PAY AND ALLOWANCES	0.0	0.0	0.0	37,401.0	37,401.0	0	0	0
SUB-TOTAL - STUDENT RELATED ACTIVITIES	10,611.0	6,715.0	17,326.0	39,630.0	56,956.0	24	284	308
INSTITUTIONAL SUPPORT								
MEDICAL	4,503.0	4,823.0	9,326.0	6,267.0	15,593.0	207	223	430
BAND	0.0	61.0	61.0	965.0	1,026.0	74	0	74
REPRODUCTION	185.0	374.0	559.0	0.0	559.0	0	4	4
ADMIN DATA PROCESSING	596.0	352.0	948.0	111.0	1,059.0	2	10	12
CIVILIAN PERSONNEL	925.0	105.0	1,030.0	0.0	1,030.0	0	13	13
MILITARY PERSONNEL ADMIN	1,244.0	75.0	1,319.0	976.0	2,295.0	15	31	46
SPECIAL SERVICES	1,127.0	256.0	1,383.0	0.0	1,383.0	0	22	22
OTHER SPECIAL SERVICES	5,339.0	1,624.0	6,963.0	2,087.0	9,050.0	26	103	129
UTILITY SERVICES	2,916.0	9,922.0	12,838.0	0.0	12,838.0	0	47	47
CUSTODIAL SERVICES	2,956.0	699.0	3,655.0	0.0	3,655.0	0	139	139
FIRE PROTECTION	2,532.0	273.0	2,805.0	0.0	2,805.0	0	34	34
MAINTENANCE & ENGR	18,149.0	21,557.0	39,706.0	1,514.0	41,220.0	36	316	352
COMMUNICATIONS	397.0	1,468.0	1,865.0	0.0	1,865.0	0	7	7
TRANS & EQUIP MAINT	1,553.0	6,809.0	8,362.0	0.0	8,362.0	0	36	36
COMMISSARY & FOOD SERVICES	365.0	592.0	957.0	0.0	957.0	0	34	34
SUPPLY & SERVICES OPERATIONS	2,385.0	278.0	2,663.0	264.0	2,927.0	3	56	59
LOGISTICS ACTIVITIES	1,572.0	203.0	1,775.0	51.0	1,826.0	1	30	31
COMPTROLLER	2,733.0	2,558.0	5,291.0	0.0	5,291.0	0	40	40
SECURITY	582.0	258.0	840.0	4,074.0	4,914.0	101	11	112
PREP SCHOOL	1,564.0	362.0	1,926.0	4,382.0	6,308.0	3[illegible]	23	59
CIVILIAN PCS	142.0	55.0	197.0	0.0	197.0	[illegible]	0	0
MILITARY SUPPORT UNIT	106.0	421.0	527.0	1,885.0	2,412.0	31	3	34
MUSEUM	698.0	38.0	736.0	0.0	736.0	0	14	14
PUBLIC AFFAIRS	981.0	213.0	1,194.0	299.0	1,493.0	4	19	23
COMMAND AND STAFF	1,435.0	1,539.0	2,974.0	2,276.0	5,250.0	23	28	51
ALL OTHER FUNCTIONS	0.0	0.0	0.0	0.0	0.0	0	0	0
OTHER INSTALLATION ANNEXES	0.0	0.0	0.0	0.0	0.0	0	0	0
SUB-TOTAL - INSTITUTIONAL SUPPORT	42,653.0	54,915.0	109,900.0	25,151.0	135,051.0	559	1,243	1,802
GRAND TOTAL	80,286.0	84,058.0	176,676.0	122,732.0	299,408.0	1,145	1,994	3,139

DD FORM 2721, JUN 2005 PREVIOUS EDITION IS OBSOLETE.

SAMPLE

BILLING CODE 5001–06–C

Appendix D to Part 217—Calculation for Cost per Graduate (CPG)

The CPG computation is used to determine the cost of each member of a graduating class. It is calculated by using the share of the total resources for a class for each of its 4 years and the number of graduates in that class. To determine the share of the total resources or class cost for a class in each of its 4 years, the grand total resources from the Service Academy Resources Report for that class is multiplied by their percentage of the total corps or wing of cadets or brigade of midshipmen for each of its 4 years. The total of the 4 years of cost shares is divided by the number of graduates in the class, which results in the Cost Per Graduate. The following table is an example of this calculation:

EXAMPLE OF COST PER GRADUATE CALCULATION

Service Academy			
FY	Total costs	Percent of corps	Class costs
Year 1	$284,388,109	28.03	$79,713,987
Year 2	297,647,585	26.24	78,102,726
Year 3	296,556,044	24.78	73,486,588
Year 4	301,058,452	21.67	65,239,367
Total Costs			296,542,668
Graduates			950
Cost per Graduate			312,150

Dated: October 5, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–5157 Filed 10–17–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

33 CFR Part 175

[Docket No. USCG–2001–10163]

RIN 1625–AA31

Federal Requirements for Propeller Injury Avoidance Measures

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking that would require owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to either install a propeller guard or use a combination of other devices to avoid propeller injuries. The rulemaking is being withdrawn after reconsideration of which vessels would be subject to the proposed rule, the nature of the safety measures to be required, and the costs that would likely result.

DATES: The notice of proposed rulemaking published at 66 FR 63645, December 10, 2001, is withdrawn on October 18, 2007.

FOR FURTHER INFORMATION CONTACT: Jeff Ludwig, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–372–1061 or by e-mail at *Jeffrey.A.Ludwig@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2001, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Federal Requirements For Propeller Injury Avoidance Measures'' in the **Federal Register** (66 FR 63645). The NPRM described a proposed Coast Guard requirement that owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom install one of two propulsion unit measures or employ three combined measures. This proposal responded to recommendations made by the National Boating Safety Advisory Council (NBSAC). The NPRM was based on an expectation that a significant reduction in the number of boaters who are seriously or fatally injured when struck by a non-planing recreational houseboat with propeller-driven propulsion would occur.

Discussion of Comments

The Coast Guard received approximately 190 comments regarding the NPRM. Comments were received from those who have been injured by boat propellers; the relatives and friends of those injured or killed in such accidents; health care providers; boating safety and environmental advocacy groups; businesses and business associations; state and federal government agencies; and members of the general public.

Many commenters supported the proposed rule in order to better protect the boating public from propeller injuries. Some of those also advocated reducing the phase-in period to one year, and some advocated inclusion of pontoon houseboats under the requirements of the proposed rule. Among those who generally supported the proposed rule, some preferred using propeller guards over swim ladder interlock systems because they expected propeller guards to better protect swimmers. A few commenters also suggested increased costs could be passed on from manufacturers and rental companies to consumers.

Some commenters opposed the proposed rule because they perceived the number of casualties as insufficient to justify the proposed rule and argued the costs of implementation would be significantly higher than estimated in the NPRM. Many of these commenters also expressed concerns about the high maintenance costs associated with propeller guards, the increased danger of collisions when swim ladder interlock systems disable propellers, and the lack of practical benefit to be gained from clear view devices because of the length of many houseboats. A few suggested the proposed rule would be unenforceable or otherwise ineffective and advocated improved boater education.

Some commenters requested a more precise definition of houseboat, particularly whether monohulls and pontoon designs would be subject to the same requirements, and more detailed guidance on acceptable propeller guards and swim ladder interlock systems. One commenter suggested the proposed rule would effect a shift of liability from boat operators to boat manufacturers.

Withdrawal

The Coast Guard is withdrawing the NPRM published on December 10, 2001, after reconsideration of the the costs that would likely result, the characteristics of the safety measures to

be required, and uncertainty concerning the appropriate definition of ''houseboat.'' The Coast Guard believes its resources would be better directed toward regulatory projects that would have a greater impact on propeller injury avoidance.

The NPRM estimated that propeller guards, which would be the least expensive option provided under the proposed rule, could be self-installed for approximately $300 each. Equipping the estimated 100,000 houseboats that would be covered by the rule was estimated to result in a cost of approximately $30 million. A reassessment of these costs after publication of the NPRM revealed that most boats would need to be lifted out of the water for propeller guard installation, boats with twin engines would require a guard for each engine, and installation would be beyond the capabilities of most owners and operators. For these reasons, a more realistic average cost per boat is approximately $1500, for a total cost of $150 million. This figure does not include costs of periodic maintenance to clear debris from guards or the resulting decrease in fuel efficiency.

Because of the significantly higher cost of implementing the proposed rule, the Coast Guard is exploring options that would more effectively prevent propeller injuries and impose a smaller burden on the economy. For example, requiring ignition cut-off switches on an undetermined segment of recreational, propeller-driven boats could be a more cost effective approach, and there is also room for improvement in boating safety education.

Additionally, as some of the comments pointed out, the NPRM lacked a practical definition of ''houseboat,'' and straightforward performance requirements for acceptable propeller guards and swim ladder interlock systems. Although not independent grounds for withdrawing this rulemaking, the need for further research to resolve these questions, and the potential negative effect of more specific performance requirements on costs, made further pursuit of this rulemaking at this time even less preferable in comparison to other alternatives.

The Coast Guard remains deeply concerned about propeller injuries, and is committed to reducing them. In doing so, though, the cost and effectiveness of alternative measures must be reasonably considered.

The Coast Guard would like to thank those who submitted comments. All comments were considered in this decision. To view comments, go to *http://www.regulations.gov* at any time, under ''Search Documents'' enter the docket number for this rulemaking (USCG–2001–10163), and click on ''Submit.'' You may also visit the Docket Management Facility in room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Authority

This action is taken under the authority of 46 U.S.C. 4302; Department of Homeland Security Delegation No. 0170.1.

Dated: October 10, 2007.

Howard L. Hime,

Acting Director of Commercial Regulations and Standards, United States Coast Guard.

[FR Doc. E7–20604 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 70, and 71

[EPA–HQ–OAR–2005–0163, FRL–8484–6]

RIN 2060–AM45

Operating Permit Programs and Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Flexible Air Permitting Rule; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: The EPA is announcing an extension of the public comment period on our proposed amendments for the Operating Permit Programs and Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Flexible Air Permitting Rule; Proposed Rule (September 12, 2007). The EPA is extending the comment period that originally ends on November 13, 2007. The extended comment period will close on January 14, 2008. The EPA is extending the comment period because of the timely requests we received to do so.

DATES: *Comments.* Comments must be received on or before January 14, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0087, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2004–0087, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, NW., Mailcode: 6102T, Washington, DC 20460. Please include a total of 2 copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2004–0087. 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–OAR–2004–0087. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to the

SUPPLEMENTARY INFORMATION section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For overall issues concerning advance approvals and alternative operating scenarios, contact Michael Trutna, Air Quality Policy Division (C504–01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–5345, fax number (919) 541–4028; or electronic mail at *trutna.mike@epa.gov.*

For specific issues concerning approved replicable methodology and EPA's pilot permits, contact David Beck, Office of Policy, Economics, and Innovation, Innovative Pilots Division (C304–05), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–5421, fax number (919) 541–2664; or electronic mail at *beck.david@epa.gov.*

For specific issues relating to monitoring, recordkeeping, and reporting for flexible air permits, contact Barrett Parker, Sector Policies and Programs Division, Measurement Policy Group (D243–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone 919–541–5635, fax number (919) 541–1039; or electronic mail at *parker.barrett@epa.gov.*

For other part 70 issues, contact Juan Santiago, Operating Permits Group, Air Quality Policy Division (C504–05), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–1084, fax number (919) 541–5509; or electronic mail at *santiago.juan@epa.gov.*

For specific issues relating to Green Groups, contact Dave Painter, NSR Group, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–5515, fax number (919) 541–5509; or electronic mail at *painter.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

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

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2004–0087.

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

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

B. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the World Wide Web (WWW). Following signature by the EPA Administrator, a copy of this notice will be posted in the regulations and standards section of our NSR home page located at *http://www.epa.gov/nsr.*

Dated: October 11, 2007.

Jan Cortelyou-Lee,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E7–20595 Filed 10–17–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2007–0912; FRL–8483–2]

Approval and Promulgation of Implementation Plans; State of Missouri; Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Kansas City and St. Louis portions of the Missouri State Implementation Plan (SIP) to amend the transportation conformity criteria and procedures related to interagency consultation and enforceability of certain transportation-related control measures and mitigation measures.

DATES: Comments on this proposed action must be received in writing by November 19, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2007–0912 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: hamilton.heather@epa.gov.*
3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. *Hand Delivery or Courier:* Deliver your comments to: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are

Monday through Friday, 8 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: October 5, 2007.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. E7–20376 Filed 10–17–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2004–0022; FRL–8483–8]

RIN 2050–AG29

NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of comment on legal analysis; extension of comment period.

SUMMARY: EPA is announcing that the comment period to the notice entitled ''NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Solicitation of Comment on Legal Analysis,'' published on September 27, 2007 (72 FR 54875), is being extended until November 27, 2007. In that notice, EPA discusses the standards for hazardous waste combustors that were promulgated on October 12, 2005 (70 FR 59402), and specifically identifies which standards EPA believes are consistent with the Clean Air Act and case law, and which standards are not and need to be reexamined through a subsequent rulemaking. This analysis of the standards is being done in response to several opinions issued by the United States Court of Appeals for the District of Columbia Circuit that call into question the legality of some of the standards for hazardous waste combustors.

DATES: The comment period for this notice is extended from the original closing date of October 18, 2007 to November 27, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0022, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket (2822T), Docket ID No. EPA-HQ-OAR–2004–0022, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* In person or by courier, deliver comments to: HQ EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0022. The 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 the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail (see instructions below on procedures to submit CBI information). The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov index.* Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the HQ EPA Docket Center, Public Reading Room, EPA West, Room 3334, 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 HQ EPA Docket Center is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this notice, contact Frank Behan at (703) 308–8476, or *behan.frank@epa.gov*, Office of Solid Waste (5302P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Comment Period. We are extending the comment period by approximately five weeks in response to several

entities' requests for more time to respond to the notice that was published on September 27, 2007 (72 FR at 54875). As a result, the public comment period will be extended to 60 days and will now end on November 27, 2007.

Entities Potentially Affected by this Action. Categories and entities potentially affected by this action include:

Category	NAICS code [a]	Potentially affected entities
Petroleum and coal products manufacturing	324	Any entity that combusts hazardous waste as defined in the final rule.
Chemical manufacturing	325	
Cement and concrete product manufacturing	3273	
Other nonmetallic mineral product manufacturing	3279	
Waste treatment and disposal	5622	
Remediation and other waste management services	5629	

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be impacted by this action. This table lists examples of the types of entities EPA is now aware could potentially be regulated by this action. Other types of entities not listed could also be affected. To determine whether your facility, company, business, organization, etc., is affected by this action, you should examine the applicability criteria in 40 CFR 63.1200. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

How Do I Obtain a Copy of this Document and Other Related Information? In addition to being available in the docket, an electronic copy of today's notice will also be available on the World Wide Web (WWW). Following the Administrator's signature, a copy of this document may be posted on the WWW at *http://www.epa.gov/hwcmact.* This Web site also provides other information related to the NESHAP for hazardous waste combustors including the final rule issued on October 12, 2005 (70 FR 59402) and the notice published on September 27, 2007 (72 FR 54875).

How Do I Submit Comments That Include Confidential Business Information (CBI)? Do not submit CBI information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI to only the following address: Ms. LaShan Haynes, RCRA Document Control Officer, EPA (Mail Code 5305P), Attention Docket ID No. EPA–HQ–OAR–2004–0022, 1200 Pennsylvania Avenue, Washington DC 20460.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 9, 2007.

Matt Hale,

Director, Office of Solid Waste.

[FR Doc. E7–20596 Filed 10–17–07; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 72, No. 201

Thursday, October 18, 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; Correction

October 15, 2007.

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.

Forest Service

Title: Publications Evaluation Card.

OMB Control Number: 0596–0163.

Burden was accounted for, however the inclusion of the new publications comment card for the Pacific Northwest Research Station was inadvertently omitted in the Summary of the **Federal Register** notice published on October 10, 2007 (Volume 72, Number 195) page 57513.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–20582 Filed 10–17–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Six Rivers National Forest, California; Orleans Community Fuels Reduction and Forest Health Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Six Rivers National Forest proposes to address hazardous fuels and forest health concerns through the Orleans Community Fuels Reduction and Forest Health (OCFR) Project, under the Healthy Forest Restoration Act. The area affected by the proposal includes National Forest System lands surrounding the community of Orleans, California, which includes Tribal Trust Lands and portions of the Panamnik World Renewal Ceremonial District. The objective of these treatments is to provide strategic suppression locations across the landscape while reducing contiguous fuel accumulations and chance of catastrophic fires. Approximately 2,721 acres of forest would be treated by either ground-based, skyline, or hand systems.

The planning area is located on National Forest System lands administered by the Orleans Ranger District in Humboldt County, California, specifically, within the upper tributaries of the Lower Middle Klamath watersheds. The units are located in portions of: T. 10 N., R. 5 E., Sections 1, 12, 13; T. 10 N., R. 6 E., Sections 4–9, 16–17; T. 11 N., R. 5 E., Sections 1, 12, 13, 24, 25, 36; and T. 11 N., R. 6 E., Sections 4–9, 16–21, and 28–33.

DATES: Comments concerning the scope of the analysis must be received by November 19, 2007. The draft environmental impact statement is expected February 2008 and the final environmental impact statement is expected May 2008.

ADDRESSES: Send written comments to Bill Rice, at Orleans Ranger District, P.O. Drawer 410, Orleans, CA 95556, or phone (530) 627–3291. Comments may be submitted by e-mail in Word (.doc), rich text format (.rtf), text (.txt), and hypertext markup language (.html) to *comments-pacificsouthwest-six-rivers-orleans@fs.fed.us.* Comments may also be hand delivered weekdays 8 a.m.–4:30 p.m. at the Orleans Ranger District Office.

FOR FURTHER INFORMATION CONTACT: Bill Rice, at Orleans Ranger District, phone (530) 627–3291 (see address above). More information is available at *http://www.fs.fed.us/r5/sixrivers/projects/ea/ocfr/.*

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this initiative is to provide strategic fire suppression locations across the landscape while reducing contiguous fuel accumulations and chance of catastrophic fire to the community of Orleans and Tribal Trust Lands. This action is needed because decades of fire suppression and loss of cultural burning in these fire-adapted forests has significantly changed species composition, tree density, stand structure, and surface and ladder fuels. This action responds to the goals and objectives outlined in the Six Rivers Forest Plan, and helps move the project area towards desired conditions described in that plan (Six Rivers National Forest Land and Resource Management Plan 1995 (Forest Plan)). Specifically, there is a need: (1) To reduce hazardous fuel conditions and impacts from wildfires to the community of Orleans, Tribal Trust Lands, and the immediately surrounding forest; and create conditions that produce less than four foot flame lengths (FP, p. IV–116); (2) To enhance cultural values associated with the Panamnik World Renewal Ceremonial District through forest

health and a reduction of fuels (FP, p. IV–114); (3) To reduce stand densities (FP, p. IV–77); (4) To promote the development and maintenance of diverse stand structures and species composition (FP, p. IV–73) and; (5) To begin steps to restore fire-adapted ecosystem functions, such that when fire returns to the ecosystem impacts are minimized (FP, p. IV–116).

In addition, there is an opportunity to manage vegetation within portions of the Riparian Reserves to accelerate the development of late-successional forest characteristics in overstocked early mature seral stands. The application of stocking level control in these stands would accelerate the attainment of desired vegetation characteristics in Riparian Reserves (LRMP IV–49). Attainment of desired vegetation characteristic is part of the Aquatic Conservation Strategy goals of maintaining and restoring the species and structural diversity of plant communities within the Reserves (LRMP IV–108).

Proposed Action

The action proposed by the Forest Service to meet the purpose and need is to reduce fuel accumulations on approximately 2,721 acres of forest by chipping and/or mastication, understory burning, hand piling, jack-pot/pile burning, or removal off site. In forest stands that need thinning to reduce fuels, end-line, ground-based, hand, and/or skyline/cable-logging systems would be used. Potential fire impacts would be reduced in fuel reduction zones along key ridges and other key locations adjacent and within the Orleans Community. Implementation of the proposed action activities would occur over the next five to ten years as funding allows and grants are obtained. Implementation funds would come from a variety of sources such as grants, appropriated funds, and community partnerships.

Proposed vegetation treatments would reduce the density of understory, low- to mid-canopy-level trees, and codominates, while promoting the development of large trees. Some canopy-level thinning would occur to promote the growth of mast-producing hardwoods and diverse forest structures. Canopy thinning by selective whole tree removal would occur in a few select places to provide clear visibility from viewpoints associated with spiritual activities.

Some selective thinning within portions of Riparian Reserves would be accomplished through a combination of skyline yarding, tractor yarding, and hand thinning. In the case of tractor thinning, yarding of trees would be accomplished through end-lining of selected trees without heavy equipment entering Riparian Reserves. No stream crossings would occur. No other road activities would occur in Riparian Reserves. In previously unmanaged natural stands growing on moderate or better quality sites a minimum of 60 percent average canopy closure would be maintained after initial thinning and fuels treatments. Sawlogs that are removed during treatments (an estimate of 7 to 10 mmbf of initial volume) would also be sold as a by-product of forest health treatments. No commercial harvest would occur in old-growth stands.

In a few areas, accessible only by foot, surface and understory ladder fuels on federal lands adjacent to private property would be cut and treated by hand, within a 300-foot buffer. No commercial harvesting or road construction would occur in these areas. To implement this project and plan for future resource management needs, approximately 2.1 miles would be constructed and added to the forest road system. Of these, 1.2 miles would be roads constructed on undisturbed ground and 0.9 miles would be constructed on an existing alignment. Approximately 4.6 miles of temporary roads would be constructed for this project. Of these, three miles would be constructed on undisturbed ground and 1.6 miles would be on existing alignment. An existing temporary road, located in the Riparian Reserves, would be decommissioned. All temporary roads created for the project are located outside of Riparian Reserves and would be decommissioned after use. A project specific Roads Analysis has also been completed for this project.

Log landings would be used for skyline and tractor logging, and for decking and disposal of forest residues. Approximately, 19 new disposal sites and 54 new landings and/or disposal sites would be created. Approximately 94 existing landings may require minor earthwork to expand dimensions and minor clearing and/or blading. Landings would vary in size from ¼ to ½ acre in size. In addition, hazard trees along the haul routes would be felled and removed during implementation of the project. Hazard trees felled within Riparian Reserves would remain on-site. Water would be collected from existing sources.

Responsible Official

Tyrone Kelley, Forest Supervisor, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501.

Nature of Decision To Be Made

Whether to proceed under the proposed action or action as modified will be decided by the responsible official.

Scoping Process

The OCFR Project original proposed action was released for public scoping February 13, 2007. Based on public feedback during scoping and seven public field trips, the Forest Service has a new proposed action and is repeating the scoping and comment period.

Permits or Licenses Required

Road encroachment permit(s) may be needed from Humboldt County Roads Department for new road intersections and potential logging on County roads—Ishi Pishi, Bark Shanty, and Red Cap.

Comment Requested

This notice of intent initiates the scoping process and comment period which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: October 12, 2007.

Tyrone Kelley,

Forest Supervisor.

[FR Doc. E7–20547 Filed 10–17–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Dry Fork Station and Hughes Transmission Line

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Extension of Public Comment Period, Draft Environmental Impact Statement, Dry Fork Station and Hughes Transmission Line, Wyoming.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is extending the public comment period for the Draft Environmental Impact Statement (EIS) for the Dry Fork Station and Hughes Transmission Line. The Draft EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231, *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500 through 1508) and RUS regulations (7 CFR part 1794).

The Draft EIS is to evaluate the potential environmental impacts of and alternatives to the Basin Electric Power Cooperative, Inc. (Basin Electric) application for a loan guarantee to construct a generation facility referred to as the Dry Fork Station, consisting of a single maximum net 385 Megawatt (MW) unit, at a site near Gillette, Wyoming, along with other proposed pollution controls collectively known as Best Available Control Technology (BACT). In addition, Basin Electric also proposes to construct and operate 136 miles of 230 kilovolt (kV) transmission line in Campbell and Sheridan counties, referred to as the Hughes Transmission Project. Basin Electric is not, however, requesting a loan guarantee from RUS for this action. However, the Hughes Transmission Project is evaluated as a connected action for this EIS because the Dry Fork Station would interconnect with it if the Station is built.

The Draft EIS was filed with the U.S. Environmental Protection Agency on August 24, 2007. Requests for extension of public comment periods may be honored per 40 CFR 1506.10. The initial 45-day public comment period was to end on October 15, 2007. With the 30-day extension, the new deadline for public comments is now November 19, 2007.

DATES: Written comments on this Draft EIS will be accepted on or before November 19, 2007.

ADDRESS FOR FURTHER INFORMATION: To send comments or for further information, contact: Richard Fristik, USDA, Rural Development Utilities Programs, 1400 Independence Avenue, SW., Stop 1571, Room 2240, Washington, DC 20250–1571, telephone (202) 720–5093, fax (202) 690–0649, or e-mail: *Richard.Fristik@wdc.usda.gov.*

A copy of the Draft EIS can be obtained or viewed online at *http://www.usda.gov/rus/water/ees/deis-dfs.htm.* The files are in a Portable Document Format (.pdf); in order to review or print the document, users need to obtain a free copy of Acrobat® Reader® (© 2003 Adobe Systems Incorporated). The Acrobat® Reader® can be obtained from *http://www.adobe.com/prodindex/acrobat/readstep.html.*

Copies of the Draft EIS will also be available for public review during normal business hours at the following locations:

Campbell County Public Library, 2101 South 4J Road, Gillette, WY 82718–5205, Phone: (307) 687–0009, FAX: (307) 686–4009

Wright Branch Library—Campbell County Public Library System, 305 Wright Boulevard, Wright, WY 82732

Sheridan County Fulmer Public Library, 35 W. Alger Street, Sheridan, WY 82801

Clearmont Branch Library—Sheridan County Public Library, 1240 Front Street, Clearmont, WY 82835, Phone: (307) 758–4331

Crook County Library, 414 Main Street, Sundance, WY 82729

Moorcroft Public Library—Crook County Library System, 105 East Converse, Moorcroft, WY 82721

Johnson County Library, 171 North Adams, Buffalo, WY 82834

Dated: October 12, 2007.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA Rural Development, Utilities Programs.

[FR Doc. E7–20514 Filed 10–17–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–922, A–583–842]

Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 18, 2007.

FOR FURTHER INFORMATION CONTACT: Kristin Case (Taiwan) or Melissa Blackledge (People's Republic of China), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3174 or (202) 482–3518, respectively.

SUPPLEMENTARY INFORMATION:

Initiation of Investigation

The Petitions

On September 21, 2007, the Department of Commerce (Department) received petitions concerning imports of raw flexible magnets from the People's Republic of China (PRC) and Taiwan filed in proper form by Magnum Magnetics Corporation (the petitioner). See *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and Taiwan* (September 21, 2007) (Petitions). The petitioner is a domestic producer of raw flexible magnets. On September 26, 2007, the Department issued a request for additional information and clarification of certain areas of the general issues and Taiwan–specific portions of the petitions. On September 27, 2007, the petitioner filed a supplement to the petitions. See *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the*

People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan (September 27, 2007) (Supplement). On September 27, 2007, and October 4, 2007, the Department issued requests for additional information and clarification of certain areas of the PRC–specific portion of the petition. On October 2, 2007, the petitioner filed responses to the Department's request for additional information and clarification of the general issues and Taiwan–specific portions of the petition. See *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 2, 2007) (General Issues Response 1), *Petition for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 2, 2007) (Taiwan Response). On October 4, 2007, October 9, 2007, and October 10, 2007, the petitioner filed responses to the Department's requests for additional information and clarification of the PRC–specific portions of the petition. See *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 4, 2007) (PRC Response 1), *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 9, 2007) (PRC Response 2), and *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 10, 2007) (PRC Response 3). On October 4, 2007, and October 10, 2007, the Department requested additional information and clarification of certain general issues. On October 10, 2007, and October 11, 2007, the petitioner filed responses to the Department's request for additional information and clarification of the general issues. See *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 10, 2007) (General Issues Response 2); see also *Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (General Issues Response 3). On October 9, 2007, Magnet Technology, a U.S. producer of raw flexible magnets and an importer of raw flexible magnets from the PRC, submitted a letter challenging the assertion made by the petitioner that it represents more than 50 percent of the domestic production of raw flexible magnets. The petitioner submitted its rebuttal to this challenge to the industry–support calculation on October 9, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of raw flexible magnets from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the initiation of the antidumping–duty investigations that the petitioner is requesting. See the ''Determination of Industry Support for the Petition'' section below.

Period of Investigation

Because the petitions were filed on September 21, 2007, the period of investigation (POI) for the Taiwan investigation is July 1, 2006, through June 30, 2007. The POI for the PRC investigation is January 1, 2007, through June 30, 2007. See 19 CFR 351.204(b).

Scope of the Investigations

The products covered by these investigations are certain flexible magnet sheeting, strips, and profile shapes. Subject flexible magnet sheeting, strips, and profile shapes are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co–polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized. Subject flexible magnet sheeting, strips, and profile shapes are capable of being permanently magnetized but may be imported in either magnetized or unmagnetized (including demagnetized) condition. Subject merchandise may be of any color and may or may not be laminated or bonded with paper, plastic, or other material, which paper, plastic, or other material may be of any composition and/or color. Subject merchandise may be uncoated or may be coated with an adhesive or any other coating or combination of coatings. Subject merchandise is within the scope of these investigations whether it is in rolls, coils, sheets, or pieces and regardless of physical dimensions or packaging, including specialty packaging such as digital printer cartridges.

Specifically excluded from the scope of these investigations is retail printed flexible magnet sheeting, defined as flexible magnet sheeting (including individual magnets) that is laminated with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnet sheeting if the printing concerned consists of only the following: a trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet sheeting; manufacturing or use instructions (*e.g.*, ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use, such as application of laminate) or on any other covering that is removed from the flexible magnet sheeting prior or subsequent to final printing and before use; non–permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet sheeting to be re–printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of the subject merchandise that are not specifically excluded are included in the scope of the investigations. The products subject to these investigations are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes, however, and the written description of the scope of these proceedings is dispositive.

Comments on Scope of Investigations

We are setting aside a period of time for interested parties to raise issues regarding product coverage. See, *e.g., Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers who support the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A) or (ii) determine industry support using a statistically valid sampling method if there is a large number of producers in the industry.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information because the Department determines industry support at the time of initiation. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law. See *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (CAFC 1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the analysis of the domestic like product begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that raw flexible magnets constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like–product analysis in these cases, see the *Antidumping Duty Investigation Initiation Checklist: Raw Flexible Magnets from the People's Republic of China (PRC) (PRC Initiation Checklist)* at Attachment II and the *Antidumping Duty Investigation Initiation Checklist: Raw Flexible Magnets from Taiwan (Taiwan Initiation Checklist)* at Attachment II, on file in the Central Records Unit, Room B–099 of the main Department of Commerce building.

Our review of the data provided in the petitions, supplemental responses, and other information readily available to the Department indicates that the petitioner has established industry support. With regard to both the PRC and Taiwan, based on information provided in the petitions, we determine that the domestic producers have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers who support the petitions account for at least 25 percent of the total production of the domestic like product. The petitions did not establish support from domestic producers accounting for more than 50 percent of the total production of the domestic like product, however, and the Department was required to take further action in order to evaluate industry support. See section 732(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 732(c)(4)(D)(i) of the Act, to determine industry support. See *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II. The Department received opposition to the petitions from a U.S. producer of the domestic like product which is also an importer of raw flexible magnets from the PRC. See October 9, 2007, submission by Magnet Technology; see also *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II. Based on information provided in these petitions and other submissions, the domestic producers have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions. Accordingly, the Department determines that the petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II.

The Department finds that the petitioner filed the petitions on behalf of the domestic industry in accordance with section 732(c)(4)(A) of the Act. The petitioner is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support in favor of the initiation of the antidumping duty investigations. See *PRC Initiation Checklist* at Attachment II and *Taiwan Initiation Checklist* at Attachment II.

Allegations and Evidence of Material Injury and Causation

With regard to the PRC, the petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value. While the imports from Taiwan do not meet the statutory requirement for cumulation on a volume basis, in its analysis for threat, the petitioner alleges that imports from Taiwan will imminently account for more than three percent of all imports of the subject merchandise by volume and, therefore, they are not negligible.

See section 771(24)(A)(iv) of the Act; see also *PRC Initiation Checklist* at Attachment III and *Taiwan Initiation Checklist* at Attachment III. The petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity, a lower capacity–utilization rate, fewer shipments, underselling, price depression or suppression, lost revenue, decline in financial performance, reduced employment, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See *PRC Initiation Checklist* at Attachment III and *Taiwan Initiation Checklist* at Attachment III.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate investigations of imports of raw flexible magnets from Taiwan and the PRC. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the *Taiwan Initiation Checklist* and *PRC Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act, we will re–examine this information and may revise the margin calculations if appropriate.

Alleged U.S. Price and Normal Value: Taiwan

The petitioner calculated normal value using six price quotes, obtained from a market researcher in Taiwan, from Jasdi Magnet Co., Ltd., the Taiwanese producer of the subject merchandise. See Memorandum entitled ''Raw Flexible Magnets: Telephone Call to Market Research Firm,'' dated October 11, 2007. Because of the sale and payment terms described in the price quote, the petitioner made no adjustments for freight or imputed credit expense. See *Taiwan Initiation Checklist*.

The petitioner calculated constructed export price (CEP) using two price offers from the U.S. affiliated reseller of Jasdi Magnet Co., Ltd., a Taiwanese producer of raw flexible magnets. The petitioner deducted amounts for foreign inland–freight costs, international freight costs, U.S. inland freight costs, U.S. operating expenses (as indirect selling expenses), inventory carrying costs, and CEP profit. See Petition, Volume I at Exhibit 30, and Taiwan Response at Attachment D. Because of the payment terms described in the price quote, the petitioner made no adjustments for imputed credit expense. See Petition, Volume I at 47 and Exhibit 32C.

Alleged U.S. Price and Normal Value: The People's Republic of China

Export Price

The petitioner relied on three sets of price quotes, jointly accounting for over 40 individual quotes, for raw flexible magnets manufactured in the PRC and offered for sale in the United States. The prices quoted were for a wide range of different types and sizes of raw flexible magnets falling within the scope of this petition. The terms of delivery for each set of price quotes was different, including delivered duty paid, cost and freight at a U.S. port, and free on board (FOB) at a PRC port. To calculate EP, the petitioner, where appropriate, deducted from the starting price international movement expenses and U.S. duties. For prices quoted as FOB, the petitioner made no deductions. To be conservative, the petitioner did not deduct foreign inland freight charges from any of its U.S. price quotes. See *PRC Initiation Checklist.*

Normal Value

Because the Department considers the PRC to be a non–market-economy country (NME), the petitioner constructed normal value based on the factors–of-production methodology pursuant to section 773(c) of the Act. Recently, the Department examined the PRC's market status and determined that NME status should continue for the PRC. See Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding the People's Republic of China Status as a Non–Market Economy, dated August 30, 2006. (This document is available online at http://ia.ita.doc.gov/download/prc–nme-status/prc–lined-papermemo–08302006.pdf.) In addition, in two recent investigations, the Department also determined that the PRC is an NME country. See *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007), and *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007). In accordance with section 771(18)(C)(i) of the Act, the NME status remains in effect until revoked by the Department. The presumption of the NME status of the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value of the product is based appropriately on factors of production valued in a surrogate market–economy country in accordance with section 773(c) of the Act. During the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The petitioner asserts that India is the most appropriate surrogate country for the PRC because India is a significant producer of comparable merchandise and at a level of economic development comparable to the PRC. See Petition at 39. Based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, we will solicit comments regarding surrogate country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i), interested parties will be provided an opportunity to submit publicly available information to value the factors of production within 40 calendar days after the date of publication of the preliminary determination.

The petitioner provided dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The petitioner calculated normal value based on its own consumption rates for producing raw flexible magnets. See Petition at 41 and Exhibit 19. See also PRC Response 2 at Attachments 3 and 4. The petitioner argues that it is not aware of publicly available information regarding factor inputs and factor consumption rates of PRC producers of raw flexible magnets. The petitioner provided affidavits to support its normal value calculation. See September 26, 2007 supplemental at Attachment A and PRC Response 1 at 8.

For the normal value calculations, pursuant to section 773(c)(4) of the Act, the petitioner used its own factor consumption rates and surrogate values from a variety of sources, including Indian import statistics obtained from the World Trade Atlas, the International Energy Agency, the Department's NME Wage Rate for the PRC, and publicly available financial statements of two Indian raw flexible magnet producers to value the factors of production (FOP).

See Petition at 41–43, and PRC Response 2 at Attachments 2, 3, and 4.

For inputs valued in Indian rupees and not contemporaneous with the POI, the petitioner used information from the wholesale price indices (WPI) for India as published in the *International Financial Statistics* of the International Monetary Fund (IMF) for input prices during the period preceding the POI. See Petition at Exhibit 25. The petitioner converted the inputs valued in Indian rupees to U.S. dollars based on the average rupee/U.S. dollar exchange rate for the POI, as reported on the Department's website at http://ia.ita.doc.gov/exchange/index.html. See Petition Exhibit 23 and Exhibit 20. For strontium ferrite, a raw material used in the production of raw flexible magnets, the petitioner provided a per–unit surrogate value calculated using the actual consumed quantity and value used by Magnaplast Technologies India Pvt. Ltd. (Magnaplast) (an Indian producer of subject merchandise) in its production of raw flexible magnets, because no separate Indian tariff classification exists for strontium ferrite. See Petition at 42 and Exhibit 21. For other inputs, *e.g.*, vistenex mw140, chlorinated polyethylene, ethylene vinyl acetate, and also packing materials, the petitioner provided surrogate values based on Indian import statistics from the World Trade Atlas. See Petition at 42 and Exhibit 20, PRC Response 2 at Attachment 2. With regard to energy (electricity), the petitioner valued electricity with an Indian electricity rate reported by the International Energy Agency. See Petition Exhibit 25. Labor was valued using the expected wage rate for the PRC as provided by the Department on its website. See Petition at 42 and Exhibit 24.

For the normal value calculations, the petitioner derived the figures for overhead (FOH), selling, general and administrative (SG&A) expenses, and profit from the financial ratios of Magnaplast and Ajay Poly Pvt. Ltd. (Ajay Poly), two Indian producers of merchandise that is comparable to the domestic like product. The financial statements that the petitioner provided covered the period of January 1, 2005 through December 31, 2006. Additionally, the petitioner calculated a simple average of the two companies' financial ratios for purposes of the Petition, and used these average ratios in its calculation of normal value. See Petition Exhibit 26, and PRC Response 2 at Attachment 7. We did not make any adjustments to normal value as calculated by the petitioner.

Fair–Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of raw flexible magnets from Taiwan and the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of constructed export price to normal value as discussed above and calculated in accordance with section 773(a)(4) of the Act, the estimated dumping margin for raw flexible magnets from Taiwan range from 25.04 percent to 38.03 percent. Based upon comparisons of EP to the NV, calculated in accordance with section 773(c) of the Act, the estimated calculated dumping margins for raw flexible magnets from the PRC range from 26.46 percent to 185.28 percent.

Initiation of Antidumping Investigations

Based upon the examination of the Petition on raw flexible magnets from Taiwan and the PRC, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of raw flexible magnets from Taiwan and the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205((b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Separate Rates

The Department modified the process by which exporters and producers may obtain separate–rate status in NME investigations. See *Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries* (April 5, 2005) *(Separate Rates and Combination Rates Bulletin)*, available on the Department's website at http://ia.ita.doc.gov/policy/bull05–1.pdf. The process requires the submission of a separate–rate status application. Based on our experience in processing the separate–rate applications in the following antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See, *e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off–the-Road Tires from the People's Republic of China*, 72 FR 43591, 43594–95 (August 6, 2007) (*Tires from the PRC*). The specific requirements for submitting the separate–rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at http://ia.ita.doc.gov/ia–highlights-and–news.html on the date of publication of this initiation notice in the **Federal Register**. The separate–rate application is due no later than December 14, 2007.

Respondent Selection

In prior investigations, it has generally been the Department's practice to request quantity and value information from all known exporters identified in the Petition. See, *e.g., Tires from the PRC*, 72 FR at 43595. For these investigations, because the HTSUS numbers 8505.19.10 and 8505.19.20, as discussed above in the ''Scope of the Investigation'' section, provide comprehensive coverage of imports of the subject merchandise, the Department expects to determine respondents in these investigations based on U.S. Customs and Border Protection (CBP) data of U.S. imports under HTSUS numbers 8505.19.10 and 8505.19.20 during the POIs.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The *Separate Rates and Combination Rates Bulletin*, at 6 explains that, while continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the POI. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the POI. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the POI.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the Petitions has been provided to representatives of the

governments of Taiwan and the PRC. We will attempt to provide a copy of the public version of the Petition to all exporters named in the Petition, as provided for in 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC.

The ITC will preliminarily determine no later than November 5, 2007, whether there is a reasonable indication that imports of raw flexible magnets from Taiwan and the PRC are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 11, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–20575 Filed 10–17–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

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 filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Room 2104, 14th and Constitution Avenue NW., Washington, DC 20230. Applications may be examined between 8:30 a.m., and 5 p.m., in Room 2104, at the above address.

Docket Number: 07–040. Applicant: Penn State University, 311 Deike Building, University Park, PA 16802. *Instrument:* Distributed Temperature Sensor, model Sentinel DTS–SR(0–5KM). Manufacturer: Sensornet Ltd., United Kingdom. *Intended Use:* The instrument is intended to be used for a study that involves the determination of stream-aquifer interaction as related to precipitation events, and the detection of areas that build and release moisture along the hillslope. The work will involve collection of field-based physical measurements of groundwater discharge, including spatially and temporally exhaustive temperature gradients and Darcian flux calculations, to improve quantification of streambed leakage and assess the rate and scale of stream-aquifer exchange to determine controls on threshold behavior. Good temperature resolution and capability to collect data every minute to 0.1° C. accuracy are essential to the research. *Application accepted by Commissioner of Customs:* September 5, 2007.

Dated: October 15, 2007.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E7–20576 Filed 10–17–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–923]

Raw Flexible Magnets from the People's Republic of China: Notice of Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 18, 2007.

FOR FURTHER INFORMATION CONTACT: Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0395.

SUPPLEMENTARY INFORMATION:

Initiation Of Investigation

On September 21, 2007, the Department of Commerce (the Department) received a petition concerning imports of raw flexible magnets from the People's Republic of China (PRC) filed in proper form by Magnum Corporation (petitioner). On September 26 and 27, 2007, the Department issued requests for additional information and clarification of certain areas of the petition involving general issues as well as issues concerning the countervailing duty (CVD) allegations. On September 27, 2007, the petitioner filed a supplement to the petition. *See Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (September 27, 2007) (Supplement). Based on the Department's requests, on October 1 and 2, 2007, the petitioner filed responses to the Department's requests for additional information and clarification of the general issues as well as issues related to the CVD petition. *See Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 2, 2007) (General Issues Response 1); *see also Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 2, 2007). On October 4, 9, and 10, 2007, the petitioner filed responses to the Department's requests for additional information and clarification of the PRC–specific portions of the petition. *See Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 4, 2007) (*PRC Response 1*), *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 9, 2007) (PRC Response 2), and *Petition for the Imposition of Antidumping Duties and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China* (October 10, 2007) (PRC Response 3). On October 4 and 10, 2007, the Department requested additional information and clarification of certain areas of the general issues. On October 10 and 11, 2007, the petitioner filed responses to these requests. *See Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 10, 2007) (General Issues Response 2); *see also Petition for the Imposition of Antidumping and Countervailing Duties on Raw Flexible Magnets from the People's Republic of China and for the Imposition of Antidumping Duties on Raw Flexible Magnets from Taiwan* (October 11, 2007) (General Issues Response 3). On October 9, 2007, Magnet Technology, a U.S. producer of raw flexible magnets, and an importer of

raw flexible magnets from the PRC, submitted a letter challenging the assertion made by the petitioner that it represents more than 50 percent of the domestic production of raw flexible magnets. The petitioner rebutted this challenge to its industry support calculation on October 9, 2007.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that manufacturers, producers, or exporters of raw flexible magnets in the People's Republic of China (the PRC) received countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C) and (D) of the Act and the petitioner has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate (*see*, *infra*, ''Determination of Industry Support for the Petition'').

Period Of Investigation

The anticipated period of investigation (POI) is calendar year 2006. See 19 CFR 351.204(b)(2).

Scope Of Investigation

The products covered by this investigation are certain flexible magnet sheeting, strips, and profile shapes. Subject flexible magnet sheeting, strips, and profile shapes are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co–polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized. Subject flexible magnet sheeting, strips, and profile shapes are capable of being permanently magnetized, but may be imported in either magnetized or unmagnetized (including demagnetized) condition. Subject merchandise may be of any color and may or may not be laminated or bonded with paper, plastic or other material, which paper, plastic or other material may be of any composition and/or color. Subject merchandise may be uncoated or may be coated with an adhesive or any other coating or combination of coatings. Subject merchandise is within the scope of this investigation whether it is in rolls, coils, sheets, or pieces, and regardless of physical dimensions or packaging, including specialty packaging such as digital printer cartridges.

Specifically excluded from the scope of this investigation is retail printed flexible magnet sheeting, defined as flexible magnet sheeting (including individual magnets) that is laminated with paper, plastic or other material, if such paper, plastic or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnet sheeting if the printing concerned consists of only: a trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet sheeting; manufacturing or use instructions (*e.g.*, ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use, such as application of laminate) or on any other covering that is removed from the flexible magnet sheeting prior or subsequent to final printing and before use; non–permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet sheeting to be re–printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of the subject merchandise that are not specifically excluded are included in this scope. The products subject to the investigation are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes, however, and the written description of the scope of this proceeding is dispositive.

Comments On Scope Of Investigation

During our review of the petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the People's Republic of China (the GOC) for consultations with respect to the CVD petition. The Department held these consultations in Beijing, China, with representatives of the GOC on September 28, 2007. *See* the memorandum to the file, entitled, ''Consultations with Officials from the Government of People's Republic of China'' (September 28, 2007), a public document on file in the CRU.

Determination Of Industry Support For The Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is

responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that raw flexible magnets constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like–product analysis in these cases, see the *Countervailing Duty Investigation Initiation Checklist: Raw Flexible Magnets from the People's Republic of China (PRC)* (*CVD Initiation Checklist*) at Attachment II, on file in the CRU.

Our review of the data provided in the Petition, Supplemental Responses, and other information readily available to the Department indicates that the petitioner has established industry support. Based on information provided in the Petition, we determine that the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers who support the Petition account for at least 25 percent of the total production of the domestic like product. The Petition did not establish support from domestic producers accounting for more than 50 percent of the total production of the domestic like product, however, and the Department was required to take further action in order to evaluate industry support. *See* section 702(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 702(c)(4)(D)(i) of the Act, to determine industry support. *See CVD Initiation Checklist* at Attachment II. The Department received opposition to the petition from a U.S. producer of the domestic like product, who is also an importer of raw flexible magnets from the PRC. *See* October 9, 2007, submission by Magnet Technology; *see also CVD Initiation Checklist* at Attachment II. Based on information provided in the Petition and other submissions, the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See CVD Initiation Checklist* at Attachment II.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate. *See CVD Initiation Checklist* at Attachment II.

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations And Evidence Of Material Injury And Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise. The petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity, a lower capacity–utilization rate, fewer shipments, underselling, price depression or suppression, lost revenue, decline in financial performance, reduced employment, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See CVD Initiation Checklist* at Attachment III.

Subsidy Allegations

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. The Department has examined the CVD petition on raw flexible magnets from the PRC and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of raw flexible magnets in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see CVD Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise:

GOC Income Tax Programs

1. Preferential Tax Policies for Foreign Investment Enterprises (FIEs) (Two Free, Three Half Program)
2. Preferential Tax Policies for Export–Oriented FIEs
3. Tax Subsidies to FIEs Based in Specially Designated Geographic Areas
4. Tax Credits on Domestic Equipment Purchases
5. Reinvestment Tax Benefits for FIEs
6. Reduced Income Tax Rate For New High–Technology FIEs
7. Reduced Income Tax Rate For Technology And Knowledge Intensive FIEs

Provincial and Local Income Tax Programs

8. Anhui Province
9. Zhejiang Province
10. Shanghai Municipality

11. Beijing Municipality

Indirect Tax Programs and Import Tariff Program

12. Value Added Tax (VAT) and Import Duty Exemptions on Imported Equipment
13. VAT Refunds on Exports

GOC Loan Program

14. Preferential loan programs and interest rates in Guangdong Province

Grant Programs

15. Key Technologies Renovation Project Fund
16. Hengdian Group Grants
17. GOC Payment of Legal Fees
18. Provincial and Local Direct Grants in Guangdong Province
19. Provincial and Local Direct Grants in Zhejiang Province

Provision of Goods for Less than Adequate Remuneration

20. Provision of Land for Less than Adequate Remuneration for Zhejiang Province, specifically the Ningbo Export Processing Zone

For further information explaining why the Department is investigating these programs, *see CVD Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. Preferential Loan Programs at the National Level

The petitioner alleges that raw flexible magnet producers potentially benefit from preferential loans and interest rates by the GOC. The petitioner states that policy directives described in five-year national–level policy plans and other government documents show that the PRC potentially provides or directs discounts on interest rates and loan guarantees through GOC–owned banks. There is insufficient evidence on the record to support that the GOC has a policy that favors the raw flexible magnet industry or that the magnet industry was a targeted or strategic industry for financing. In addition, the petitioner has not provided any information on whether raw flexible magnet producers received any direct loans. Therefore, we do not plan to investigate at the national level.

2. Provincial and Local Income Tax Programs in Guangdong Province

The petitioner alleges that Guangdong Province has adopted its own ''encouraged industry'' list and ''industry to be improved'' list. The petitioner alleges that the income tax for ''productive'' FIEs in Guangdong's special–economic zones is 15 percent, compared to the general rate of 30 percent. The petitioner also cites to Shenzhen City, which is located in Guangdong Province, as having preferential tax programs for FIEs located there. The petitioner failed to demonstrate that Guangdong Province provided preferential income tax programs. Therefore, we do not plan to investigate this program.

3. Provincial and Local Income Tax Programs in Fujian Province

The petitioner alleges that Fujian Province has adopted its own ''encouraged industry'' list that includes ''high–performance magnetic materials.'' The petitioner alleges that numerous policy documents state that local governments provide financial assistance to encouraged industries. The petitioner alleges that FIEs have enjoyed a preferential income tax rate of 15 percent for many years. The petitioner failed to demonstrate that Fujian Province provided preferential income tax programs. Therefore, we do not plan to investigate this program.

4. Provincial and Local Income Tax Programs in Jiangsu Province

The petitioner alleges that Jiangsu Province has adopted its own ''encouraged industry'' list that includes the magnetic materials sector. The petitioner alleges that FIEs have enjoyed a preferential income tax rate of 15 percent for many years. The petitioner failed to demonstrate that Jiangsu Province provided preferential income tax programs. Therefore, we do not plan to investigate this program.

5. Currency Valuation

The petitioner alleges that the GOC tightly manages the exchange rate for the renminbi (RMB) instead of allowing it to be determined by market forces. According to the petitioner, the manipulation of the exchange rate has resulted in the undervaluation of the RMB in comparison to the U.S. dollar, thereby providing a financial benefit to PRC exporters. The petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate the currency valuation program.

6. Preferential Lifting of Certain Regulatory Obligations and Associated Reduction in Regulatory Compliance Costs

The petitioner alleges that manufacturers of certain types of products can be exempted from a quality inspection carried out by the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), and that magnetic material has been listed as one such product. The petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate this program.

7. Refusals to License Out–of-Province Companies

The petitioner alleges that many Chinese provincial administrations block the entrance of out–of-province firms into their market. Thus, the local protection leads to over supply, artificially reduced costs and the ability to cross–subsidize into export markets. The petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate this program.

8. Provision of Goods for Less than Adequate Remuneration at the National Level

The petitioner alleges that the GOC sets the prices charged by electricity producers and that this allegedly below–market price is passed through to ''special industrial sectors,'' within the meaning of 19 CFR 351.523, thereby reducing the producers' cost of inputs. The petitioner alleges the magnet industry is among the ''special industrial sectors'' designated by the GOC.

The petitioner has not provided sufficient information demonstrating that producers of raw flexible magnets receive inputs at a reduced cost from the GOC or within the Lin'an Economic Development Zone. In addition, we have not addressed the petitioner's upstream allegation, as it is not relevant to this type of subsidy allegation.

Application Of The Countervailing Duty Law To The PRC

The Department has treated the PRC as an non–market economy (NME) country in all past antidumping duty investigations and administrative reviews. In accordance with section 771(18)(C)(i) of the Act, any

determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See e.g., Tapered Roller Bearings and Parts Thereof, Finished and 10 Unfinished, (TRBs) From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500–1 (February 14, 2003), unchanged in *TRBs from the People's Republic of China: Final Results of 2001–2002 Administrative Review*, 68 FR 70488, 70488–89 (December 18, 2003).

In the amended preliminary determination in the investigation of coated free sheet paper from the PRC, the Department preliminarily determined that the current nature of the PRC economy does not create obstacles to applying the necessary criteria in the CVD law. *See Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17486 (April 9, 2007), and Memorandum for David M. Spooner, Assistant Secretary for Import Administration, ''Countervailing Duty Investigation of Coated Free Sheet Paper from The People's Republic of China--Whether the Analytic Elements of the Georgetown Steel Opinion are Applicable to China's Present-day Economy'' (March 29, 2007), on file in the CRU. Therefore, because the petitioner has provided sufficient allegations and support of its allegations to meet the statutory criteria for initiating a CVD investigation of raw flexible magnets from the PRC, initiation of a CVD investigation is warranted in this case.

Distribution Of Copies Of The Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the GOC. To the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinatiion By The ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of subsidized raw flexible magnets from the PRC are materially injuring, or threatening material injury to, a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 11, 2007.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E7–20573 Filed 10–17–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XD18

Pacific Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice of a public meeting.

SUMMARY: There has been a change in location of the previously noticed Pacific Fishery Management Council's (Council) Salmon Technical Team (STT), Scientific and Statistical Committee (SSC) Salmon Subcommittee, and Model Evaluation Workgroup (MEW) joint work session, which is open to the public.

DATES: The work session will be held Wednesday, October 24, 2007, from 10 a.m. to 5 p.m. and Thursday, October 25, 2007, from 9 a.m. to 4 p.m.

ADDRESSES: The work session will be held at the Sheraton Portland Airport Hotel, Cascade Ballroom, 8235 NE Airport Way, Portland, OR 97220; telephone: (800) 808–9497

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: This notice specifies a change of address for the work session from the Council office to the Sheraton Portland Airport Hotel Cascade Ballroom, 8235 NE Airport Way, Portland, OR 97220; telephone: (800) 808–9497.

The original notice published in the **Federal Register** on October 9, 2007 (72 FR 57310).

The purpose of the work session is to brief the STT and SSC Salmon Subcommittee on proposed changes to methods and standards used to manage ocean salmon fisheries, review a genetic stock identification research and exempted fishing permit proposal, and to review proposed modifications to the Chinook and Coho Fishery Regulation Assessment Models (FRAM).

Although non-emergency issues not contained in the meeting agenda may come before the STT, SSC Salmon Subcommittee, and MEW for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: October 15, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–20561 Filed 10–17–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD01

Strategic Plan for Fisheries Research (2007)

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

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability of the Strategic Plan for Fisheries Research (2007). The Magnuson-Stevens Act requires the Secretary of Commerce to develop, triennially, a strategic plan for fisheries research for the subsequent years.

ADDRESSES: Requests for copies of the NMFS Strategic Plan for Fisheries Research (2007) should be directed to

Mark Chandler, Office of Science and Technology, NMFS, NOAA, 1315 East-West Highway, Silver Spring, MD 20910, phone: (301) 713–2367 ext. 152, fax: (301) 713–1875.

Electronic Access: The NMFS Strategic Plan for Fisheries Research (2007) may viewed in its entirety online at *http://www.st.nmfs.noaa.gov/index.html*.

FOR FURTHER INFORMATION CONTACT: Mark Chandler at 301–713–2367 ext. 152.

SUPPLEMENTARY INFORMATION: Section 404 of the Magnuson-Stevens Act requires the Secretary of Commerce to post triennially in the **Federal Register** the availability of a five-year strategic plan for fisheries research. The Magnuson-Stevens Act also requires that the plan address four major areas of research: (1) research to support fishery conservation and management; (2) conservation engineering research; (3) research on the fisheries; and (4) information management research. The Magnuson-Stevens Act also requires that the plan contain a limited number of priority objectives for each of these research areas. Additionally, this plan incorporates input provided during the public comment period on the draft version announced in the **Federal Register**: January 24, 2007 (72 FR 3111).

The Strategic Plan for Fisheries Research (2007) is based upon and entirely consistent with NMFS' ''New Priorities for the 21st Century: National Marine Fisheries Service Strategic Plan Updated for FY 2005—FY 2010'' located on the internet at *http://www.nmfs.noaa.gov/mb/strategic/*. The objectives found under the ''Major Fishery Research Goals and Objectives'' section of the Strategic Plan for Fisheries Research can be linked with those in the agency's comprehensive plan that covers all aspects of NMFS' activities.

The scope of the 2007 document is solely fisheries research to support the Magnuson-Stevens Act. It does not include the regulatory and enforcement components of NMFS' mission. NMFS currently conducts a comprehensive program of fisheries research and involves industry and others interested in planning and implementing its fisheries objectives.

Dated: October 12, 2007.

Steven A. Murawski

Director of Scientific Programs and Chief Science Advisor,National Marine Fisheries Service.

[FR Doc. E7–20572 Filed 10–17–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2007–0036]

Performance Review Board (PRB)

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), the United States Patent and Trademark Office announces the appointment of persons to serve as members of its Performance Review Board.

ADDRESSES: Director, Human Capital Management, Office of Human Resources, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Kent Baum at (571) 272–6200.

SUPPLEMENTARY INFORMATION: The membership of the United States Patent and Trademark Office Performance Review Board is as follows:

Margaret J. A. Peterlin, Chair, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

Deborah S. Cohn, Vice Chair, Acting Chief Administrative Officer, United States Patent and Trademark Office.

John J. Doll, Commissioner for Patents, United States Patent and Trademark Office.

Lynne G. Beresford, Commissioner for Trademarks, United States Patent and Trademark Office.

David J. Freeland, Chief Information Officer, United States Patent and Trademark Office.

James A. Toupin, General Counsel, United States Patent and Trademark Office.

Lois E. Boland, Director, Office of Intellectual Property Policy and Enforcement, United States Patent and Trademark Office.

Barry K. Hudson, Chief Financial Officer, United States Patent and Trademark Office.

Jefferson D. Taylor, Director, Office of Governmental Affairs, United States Patent and Trademark Office.

Dated: October 11, 2007.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E7–20570 Filed 10–17–07; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 07–60]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 07–60 with attached transmittal, and policy justification.

Dated: September 25, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

SEP 21 2007

In reply refer to:
I-07/011488-CFM

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 07-60, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $172 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 07-60

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Iraq

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$172 million
TOTAL	$172 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: logistics support for (3) C-130E aircraft to include supply and maintenance support, flares, electronic warfare support, software upgrades, pyrotechnics, spare and repair parts, support equipment, publications and documentation, personnel training and training equipment, fuel and fueling services, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics support.

(iv) Military Department: Air Force (QAD)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: SEP 21 2007

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Iraq - Logistics Support for C-130E Aircraft

The Government of Iraq has requested a possible sale of logistics support for (3) C-130E aircraft to include supply and maintenance support, flares, electronic warfare support, software upgrades, pyrotechnics, spare and repair parts, support equipment, publications and documentation, personnel training and training equipment, fuel and fueling services, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics support. The estimated cost is $172 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country. This proposed sale directly supports the Iraqi government and serves the interests of the Iraqi people and the U.S., as well as offering hope for a more stable and peaceful Middle East.

The Government of Iraq needs the contractor technical support, maintenance, and logistical services to maintain the operational capabilities of its C-130E aircraft, previously procured from the United States. These C-130E aircraft will be used to provide airlift support. Additionally, this sale offers the U.S. the opportunity to facilitate the political transition currently underway and build additional links to the Iraqi military.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

There will be a competition between the contractors in joint negotiations for Contractor Engineering Technical Services. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale may require the assignment of up to four representatives to support Contractor Engineering Technical Services in Iraq for two years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 07–4828 Filed 10–17–07; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Supplemental Environmental Impact Statement to the Final Environmental Impact Statement and Notice of Request for Public Scoping Comments

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, and the regulations implemented by the Council on Environmental Quality (40 CFR parts 1500 through 1508), the Department of the Navy (DON) announces its intent to prepare a Supplemental Environmental Impact Statement (SEIS). This SEIS supplements the Navy's 1999 Final Environmental Impact Statement (FEIS), ''Developing Home Port Facilities for Three NIMITZ-Class Aircraft Carriers in Support of the U.S. Pacific Fleet,'' as authorized by the Record of Decision (ROD) dated January 28, 2000 and published in the **Federal Register** on February 8, 2000 (65 FR 6181). The limited purpose of this SEIS is to supplement the traffic analysis contained in the 1999 FEIS, to assess potential new information, validate impacts to traffic and to analyze the effectiveness of existing traffic mitigation measures implemented per the 2000 ROD when three CVNs home ported at Naval Air Station North Island (NASNI), California are simultaneously in port.

Completion of the SEIS is necessary under 40 CFR 1502.9 to assess potential new information and to validate impacts

to traffic during infrequent periods when three CVNs home ported at NASNI are simultaneously in port. The SEIS will analyze the effectiveness of existing traffic mitigation measures implemented per the 2000 ROD under these conditions. The SEIS will evaluate impacts such as changes in local traffic conditions, changes in personnel loading and potential changes in CVN operational deployment and maintenance schedules that could affect the average number of days three carriers are simultaneously in port. The SEIS will also evaluate the effects of traffic mitigation measures implemented pursuant to the 2000 ROD. Past, present and reasonably foreseeable future regional actions impacting traffic will be examined from a cumulative impacts perspective.

In addition, the SEIS will address infrastructure improvements for Berth LIMA, which include utilities upgrades previously analyzed under the 1999 FEIS and newly defined site improvements and other minor alterations to existing infrastructure. Utilities upgrades include: repairs and upgrades to electrical power, communications and information systems, security lighting, fire protection, steam, compressed air, potable water, wastewater and fueling systems. Site improvements and other alterations include: Demolition of existing fenders, moorings, and pier pavement; installation of new fender pile system (with 200–300 fender piles) and mooring fittings; construction of Anti-Terrorism/Force Protection (AT/FP) features (watch tower, guard kiosk, fencing and surveillance equipment); and demolition, repair and paving of the wharf, sidewalks, curbing, storm water drainage features and vehicle parking areas; and landscaping. It is anticipated that the construction of infrastructure improvements to Berth LIMA will take approximately one year to accomplish.

Public input is requested to ensure the scope of the SEIS analysis incorporates public concerns and affords the public an input in the decision making process.

DATES AND ADDRESSES: The agency must receive comments on or before November 19, 2007. Comments may be submitted by mail or electronically through the project Web site. Comments may be mailed to the following address: Naval Facilities Engineering Command Southwest, Attention: Ms. Ann Rosenberry (Code OPME.AR), 2730 McKean St., Building 291, San Diego, CA 92136. Comments may be submitted electronically at the project Web site at: *http://www.nimitzcarriersseis.com.*

FOR FURTHER INFORMATION CONTACT: Ms. Ann Rosenberry, Naval Facilities Engineering Command Southwest, 2730 McKean St., Building 291, San Diego, CA 92136; telephone: 619–556–7368, facsimile: 619–556–0195.

SUPPLEMENTARY INFORMATION: The Navy is initiating the scoping process to identify community concerns and local issues to be addressed in the SEIS. Federal agencies, State agencies, local agencies, and interested persons are encouraged to provide comments to the Navy to identify specific issues or topics of environmental concern that should be addressed in the SEIS. Written comments must be postmarked within thirty days from the publication of this notice in the **Federal Register**. Notices announcing the intent to prepare a SEIS will also appear in local newspapers in both English and Spanish. As the SEIS process progresses, the public may obtain updates by logging on to *http://www.nimitzcarriersseis.com* which is linked to the Commander, Naval Air Force Pacific Public Affairs Web site found at *http://www.cnaf.navy.mil.*

Dated: October 11, 2007.

T.M. Cruz,

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

[FR Doc. E7–20577 Filed 10–17–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–2–000]

El Paso Natural Gas Company; Notice of Application

October 11, 2007.

Take notice that on October 2, 2007, El Paso Natural Gas Company (El Paso), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP08–2–000, an application under section 7 of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations for a certificate of public convenience and necessity authorizing the construction and operation of new compression facilities and authorization to abandon, in place, its existing Eunice Mainline Compressor Station located in Lea County, New Mexico.

El Paso's proposal is more fully described as set forth in the application that is on file with the Commission and open to public inspection. The instant filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding the application should be directed to: Richard L. Derryberry, Director of Regulatory Affairs, El Paso Natural Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 520–3782 or by fax at (719) 667–7534.

Pursuant to section 157.9 of the Commission's rules, 18 CFR.157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition

to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: November 1, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–20532 Filed 10–17–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 199–205]

South Carolina Public Service Authority; Santee Cooper Hydroelectric Project; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

October 11, 2007.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the South Carolina State Historic Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR Part 800, implementing section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. 470f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at Project No. 199.

The programmatic agreement, when executed by the Commission and the SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the Santee Cooper Hydroelectric Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

South Carolina Public Service Authority, as licensee for Project No. 199, is invited to participate in consultations to develop the Programmatic Agreement and to sign as a concurring party to the Programmatic Agreement.

For purposes of commenting on the Programmatic Agreement, we propose to restrict the service list for Project No. 199–205 as follows:

Dr. Laura Henley, Dean, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

Dr. Rodger E. Stroup, SHPO, or Representative, Department of Archives & History, 8301 Parklane Road, Columbia, SC 29223–4905.

Dr. James T. Kardatzke, Bureau of Indian Affairs, Eastern Regional Office, 545 Marriott Drive, Suite 700, Nashville, TN 37214.

Russell Townsend or Representative, Tribal Historic Preservation Officer, Eastern Band of Cherokee Indians, Cultural Resources Department, Qualla Boundary P.O. Box 455, Cherokee, NC 28719.

Dr. Wenonah G. Haire, or Representative, Tribal Historic Preservation Officer, Catawba Indian Nation, Catawba Cultural Preservation Project, P.O. Box 750, Rock Hill, SC 29731.

Charles D. Enyart, Chief, or Representative, Eastern Shawnee Tribe of Oklahoma, P.O. Box 350, Seneca, MO 64804.

Emman Spain or Representative, Tribal Historic Preservation Officer, Seminole Nation of Oklahoma, P.O. Box 1498, Wewoka, OK 74884.

John C. Dulude, P.E., Manager, FERC Relicensing, South Carolina Public Service Authority, One Riverwood Drive, P.O. Box 2946101, Moncks Corner, SC 29461–6101.

Richard H. Kimmel, Archaeologist, Environmental Resources Section, U.S. Army Corps of Engineers, P.O. Box 1890, Wilmington, NC 28402.

Amanda Hill, U.S. Fish & Wildlife Service, Charleston Field Office, 176 Croghan Spur Road, Suite 200, Charleston, SC 29407.

Robert Morgan, Heritage Program Manager, Francis Marion & Sumter National Forests, 2421 Witherbee Road, Cordesville, SC 29434.

Any person on the official service list for the above-captioned proceedings may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date.

An original and 8 copies of any such motion must be filed with the Secretary of the Commission (888 First Street, NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list.

If no such motions are filed, the restricted service list will be effective at the end of the 15-day period. Otherwise, a further notice will be issued ruling on the motion.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–20530 Filed 10–17–07; 8:45 am]

BILLING CODE 6717–01–P

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[1] 18 CFR 385.2010.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF08–5191–000]

Western Area Power Administration; Notice of Filing

October 11, 2007.

Take notice that on October 2, 2007, the Deputy Secretary of the Department of Energy, pursuant to the authority vested on the Deputy Secretary by Delegation Order No. 00–037.00, submitted for confirmation and approval on a final basis, Rate Order No. WAPA–130 and Rate Schedules INT–FT4 and INT–NFT3, for firm and nonfirm transmission service on the Pacific Northwest-Pacific Southwest Intertie Project, effective October 1, 2007 and ending September 30, 2012.

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 November 1, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–20531 Filed 10–17–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0045; FRL–8483–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Phosphate Rock Plants (Renewal); EPA ICR Number 1078.08, OMB Control Number 2060–0111

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 November 19, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0045, to (1) EPA online using *http://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 March 9, 2007 (72 FR 10735), 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–2007–0045, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket 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, confidential business information (CBI) or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS for Phosphate Rock Plants (Renewal).

ICR Numbers: EPA ICR Number 1078.08, OMB Control Number 2060–0111.

ICR Status: This ICR is scheduled to expire on November 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 New Source Performance Standards (NSPS) for Phosphate Rock Plants were proposed on September 21, 1979, and promulgated on April 16, 1982. These standards apply to the new facilities at phosphate rock plants with capacities greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorus production. These standards rely on the capture of particulate emissions by a baghouse or wet scrubber. This information is being collected to determine compliance with 40 CFR part 60, subpart NN. In general, all NSPS standards require initial notifications, performance tests, and periodic reports. Owners or operators 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. These notifications, reports, and records are essential in determining compliance and are required of all sources subject to NSPS.

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 two years following the date of such measurements, maintenance 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 60, subpart NN, 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 55.2 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.

Respondents/Affected Entities: Phosphate rock plants.

Estimated Number of Respondents: 13.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 1,602.

Estimated Total Annual Cost: $226,427, which includes $12,210 annualized Capital Startup (CSU) costs, $111,972 annualized Operating and Maintenance (O&M) costs, and $102,245 annualized Labor costs.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is not significant change to the overall labor hours.

There is however, a change in the cost estimate. The previous ICR used a total cost figure of $124,000 for Capital Startup (CSU) costs and Operating and Maintenance (O&M) costs. This ICR uses the exact cost figure of $124,182, resulting in a small cost increase.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours in the previous ICR are used in this ICR and there is no change in the labor hours to industry.

Dated: October 11, 2007.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. E7–20566 Filed 10–17–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2004–0048; FRL–8152–2]

Amitraz; Notice of Receipt of Request to Voluntarily Cancel Uses of Amitraz Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by the registrant to voluntarily cancel their registration of Amitraz-Pyriproxyfen Flea and Tick Collar for Dogs and Puppies #1 product containing the pesticide amitraz. The requests would not terminate amitraz use in or on dogs via amitraz impregnated dog collars or terminate the last amitraz products registered for use in the United States. EPA intends to grant this request at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the request, or unless the registrant withdraws their requests within this period. Upon acceptance of this request, any sale, distribution, or use of products listed in this notice will be permitted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before November 19, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2004–0048, 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–2004–

0048. 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:

Amaris Johnson, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–9542; fax number: (703) 308–7070; e-mail address: *johnson.amaris@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, 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. Background on the Receipt of Requests to Cancel and/or Amend Registrations to Delete Uses

This notice announces receipt by EPA of a request from the registrant Virbac to cancel EPA Reg. No. 2382-170. Amitraz is used in dog collars to treat ticks. In a letter dated July 31, 2006, Virbac requested EPA cancel EPA Reg. No. 2382-170. The product registration identified in this notice Table 1. Specifically, Virbac requests cancellation of EPA Reg. No. 2382-170.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of a request from a registrant to cancel one amitraz product registration. The affected product and the registrant making the request are identified in Tables 1–2 of this unit.

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrant requests a waiver of the comment period, or

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The amitraz registrant has requested that EPA waive the 180–day comment period. EPA will provide a 30–day comment period on the proposed request.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, or if the Agency determines that there are substantive

comments that warrant further review of this request, an order will be issued canceling the affected registration.

TABLE 1.—AMITRAZ PRODUCT REGISTRATION WITH PENDING REQUESTS FOR CANCELLATION

Registration Number	Product Name	Company
2382-170	Amitraz-Pyriproxyfen Flea and Tick Collar for Dogs and Puppies #1.	Virbac

Table 2 of this unit includes the name and address of record for the registrant of the products listed in Table 1 of this unit.

TABLE 2. —REGISTRANT REQUESTING VOLUNTARY CANCELLATION AND AMENDMENTS

EPA Company Number	Company Name and Address
2382	Virbac, 3200 Meacham Blvd., Fort Worth, TX 76137

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

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Procedures for Withdrawal of Request and Considerations for Reregistration of Amitraz

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before November 19, 2007. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

In any order issued in response to this request for voluntary cancellation, the Agency proposes to allow Virbac to ship, sell and distribute their Amitraz-Pyriproxyfen Flea and Tick Collar for Dogs and Puppies #1 (EPA Reg. No. 2382-170) for 12 months after publication of the cancellation order.

If the request for voluntary cancellation is granted as discussed in this unit, the Agency intends to issue a cancellation order that will allow persons other than the registrant to continue to sell and/or use existing stocks of cancelled products until such stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled product. The order will specifically prohibit any use of existing stocks that is not consistent with such previously approved labeling. If, as the Agency currently intends, the final cancellation order contains the existing stocks provision just described, the order will be sent only to the affected registrants of the cancelled products. If the Agency determines that the final cancellation order should contain existing stocks provisions different than the ones just described, the Agency will publish the cancellation order in the **Federal Register**.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 4, 2007.

Steven Bradbury,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–20440 Filed 10–17–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8484–1]

Proposed CERCLA Administrative Cost Recovery Settlement: Waterbury Realty, LLC and Salvatore Cascino; EPAC Superfund Site, Waterbury, CT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement of past response costs concerning the EPAC Superfund Site in Waterbury, Connecticut with the following settling parties: Waterbury Realty, LLC and Salvatore Cascino. The settling parties agree to reimburse the Agency $175,000 in past costs payable in two installments; $87,500 to be paid not later than forty-five (45) days following the effective date of the settlement agreement; and, $87,500 to be paid not later than ninety days from the effective date of the settlement agreement. Additionally, the Settling Parties shall pay to EPA twenty-five percent (25%) of any cash payment they receive as a result of any contribution suit or claim against or settlement agreement with Great Brook Realty, Inc., for matters related to the settlement agreement. This settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02114–2023.

DATES: Comments must be submitted by November 19, 2007.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100 (RAA), Boston, Massachusetts 02114–2023 and should refer to: The EPAC Superfund Site, U.S. EPA Docket Number 01–1007–0147.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Sarah Meeks, Enforcement Counsel, U.S. Environmental Protection Agency, Region I, Office of Environmental Stewardship, One Congress Street, Suite 1100 (SES), Boston, MA 02114–2023, (617) 918–1438.

Dated: October 11, 2007.

James T. Owens, III,

Director, Office of Site Remediation and Restoration.

[FR Doc. E7–20580 Filed 10–17–07; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Aeronautics Science and Technology Subcommittee; Committee on Technology; National Science and Technology Council

ACTION: Request for review and comment on draft high-priority national aeronautics research and development (R&D) challenges, goals and objectives and notice of meeting.

Background: The Aeronautics Science and Technology Subcommittee (ASTS) of the National Science and Technology Council's (NSTC) Committee on Technology (COT) will post a draft of the high-priority national aeronautics R&D challenges, goals and objectives and request public comment. These challenges, goals and objectives will provide the foundation for a plan for national aeronautics R&D and for related research, development, test and evaluation (RDT&E) infrastructure (Plan). Executive Order (E.O.) 13419—National Aeronautics Research and Development—signed December 20, 2006, calls for the development of this Plan and further directs biennial updates. The Plan is to be guided by the National Aeronautics Research and Development Policy (Policy) that was prepared by the National Science and Technology Council and endorsed by E.O. 13419. [Both the Policy and E.O. 13419 are available via: *http://www.ostp.gov/nstc/aeroplans/*]. The draft high-priority national aeronautics R&D challenges, goals and objectives for the Plan originate from the Principles detailed in the Policy (with the exception of the aviation security and workforce principles, which are under consideration in different venues). A public meeting (detailed below) will be held in conjunction with this request for comments.

Request for Review and Comment: E.O. 13419 and the National Aeronautics R&D Policy call for executive departments and agencies (D&A) conducting aeronautics R&D to engage industry, academia and other non-Federal stakeholders in support of government planning and performance of aeronautics R&D. The purposes of this posting are to provide notice of request for comments on the draft high-priority national aeronautics R&D challenges, goals and objectives as they relate to federal government activities in this area, including RDT&E infrastructure.

Posting, Date and Web Site Address: The draft national aeronautics R&D challenges, goals and objectives will be posted by COB on October 22, 2007 at: *http://www.ostp.gov/nstc/aeroplans/.*

Submission of Comments: A spreadsheet will be provided for submission of comments at *http://www.ostp.gov/nstc/aeroplans/.* Comments must be returned to: *aero-rd-comments1@ostp.gov* by 1 p.m. EST, Wednesday, November 7, 2007. Readers are advised that comments provided after the deadline or provided in a format other than the prescribed spreadsheet may not be considered. Readers are also advised that the scope of this request is general in nature and does not include proprietary equipment, technologies, programs, and/or specific facilities.

Notice of Meeting: The ASTS of the NSTC COT will hold a public meeting to provide background, answer questions, and receive comments on the draft national aeronautics R&D challenges, goals, and objectives. The meeting will be held on Thursday, October 25, 2007 from 2 p.m.–4 p.m. (EST) in the auditorium of the National Aeronautics and Space Administration (NASA) Headquarters Building (300 E Street, SW., Washington, DC 20546 (please enter through the West entrance)). Attendees may be requested to present a valid, government issued, picture identification for entry. For individuals who prefer to phone into the meeting, a listen-only telephone bridge is planned. The telephone number, access code and further details will be made available at *http://www.ostp.gov/nstc/aeroplans/* prior to the public meeting. Seating and phone lines are limited and will be available on a first-come, first-served basis. Registration is not required.

FOR FURTHER INFORMATION CONTACT: William Davis, National Science and Technology Council, Office of Science and Technology Policy, New Executive Office Building, Washington, DC 20502—telephone (202) 456–6012. Additional information is also available at the Office of Science and Technology Policy NSTC Web site at: *http://www.ostp.gov/nstc/aeroplans/.*

Pamela J. Smith,

Acting Operations Manager.

[FR Doc. E7–20611 Filed 10–17–07; 8:45 am]

BILLING CODE 3170–W8–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 07–4015]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Mr. Federowicz from the schools and libraries universal service support mechanism (or ''E-Rate Program'') for a period of three years based on his conviction of mail fraud in connection with his participation in the program. The Bureau takes this action in order to protect the E-Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. Scott A. Federowicz receives the debarment letter or October 18, 2007, whichever date comes first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Diana Lee may be contacted by phone at (202) 418–0843 or e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. Federowicz from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR part 521 and 47 CFR 0.111(a)(14). Attached is the debarment letter, DA 07–4015, which was mailed to Mr. Federowicz and released on September 24, 2007. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com.*

Federal Communications Commission.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

The suspension letter follows:

September 24, 2007.

Via Certified Mail
Return Receipt Requested and E-Mail

Mr. Scott A. Federowicz, c/o Paul H.D. Stoughton, Conway & Stoughton, LLP, 818 Farmington Ave., West Hartford, CT 06119.

Re: Notice of Debarment, File No. EB–07–IH–5171.

Dear Mr. Federowicz: Pursuant to section 54.521 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism (or ''E-Rate program'') for a period of three years.[1]

On June 27, 2007, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'').[2] That Notice of Suspension was published in the **Federal Register** on July 18, 2007.[3] The Notice of Suspension suspended you from the schools and libraries universal service support mechanism and described the basis for initiation of debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in the **Federal Register**.[5] The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, on May 9, 2007, you were convicted based on your guilty plea to a felony information charging you with mail fraud, in violation of 18 U.S.C. 1341.[6] You pled guilty to approving approximately $452,203 of fictitious expenses for non-existent E-Rate work that ultimately were submitted to the Universal Service Administrative Company for reimbursement from the E-Rate funds.[7] Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.521(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, i.e., the earlier date of your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.''[10]

Sincerely,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

CC: Calvin B. Kurimai, Esq., Assistant United States Attorney , Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail).

[FR Doc. E7–20571 Filed 10–17–07; 8:45 am]

BILLING CODE 6712–01–P

[1] See 47 CFR 0.111(a)(14), 54.521.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Scott A. Federowicz, Notice of Suspension and Initiation of Debarment Proceedings, 22 FCC Rcd 11569 (Inv. & Hearings Div., Enf. Bur. 2007) (Attachment 1).

[3] 72 FR 39425 (Jul. 18, 2007).

[4] See Notice of Suspension, 22 FCC Rcd at 11571.

[5] See 47 CFR 54.521(e)(3) and (4). That date occurred no later than August 17, 2007. See supra note 3.

[6] Notice of Suspension, 22 FCC Rcd at 11570.

[7] Notice of Suspension, 22 FCC Rcd at 11570.

[8] Id. at 11571; 47 CFR 54.521(c).

[9] See Notice of Suspension, 22 FCC Rcd at 11571.

[10] See 47 CFR 54.521(a)(1), 54.521(a)(5), 54.521(d); Notice of Suspension, 22 FCC Rcd at 11571.

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, October 23, 2007 at 10 A.M.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: 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.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–5174 Filed 10–16–07; 3:28 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 2, 2007.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Notice by L. Kent Needham Revocable Stock Trust, L. Kent Needham, trustee, and Terry L. Needham Revocable Stock Trust, Terry L. Needham, trustee, all of Tonganoxie, Kansas, to acquire voting shares of Overbrook Bankshares, Inc., and thereby indirectly acquire voting shares of The First Security Bank, both in Overbrook, Kansas.

Board of Governors of the Federal Reserve System, October 15, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–20563 Filed 10–17–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also

includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 2007.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. IBT Bancorp, Inc., Mt. Pleasant, Michigan; to merge with Greenville Community Financial Corporation, and thereby indirectly acquire voting shares of Greenville Community Bank, both of Greenville, Michigan.

Board of Governors of the Federal Reserve System, October 15, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.E7–20562 Filed 10–17–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of September 18, 2007

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on September 18, 2007.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long–run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with reducing the federal funds rate at an average of around 4¾ percent.

[1] Copies of the Minutes of the Federal Open Market Committee meeting on September 18, 2007, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

By order of the Federal Open Market Committee, October 10, 2007.

Brian F. Madigan,

Secretary, Federal Open Market Committee.

[FR Doc. E7–20554 Field 10–17–07; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

2007 Federal Acquisition Institute Vendor meeting

AGENCY: Office of the Chief Acquisition Officer, GSA

ACTION: Notice of meeting.

SUMMARY: The Federal Acquisition Institute (FAI) will hold a vendor meeting to provide information on the Federal Acquisition Certification in Program/Project Management (FAC-P/PM) to include program details, and opportunities for vendors to support the training of federal program and project managers.

The purpose of this certification program is to establish the competencies, training, and experience requirements for program and project managers in civilian agencies. The FAC-P/PM focuses on essential competencies needed for program and project managers; the program does not include functional or technical competencies, such as those for information technology, or agency-specific competencies. The certification requirements will be accepted by, at minimum, all civilian agencies as evidence that an employee meets the core competencies, training and experience requirements.

The FAC-P/PM was announced by the Office of Federal Procurement Policy (OFPP) on April 25, 2007. At this vendor meeting, FAI will present its approach for partnering with vendors on this initiative.

WHO SHOULD ATTEND?

Training developers, vendors with Commercial-Off-The- Shelf (COTS) training products, vendors with capabilities related to the full Instructional System Design (ISD) methodologies, professional associations, educational institutions and acquisition training experts.

The meeting will be held October 30, 2007 from 2:00 pm to 3:30 pm, GSA Auditorium located at 1800 F Street, NW, Washington, D.C.

Register by email: *maria__hernandez@sra.com*, or call (703) 284–6988.

FOR FURTHER INFORMATION CONTACT: Ms. Maria Hernandez, by phone at 703–284–6988 or by e-mail at *maria__hernandez@sra.com.*

Linda Ott,

Program Analyst, Federal Acquisition Institute

[FR Doc. E7–20593 Filed 10–17–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the President's Council on Bioethics on November 8–9, 2007

AGENCY: The President's Council on Bioethics, HHS.

ACTION: Notice.

SUMMARY: The President's Council on Bioethics (Edmund D. Pellegrino, MD, Chairman) will hold its thirty-first meeting, at which it will continue (1) its inquiry into the ''crisis'' of the healing professions with expert presentations and Council discussions; and (2) its inquiry into the moral foundations of health care. Subjects discussed at past Council meetings (although not on the agenda for the November 2007 meeting) include: Therapeutic and reproductive cloning, assisted reproduction, reproductive genetics, neuroscience, aging retardation, organ transplantation, newborn screening, human dignity, personalized medicine, and lifespan-extension. Publications issued by the Council to date include: *Human Cloning and Human Dignity: An Ethical Inquiry* (July 2002); *Beyond Therapy: Biotechnology and the Pursuit of Happiness* (October 2003); *Being Human: Readings from the President's Council on Bioethics* (December 2003); *Monitoring Stem Cell Research* (January 2004), *Reproduction and ResponsibilityL: The Regulation of New Biotechnologies* (March 2004), *Alternative Sources of Human Pluripotent Stem Cells: A White Paper* (May 2005), and *Taking Care: Ethical Caregiving in Our Aging Society* (September 2005). Reports on (a) the bioethical significance of the concept of human dignity, (b) controversies in the determination of death, and (c) organ procurement, transplantation, and allocation are forthcoming.

DATES: The meeting will take place Thursday, November 8, 2007, from 9 a.m. to 5 p.m., ET; and Friday, November 9, 2007, from 9 a.m. to 11 a.m. ET.

ADDRESSES: Hotel Washington, 515 15th Street (at Pennsylvania Avenue), NW., Washington, DC 20004. Phone 202–638–5900.

Agenda: The meeting agenda will be posted at *http://www.bioethics.gov*.

Public Comments: The Council encourages public input, either in person or in writing. At this meeting, interested members of the public may address the Council, beginning at 10:45 a.m. on Friday, November 9. Comments are limited to no more than five minutes per speaker or organization. As a courtesy, please inform Ms. Diane M. Gianelli, Director of Communications, in advance of your intention to make a public statement, and give your name and affiliation. To submit a written statement, mail or e-mail it to Ms. Gianelli at one of the addresses given below.

FOR FURTHER INFORMATION CONTACT: Ms. Diane M. Gianelli, Director of Communications, The President's Council on Bioethics, 1425 New York Avenue, NW., Suite C100, Washington, DC 20005. Telephone: 202/296–4669. E-mail: *info@bioethics.gov,* Web site: *http://www.bioethics.gov*.

Dated: October 10, 2007.

F. Daniel Davis,

Executive Director, The President's Council on Bioethics.

[FR Doc. 07–5145 Filed 10–17–07; 8:45 am]

BILLING CODE 4154–06–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Health and Nutrition Examination Survey (NHANES) DNA Samples: Guidelines for Proposals To Use Samples and Cost Schedule

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The National Health and Nutrition Examination Survey (NHANES) is a program of periodic surveys conducted by the National Center for Health Statistics (NCHS) of the Centers for Disease Control and Prevention (CDC). Examination surveys conducted since 1960 by NCHS have provided national estimates of the health and nutritional status of the U.S. civilian noninstitutionalized population. To add to the extensive amount of information collected for the purpose of describing the health of the population, DNA specimens were collected during two NHANES surveys. DNA is available in the form of crude lysates of cell lines derived from approximately 7,157 participants enrolled in Phase II of NHANES III (1991–1994). In addition, DNA purified from whole blood is also available from approximately 7,900 participants enrolled in the 1999–2002 NHANES survey years. All specimens (NHANES III and NHANES 1999–2002 were sent to the Division of Laboratory Sciences (DLS) at the National Center for Environmental Health (NCEH) for processing. DNA samples from these specimens are being made available to the research community for genetic analyses.

No funding is provided as part of this solicitation. NCHS will begin to accept proposals after the publication of this notice and will continue to accept proposals on an on-going basis.

Proposals received within 60 days of the notice will complete review approximately 180 days after the notice is published. After this initial review of proposals, all proposal categories will be reviewed twice a year beginning January 1 and July 1 of each year. Unforeseen circumstances could result in a change to this schedule. Proposals will be reviewed by a technical panel and by an internal Secondary Review Committee of senior CDC scientists. The Secondary Review Committee will perform a programmatic review based on the results of the technical review panel and consider the scientific and technical results from the first level of review, important programmatic considerations such as program priorities, program relevance, and other criteria germane to this announcement and to CDC. Projects approved by both reviews will be submitted to the NCHS Ethics Review Board for final approval.

Approved projects that do not obtain funding on their own will be canceled. A more complete description of this program follows.

DATES: • *Submission of Proposals:* December 17, 2007, and thereafter on January 1 and July 1.

• *Scientific Review:* 30 days after proposal submission date.

• *Secondary Review:* Approximately 30 days after Scientific review is complete.

• *Ethics Review Board:* Approximately 30 days after Secondary review is complete.

• *Notification of approval:* Approximately 30 days after ERB approval.

• *Anticipated distribution of samples:* Approximately 60 days after all approvals are obtained.

Note: Timeframe may vary depending on the nature of the proposal and the results of each level of review. Unforeseen circumstances could result in a change to this schedule.

ADDRESSES: *To send comments and for information, contact:* Christopher Sanders, Division of Health and Nutrition Examination Surveys, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 4203, Hyattsville, MD 20782, *Phone:* 301–458–4840, *FAX:* 301–458–4028, *E-mail: NHANESgenetics@cdc.gov.*

Authority: Sections 301 and 306 of the Public Health Service Act (42 U.S.C. 241 and 242k).

SUPPLEMENTARY INFORMATION: The goals of NHANES are (1) to estimate the number and percentage of people in the U.S. population and designated subgroups with selected diseases and risk factors for those diseases; (2) to monitor trends in the prevalence, awareness, treatment and control of selected diseases; (3) to monitor trends in risk behaviors and environmental exposures; (4) to analyze risk factors for selected diseases; (5) to study the relation among diet, nutrition and health; (6) to explore emerging public health issues and new technologies; (7) to establish and maintain a national probability sample of baseline information on health and nutritional status.

The availability of the NHANES III DNA samples has been previously announced (Thursday, August 8, 2002 [67 FR 51585] and Friday, January 13, 2006 [71 FR 22248]). NHANES III DNA samples are in the form of crude cell lysates available from the cell lines derived from samples obtained from Phase II (1991–1994) participants. DNA concentrations are unknown and vary between samples (see NHANES III DNA Samples section for a description).

Beginning in 1999, NHANES became a continuous, annual survey rather than a periodic survey. For a variety of reasons, including disclosure and reliability issues, the survey data are released on public use data files every two years. In addition to the analysis of data from any two year cycle, it is possible to combine two cycles to increase sample size and analytic options. Blood samples for DNA purification were collected from participants age 20 or more years in survey years 1999–2002. Purified DNA samples are available from these survey years in a single set. DNA samples can be obtained and analyzed with survey data from the NHANES 1999–2000 or 2001–2002 or all four years combined (NHANES 1999–2002). The data release cycle for the NHANES during the period in which DNA specimens were collected is described as NHANES 1999–2000 and NHANES 2001–2002.

See: *http://www.cdc.gov/nchs/about/major/nhanes/nhanes99_00.htm* or *http://www.cdc.gov/nchs/about/major/nhanes/nhanes01–02.htm* for additional details.

Identifiable health information collected in the NHANES is kept in strictest confidence. During the informed consent process, survey participants are assured that data collected will be used only for stated purposes and will not be disclosed or released to others without the consent of the individual in accordance with section 308(d) of the Public Health Service Act (42 U.S.C. 242m). In NHANES 1999–2002, a separate consent form was signed by eligible participants who agreed to the storing of specimens for future genetic research. Only participants that consented specifically to future genetic research in 1999–2002 will be available for analyses. Genetic variation results will be linked to the requested information from the NHANES public use data file by the Division of Health and Nutrition Examination Surveys (DHANES) staff. All analyses must be done through an NCHS RDC approved mechanism to assure confidentiality.

Research Proposals Categories: Note that the following proposal categories differ from those used in previous announcements for use of NHANES III DNA samples (Thursday, August 8, 2002 [67 FR 51585] and Friday January 13, 2006 [71 FR 22248]).

Category (A): Studies involving the typing of the complete set of NHANES DNA samples (NHANES III, 7,157 samples; NHANES 1999–2002, approximately 7,900 samples) for selected genes and relating these findings to demographic data or demographic and phenotypic data available from NHANES. This category is open for proposals for use of NHANES III or NHANES 1999–2002 samples. A total of ten full sets of samples for each survey cycle will be available for any review cycle. The investigator will specify which DNA bank, NHANES III or NHANES 1999–2002, they are requesting as well as the genetic analyses to be conducted on the samples. The investigator will also include in the research protocol an analytic plan that includes a list of NHANES demographic and clinical variables that would be used for the data analyses. The researcher will conduct the genetic analyses of the approved variations on the samples that are labeled with a unique identification number that is not directly linkable to the public use file and therefore, anonymous to the researcher. To analyze these data with the NHANES public use data, the researcher will provide the genetic variation results with the identification numbers to the Division of Health and Nutrition Examination Surveys. The identification numbers will be matched to the requested variables from public use files data by DHANES staff for analyses that must be conducted through the NCHS Research Data Center (RDC) or its equivalent.

Proposals are limited to the testing of 3,000 genetic variations or less because CDC has proposals to perform whole genome analysis on these samples under review.

After the NCHS has completed the initial quality control assessment, researchers will be given up to six months to conduct a more comprehensive quality assurance review. The timeframe allowed for this review will depend on the number and characteristics of the genetic tests submitted. At the completion of this review, an announcement will be made to the public announcing the availability of the genetic variation results and the opportunity to link these results to other NHANES data for secondary data analysis. The list of currently available SNPs is available at: *http://www.cdc.gov/nchs/about/major/nhanes/genetic.htm.*

All samples will be distributed in complete sets of samples of 96 well plates. NHANES III DNA is in the form of crude cell lysates. There will be a total of 7,157 NHANES III samples distributed in a total of 75 plates with an additional five plates of quality control samples. There are approximately 7,900 NHANES 1999–2002 purified DNA samples. These will be distributed into 83 plates with approximately five plates of quality control samples.

Note: If the investigator would like to propose a subsample of the full set, please contact the Program to discuss feasibility.

Category (B): Additional research using samples already obtained from previous solicitations: Researchers that have obtained NHANES DNA samples from previous solicitations and have sufficient DNA left may request to do additional tests on the remaining DNA. Proposals under this Category must be submitted and approved before the DNA samples were scheduled to be destroyed or returned. The investigator will specify the genetic analyses to be conducted on the samples. The investigator will also include in the research protocol an analytic plan that includes a list of demographic and clinical variables that would be used for the data analyses.

NHANES III DNA Samples

The laboratory will distribute aliquots of crude cell lysates. DNA concentrations vary and are estimated to range from 7.5–65 ng/μL with an average of approximately four micrograms in 100 ul. Each 96 well plate will be bar-coded and labeled with a readable identifier. Quality control samples (approximately 480 samples) will be sent at no charge, either inserted with the NHANES samples or in separate plates, as blind replicates and/or blanks. Description of these samples and cost has been previously published; see: (Friday, January 13, 2006 [71 FR 22248]).

NHANES 1999–2002 DNA Samples

The laboratory will distribute aliquots of purified DNA of normalized concentrations of 50 nanograms per microliter whenever possible. Some samples may fall below this threshold. Forty microliters of each specimen will be supplied. The amount of DNA in each aliquot may vary but will be on average approximately two micrograms. Each 96 well plate will be bar-coded and labeled with a readable identifier. Quality control samples (approximately 480 samples) will be sent at no charge, either inserted with the NHANES samples or in separate plates, as blind replicates and/or blanks.

Proposed Cost Schedule for Providing Nhanes Dna Samples. Costs are determined both for NCEH and NCHS and include the physical materials needed to process the samples at the NCEH laboratory, as well as the materials to process the requests for samples at NCHS. These costs include salaries of the staff needed to conduct these activities at each Center. The fee is estimated to cover the costs of processing, handling, and preparing the samples. Technical panel travel and expenses are based on the panel meeting twice a year. The space estimate is based on acquiring storage and sample aliquoting space in the laboratory.

The cost per samples for NHANES III samples is the same as published in 2006 (Friday, January 13, 2006 [71 FR 22248]). The additional cost for the NHANES 1999–2002 samples is due to the increased costs associated with DNA purification and normalization of this collection.

Total costs	Cost per sample full set, 99–02	Cost per sample partial set, 99–02 (special request)	Cost per sample full set, NHANES III	Cost per sample partial set, NHANES III (special request)
Materials	$0.89	$2.19	$0.85	$1.90
Labor	4.60	25.30	3.30	22.00
Application review and other administrative expenses	0.54	3.09	0.35	2.69
Space	0.17	1.12	0.13	0.97
Subtotal	6.20	31.70	4.63	27.56
NCHS overhead (18 percent)	1.12	5.71	0.83	4.97
Subtotal	7.32	37.41	5.46	32.52
CDC/FMO overhead (0.9 percent)	0.66	3.37	0.49	2.93
Total sample cost per sample	7.98	40.78	5.95	35.45
TOTAL COST PER PROPOSAL	$63,024.00	NA	$42,596.36	NA
Total cost per category B proposal: for Data handling.	6,302	10 percent of original cost of samples	4,260	10 percent of original cost of samples

Procedures for Proposals: The investigator should follow these instructions for preparation of proposals. Both proposal categories need a full research proposal for review. The cover page of the research proposal should contain the title of the research project, the name, address phone number and E-mail address of the lead investigator along with the name of the institution where the DNA analysis will be done, and the category of proposal (A or B) submitted. OHRP assurance numbers for the institutions engaged in the research project should be included. CDC investigators need to include their Scientific Ethics Verification Number. E-mail submission of the proposal is encouraged.

The proposals should be a maximum of 20 single-spaced typed pages, excluding figures and tables, using ten cpi type density. Please use appendices sparingly. If a proposal is approved, the title, specific aims, name, and phone number of the author will be maintained by NCHS and released if requested by the public. Unapproved proposals will be returned to the investigator and will not be maintained by NCHS.

Since the number of sets of DNA is limited, proposals will be reviewed by the technical panel and then will be reviewed by a secondary review panel composed of CDC officials. The technical panel will determine if the proposal is technically sound and if so, the technical panel will rank the proposal on a scale of 0–100. Proposals that are rejected will not be scored. The technical panel will evaluate the whole proposal but will focus on proposal elements 1, 3, and 4.

Applications will also be reviewed by an internal Secondary Review Committee which will perform a programmatic review based on the results of the peer review for technical merit. The Secondary Review Committee considers the scientific and technical merit results from the first level of review, important programmatic considerations such as program priorities, program relevance, and other criteria germane to this announcement and to CDC. The secondary review panel will be comprised of senior CDC scientists.

Proposals should include the following information:

(1) Specific Aims: List the broad objectives; describe concisely and realistically what the research is intended to accomplish, and state the specific hypotheses to be tested.

(2) Background and Public Health Significance: Describe the public health significance, scientific merit, and practical utility of the proposed research. Scientific merit will be judged on the basis of the scientific, technical, or medical significance of the research; the appropriateness and adequacy of the experimental approach; and the methodology proposed to reach the research goals. Convey how the results will be used and the relationship of the results to the data already collected in NHANES 1999–2002. Analyses should be consistent with the NHANES mission to assess the health of the nation. Because NHANES is a complex, multistage probability sample of the national population, the appropriateness of using the NHANES sample to address the goals of the proposal will be an important aspect of determining scientific merit. The Panel will ensure that the proposed project does not go beyond either the general purpose for collecting the samples in the survey, i.e., to determine allele frequencies in subgroups of the population, or, the specific stated goals of the proposal.

(3) Research Design and Methods: Include power calculations and a list of variables requested. For all proposal categories, include a detailed description of the laboratory methods. The characteristics of the laboratory assay, such as reliability, validity, should be included with appropriate references. The potential difficulties and limitations of the proposed procedures should also be discussed. Category A proposals will be provided with approximately 480 quality control samples at no additional cost. Approved projects must run these quality control samples and submit the results from the NHANES DNA samples. Category B proposals will be required to use residual quality control samples. The proposal should contain a discussion of additional quality control procedures the laboratory will use to assure the validity of the test results. Address adequate methods planned for handling and storage of samples.

(4) Discussion Regarding the Race/Ethnicity Variables: If the research is limited to specific race or ethnic groups (only applicable for a subsample request) or if information about the race or ethnicity of the subjects is requested, indicate the reason for analyzing race/ethnicity and how the results will be interpreted. Discuss the potential for group harm.

(5) Clinical Relevance of Research Findings: The samples under this Plan are available for genetic research, not genetic testing. Therefore, it is the intent of the program to approve only those proposals that would yield meaningful research, but not clinically relevant information for the participants.

Researchers should justify that the test results should not be reported to the subjects.

(6) Qualifications: Provide a brief description of the requestor's expertise in the proposed area, including publications in this area within the last three years.

(7) Period of Performance: Specify the project period. The period may be up to three years. At the end of the project period, any unused samples must be returned to the NHANES DNA Specimen Bank in accordance with instructions from the Division of Environmental Laboratory Science. Extensions to the period of performance may be requested.

(8) Funding: Include the source and status of the funding to perform the requested laboratory analysis. Investigators will be responsible for the cost of processing and shipping the samples. Currently the cost per DNA specimen is $7.98 for NHANES 1999–2002 proposals that use the full set of approximately 7,900 samples. Costs for partial sets are $40.78 per specimen. Reimbursement for the samples will be collected before the samples are released. NHANES III samples which are DNA crude lysates, not purified DNA, are $5.95 per sample for the 7,157 total set of samples. If a subsample of NHANES III is requested and approved the cost schedule published in (Friday, January 13, 2006 [71 FR 22248]) will be utilized ($35.45 per sample).

Public Availability of Data

Genetic test results from all studies using NHANES DNA samples will be made available to the public for secondary data analyses. After the NCHS quality control review is completed, researchers will be given up to six months to conduct a more comprehensive quality assurance review. The final quality control review timeframe will be negotiated between the researcher and the NCHS Project Officer and will depend on the number and characteristics of the genetic tests submitted. This time for final review is provided before the announcement is made to the public that the test results are available for submission of proposals for secondary data analyses. The list of currently available genotypes will be outlined on: *http://www.cdc.gov/nchs/about/major/nhanes/genetic.htm.* Proposals for secondary data analyses linking NHANES public use data with genetic variation data are accepted in May and October of each year.

Proposals reviewed by a Genetics Technical Panel and the Secondary Review Panel will be reviewed by the CDC/NCHS Ethics Review Board (ERB) to ensure appropriate for human subjects protections are provided, in compliance with 45 CFR part 46. The ERB review will be conducted, even though investigators' proposals may have received review by their home institution. The Director of NCHS will verify that projects have received appropriate reviews.

Requirements for the Inclusion of Women and Racial and Ethnic Minorities in Research: In NHANES III and NHANES 1999–2002, race/ethnicity was derived by combining responses to questions on race and Hispanic origin. These categories are defined as non-Hispanic white, non-Hispanic black, or Mexican American. Individuals who did not self-select into these categories were classified as ''other''. If proposal requests a subsample and excludes one or more race/ethnic groups or a gender, this exclusion must be justified.

CDC is also sensitive to the stigmatization of racial/ethnic specific populations through inappropriate reporting and interpretation of findings. For all proposals that request information on race/ethnicity for the samples selected, the investigator should indicate the reason for analyzing race/ethnicity and how the results will be interpreted.

Submission of Proposals: Proposals can be submitted immediately. The review process will begin approximately 60 days from the publication of the notice and will include all proposals submitted as of that date, electronic submission of proposals is encouraged. *Please submit proposals to:* Christopher Sanders, Division of Health and Nutrition Examination Surveys, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 4203, Hyattsville, MD 20782, *Phone:* 301–458–4840, *FAX:* 301–458–4028, *E-mail: NHANESgenetics@cdc.gov.*

Approved Proposals: The genetic results will be sent back to NCHS so they can be linked to the requested NHANES III or NHANES 1999–2002 public use data. Analysis will be done in the Research Data Center.

Agency Agreement: A formal signed agreement in the form of a Materials Transfer Agreement (MTA) with individuals who have projects approved will be completed before the release of the samples. This agreement will contain the conditions for use of the DNA as stated in this document and as agreed upon by the investigators and CDC. A key component of this agreement is that no attempt will be made to link the results of the proposed research to any other data, including, but not limited to, the NHANES public use data sets outside the Research Data Center. Also, the investigator agrees that the samples cannot be used for commercial purposes. A list of genes generated from the testing of the NHANES samples will be made available to the public for potential solicitation of proposals for secondary data analysis after the quality control process has been completed (approximately six months after NCHS receives the genetic variation results). These secondary data analysis proposals must also be reviewed by the ERB.

Progress Reports: A progress report will be submitted annually. CDC/NCHS ERB continuation reports are also required annually. An ERB continuation form will be sent to the researcher each year for project update.

Disposition of Results and Samples: No DNA samples provided can be used for any purpose other than those specifically requested in the proposal and approved by the Genetics Technical Panel, the Secondary Review Committee and the NHANES ERB. No sample can be shared with others, including other investigators, unless specified in the proposal and so approved. Any unused samples must be returned upon completion of the approved project. These results, once returned to NCHS and quality controlled, will be part of the public domain. Genetic test results from all studies using NHANES DNA samples will be made available to the public for secondary data analyses. After the NCHS quality control review is completed, researchers will be given up to six months to conduct a more comprehensive quality assurance review. The final quality control review timeframe will be negotiated between the researcher and the NCHS Project Officer and will depend on the number and characteristics of the genetic tests submitted. Data analyses will be conducted at the NCHS' Research Data Center or similar environment provided by NCHS. Proposals for secondary data analyses are accepted in May and October of each year (*http://www.cdc.gov/nchs/about/major/nhanes/genetic.htm*).

Send Requests for Information: Christopher Sanders, Division of Health and Nutrition Examination Surveys, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 4203, Hyattsville, MD 20782, *Phone:* 301–458–4840. *FAX:* 301–458–4028. *E-mail: NHANESgenetics@cdc.gov.*

Dated: October 11, 2007.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–20592 Filed 10–17–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2000D–0084] (formerly 00D–0084)

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Guidance for Industry on Special Protocol Assessment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Guidance for Industry on Special Protocol Assessment'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 22, 2007 (72 FR 34470), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0470. The approval expires on October 31, 2010. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: October 12, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–20549 Filed 10–17–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 11 and 12, 2007, from 8 a.m. to 5 p.m.

Location: Sheraton College Park Hotel, 4095 Powder Mill Rd., Beltsville, MD, 301–937–4422.

Contact Person: Cathy A. Miller, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *Cathy.Miller1@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512533. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On December 11, 2007, the committee will discuss new drug application (NDA) 22–034, vernakalant hydrochloride injection, 20 milligrams (mg) per milliliter (ml), Astellas Pharma U.S., Inc., for the proposed indication of use for conversion of atrial fibrillation to normal sinus rhythm. On December 12, 2007, the committee will discuss NDA 22–123, PULZIUM (tedisamil sesquifumarate) IV solution 2 mg per ml, Solvay Pharmaceuticals, Inc., for the proposed indication of use for conversion of atrial fibrillation or atrial flutter to normal sinus rhythm.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 27, 2007. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on both days for the corresponding agenda. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 16, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 20, 2007.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact John Lauttman at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 11, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–20512 Filed 10–17–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 6, 2007, from 8 a.m. to 5 p.m.

Location: Sheraton College Park Hotel, The Ballroom, 4095 Powder Mill Rd., Beltsville, MD. The hotel telephone number is 301–937–4422.

Contact Person: Darrell Lyons, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *darrell.lyons@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512543. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 21–894, tetrabenazine, Prestwick Pharmaceuticals, Inc., for the proposed indication to treat chorea associated with Huntington's disease.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 21, 2007. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 7, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 8, 2007.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Darrell Lyons at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 11, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–20511 Filed 10–17–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Science Board to the Food and Drug Administration (Science Board). This meeting was originally announced in the **Federal Register** of October 2, 2007 (72 FR 56078). The amendment is being made to reflect a change in the *Date and Time* and *Procedure* portions of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Carlos Peña, Office of the Commissioner, Food and Drug Administration (HF–33), 5600 Fishers Lane, Rockville, MD, 20857, 301–827–6687, *carlos.Peña@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512603.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 2, 2007, FDA announced that a meeting of the Science Board would be held on October 30, 2007. On page 56078, beginning in the second column, the *Date and Time* and *Procedure* portions of the document are amended to read as follows:

Date and Time: The meeting will be held on December 3, 2007, from 8 a.m. to 5:30 p.m.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 26, 2007. Oral presentations from the public will be scheduled between approximately 4 p.m. and 5 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on

or before November 16, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 19, 2007.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: October 12, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–20550 Filed 10–17–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–0007]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number: 1625–0106

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) requesting an extension of their approval for the following collection of information: 1625–0106, Unauthorized Entry into Cuban Territorial Waters. Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 17, 2007.

ADDRESSES: To make sure your comments and related material do not enter the docket [USCG–2007–0007] more than once, please submit them by only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail or Hand Deliver to:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Hand deliver between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) *Fax to:* Docket Management Facility: 202–493–2251.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number for this request [USCG–2007–0007], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows us to contact you in the event further information is needed or if there are questions. For example, if we cannot read your submission due to technical difficulties and you cannot be contacted, your submission may not be considered. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Click on ''Search for Dockets,'' and enter the docket number for this notice (USCG–2007–0007) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

Information Collection Request

1. *Title:* Unauthorized Entry into Cuban Territorial Waters.

OMB Control Number: 1625–0106.

Summary: This information collection is needed to enforce, comply with and facilitate application for permits under the unauthorized entry into Cuban territorial seas regulations (33 CFR part 107) promulgated under 50 U.S.C. 191 and 194, and Presidential Proclamation 6867, 61 FR 8843, 3 CFR, 1996 Comp., p. 8; Presidential Proclamation 7757 (69 FR 9515, March 1, 2004).

Need: Title 33 CFR part 107 prescribes regulations governing the unauthorized entry by U.S. vessels into Cuban territorial waters and their applications for permits to enter. The collection of information from applicants is required to comply with the regulations and to facilitate the application process for persons seeking

permits to enter Cuban territorial seas pursuant to the regulation.

Respondents: Owners, operators and masters of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 133 hours to 1 hour a year.

Dated: October 11, 2007.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E7–20606 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–0008]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number: 1625–0003

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) requesting a revision of their approval for the following collection of information: 1625–0003, Coast Guard Boating Accident Report Form (CG–3865). Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 17, 2007.

ADDRESSES: To make sure your comments and related material do not enter the docket [USCG–2007–0008] more than once, please submit them by only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail or Hand deliver to:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Hand deliver between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) *Fax to:* Docket Management Facility: 202–493–2251.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number for this request [USCG–2007–0008], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows us to contact you in the event further information is needed or if there are questions. For example, if we cannot read your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8–½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Click on ''Search for Dockets,'' and enter the docket number for this notice (USCG–2007–0008) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

Information Collection Request

1. *Title:* Coast Guard Boating Accident Report Form (CG–3865).

OMB Control Number: 1625–0003.

Summary: Title 46 U.S.C. 6102(b) requires the Secretary to collect, analyze and publish reports, information, and statistics on marine casualties. The Coast Guard Boating Accident Report Form (CG–3865) is the data collection instrument that enables the Coast Guard to comply with this mandate.

Need: Title 46 U.S.C. 6102(a) requires a uniform marine casualty reporting system with regulations prescribing casualties to be reported, and the manner thereof. The statute requires a State to compile and submit to the Secretary (delegated to the Coast Guard) reports, information, and statistics on casualties reported. Implementing regulations are contained in 33 CFR part 173—Vessel Numbering and Casualty and Accident Reporting; subpart C—Casualty and Accident Reporting, and 33 CFR part 174—State Numbering and Casualty Reporting Systems; subpart C—Casualty Reporting System Requirements; and subpart D—State reports.

States are required to forward copies of the reports or electronically transmit

accident report data to the Coast Guard within 30 days of receipt of the report as prescribed in 33 CFR 174.121. The accident report data and statistical information obtained from the reports submitted by the State reporting authorities are used by the Coast Guard in the compilation of national recreational boating accident statistics.

Respondents: Operators of vessels or vessel equipment involved in occurrences where—

- A person dies or is injured and requires medical treatment beyond first aid,
- The vessel incurs damage or other property incurs damages of $2,000 or more, or
- A person disappears from the vessel under circumstances indicating death or injury, and reporting authorities. See §§ 173.57 and 173.59.

Frequency: On occasion.

Burden Estimate: The estimated burden remains 2,500 hours a year.

Dated: October 11, 2007.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E7–20607 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG 2007–0010]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) will meet in Arlington, VA to discuss various issues relating to the marine transportation of hazardous materials in bulk. The meeting will be open to the public.

DATES: CTAC will meet on Thursday, November 1, 2007, from 9:30 a.m. to 3 p.m. Written material and requests to make oral presentations should reach the Coast Guard on or before October 26, 2007. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before October 26, 2007.

ADDRESSES: CTAC will be meeting at Top of the Town, 1400 14th Street North, Arlington, VA. Send written material and requests to make oral presentations to Commander Rick Raksnis, Commandant (CG–5223), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Commander Rick Raksnis, Executive Director of CTAC, or Sara Ju, Assistant to the Executive Director, telephone 202–372–1422, fax 202–372–1926.

SUPPLEMENTARY INFORMATION: Notice of the meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

Agendas of Meetings

Chemical Transportation Advisory Committee (CTAC). The agenda includes the following:

(1) Progress report from the Outreach Subcommittee and its Barge Emission/Barge Hazard Communications Workgroup.

(2) Status report on the implementation of MARPOL Annex II regarding Offshore Supply Vessels (OSV).

(3) Progress Report on the NFPA 472 Subcommittee on revisions to the emergency responder chapter for tank vessels.

(4) Presentation on Biofuels and its impact on the maritime shipping industry.

(5) Presentation on Hazardous Materials First Responder training offered by the International Association of Fire Fighters.

(6) Status report on the implementation of the International Maritime Solid Bulk Cargoes (IMSBC).

Procedural

The meeting is open to the public. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than October 26, 2007. Written material for distribution at the meeting should reach the Coast Guard no later than October 26, 2007. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Executive Director no later than October 26, 2007.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: October 15, 2007.

J. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 07–5170 Filed 10–16–07; 1:22 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–130, Revision of an Existing Information Collection; Comment Request

ACTION: 30-day notice of information collection under review: Form I–130, Petition for Alien Relative. OMB Control Number: 1615–0012.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on July 16, 2007, at 72 FR 38841. The notice allowed for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 19, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0012 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of an existing information collection.

(2) *Title of the Form/Collection:* Petition for Alien Relative.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–130. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Individuals or households. This form allows citizens or lawful permanent residents of the United States to petition on behalf of certain alien relatives who wish to immigrate to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 183,034 responses at 1.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 274,551 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/fdmspublic/component/main.* We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., 3rd floor, Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: October 15, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–20565 Filed 10–17–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Proposed Collection; Comment Request; Canadian Border Boat Landing Permit

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Canadian Border Boat Landing Permit. This request for comment is being made pursuant to the Paperwork Reduction Act (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before December 17, 2007, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Canadian Border Boat Landing Permit.

OMB Number: 1651–0108.

Form Number: Form I–68.

Abstract: This collection involves information from individuals who desire to enter the United States from Canada in a small pleasure craft.

Current Actions: This is an extension of a currently approved information collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 68,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 11,288.

Estimated Annual Cost: $1,088,000.

Dated: October 11, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. E7–20505 Filed 10–17–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Proposed Collection; Comment Request; Commercial Invoice

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burdens, U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Commercial Invoice. This request for comment is being made pursuant to the Paperwork Reduction Act (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before December 17, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300

Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Commercial Invoice.

OMB Number: 1651–0090.

Form Number: N/A.

Abstract: The collection of the Commercial Invoice is necessary for the proper assessment of duties. The invoice(s) is attached to the CBP Form 7501. The information, which is supplied by the foreign shipper, is used to ensure compliance with statues and regulations.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 38,500.

Estimated Number of Respondents: 46,500,000.

Estimated Time Per Respondent: 3.35 hours.

Estimated Total Annual Burden Hours: 130,200.

Estimated Total Annualized Cost on the Public: N/A.

Dated: October 11, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. E7–20506 Filed 10–17–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Proposed Collection; Comment Request; Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before December 17, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the U.S. Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes.

OMB Number: 1651–0036.

Form Number: N/A.

Abstract: The ''Declaration of Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes'' is used to provide duty free entry under conditions when articles are temporarily exported solely for scientific or educational purposes.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 55.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 27.

Estimated Total Annualized Cost on the Public: N/A.

Dated: October 11, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. E7–20507 Filed 10–17–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Proposed Collection; Comment Request; CBP Regulations for Customhouse Brokers

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the CBP Regulations for Customhouse Brokers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before December 17, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2.C Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: CBP Regulations for Customhouse Brokers.

OMB Number: 1651–0034.

Form Number: N/A.

Abstract: This information is collected to ensure regulatory compliance for Customhouse brokers.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 6,933.

Estimated Time per Respondent: 43 minutes.

Estimated Total Annual Burden Hours: 5,017.

Estimated Total Annualized Cost on the Public: $961,833.

Dated: October 11, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. E7–20508 Filed 10–17–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Proposed Collection; Comment Request; Cost Submission

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Cost Submission. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before December 17, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Information Services Group, Room 3.2.C, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed U.S. Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Cost Submission.

OMB Number: 1651–0028.

Form Number: CBP Form–247.

Abstract: CBP Form–247 is used by importers to furnish cost information to CBP which serves as the basis to establish the appraised value of imported merchandise.

Abstract: CBP Form–247 is used by importers to furnish cost information to CBP which serves as the basis to establish the appraised value of imported merchandise.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 50 hours.

Estimated Total Annual Burden Hours: 50,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: October 11, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. E7–20509 Filed 10–17–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Announcement of National Customs Automation Program Test Concerning Automated Commercial Environment (ACE) Entry Summary, Accounts and Revenue Capabilities

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces Custom and Border Protection's (CBP's)

plan to conduct a National Customs Automation Program (NCAP) test concerning Automated Commercial Environment (ACE) Entry Summary, Accounts and Revenue capabilities. These new capabilities will provide enhanced account management functions for ACE Portal Accounts. This notice also announces that the types of Portal Accounts in ACE have been expanded. This notice invites public comment concerning any aspect of the planned test, describes the eligibility, procedural and documentation requirements for voluntary participation in the test, and outlines the development and evaluation methodology to be used in the test.

DATES: The effective date of this notice is October 18, 2007. The test will continue until concluded by way of announcement in the **Federal Register**. Comments concerning this notice and any aspect of the announced test may be submitted during the test period to the address set forth below.

ADDRESSES: Comments concerning this notice should be submitted via e-mail to *CBP.CSPO@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Operational aspects for importers and brokers: Ruthanne Kenneally at (202) 863–6064. Operational aspects for carriers: James Swanson at *james.d.swanson@dhs.gov.* Systems or automation aspects: *ACE HELPDESK at ACE.HELPDESK@customs.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

I. ACE Test Programs

A. ACE Portal Accounts

On May 1, 2002, the former U.S. Customs Service, now U.S. Customs and Border Protection (CBP), published a General Notice in the **Federal Register** (67 FR 21800) announcing a plan to conduct a National Customs Automation Program (NCAP) test of the first phase of the Automated Commercial Environment (ACE). The test was described as the first step toward the full electronic processing of commercial importations with a focus on defining and establishing an importer's account structure. The General Notice announced that importers and authorized parties would be allowed to access their customs data via a Web-based Account Portal. The notice set forth eligibility criteria for companies interested in establishing Account Portals accessible through ACE. Subsequent General Notices revised the eligibility criteria (*see* General Notice published in the **Federal Register** on February 1, 2005 (67 FR 5199)) and expanded the universe of eligible participants in the ACE test and the types of ACE Portal Accounts.

On February 4, 2004, CBP published two General Notices in the **Federal Register** that established ACE Truck Carrier Accounts and opened the application period for authorized importers and their designated brokers to participate in the NCAP test to implement the Periodic Monthly Statement (PMS) process (*see* 69 FR 5360 and 69 FR 5362, respectively). Brokers were invited to establish Broker Accounts in ACE in order to participate in the NCAP test to implement PMS. In both of the February 4, 2004 General Notices, CBP advised participants they could designate only one person as the Account Owner for the company's ACE Portal account. The Account Owner was identified as the party responsible for safeguarding the company's ACE Portal Account information, controlling all disclosures of that information to authorized persons, authorizing user access to the ACE Portal Account information, and ensuring the strict control of access by authorized persons to the ACE Portal information.

On September 8, 2004, CBP published a General Notice in the **Federal Register** (69 FR 54302) inviting customs brokers to participate in the ACE Portal test generally and informing interested parties that once they had been notified by CBP that their request to participate in the ACE Portal test had been accepted, they would be asked to sign and submit a Terms and Conditions document. CBP subsequently contacted those participants and asked them to also sign and submit an ACE Power of Attorney form and an Additional Account/Account Owner Information form.

B. Terms and Conditions for Access to the ACE Portal

On May 16, 2007, CBP published a General Notice in the **Federal Register** (72 FR 27632) announcing a revision of the terms and conditions that must be followed as a condition for access to the ACE Portal. These terms and conditions supersede and replace the Terms and Conditions document previously signed and submitted to CBP by ACE Portal Trade Account Owners. The notice specified that no further action would be required by ACE Portal Trade Account Owners for those ACE Portal Accounts already established with CBP with the proper Account Owner listed. The principal changes to the ACE Terms and Conditions included a revised definition of ''Account Owner'' to permit either an individual or a legal entity to serve in this capacity, new requirements relating to providing notice to CBP when there has been a material change in the status of the Account and/or Trade Account Owner, and explanatory provisions as to how the information from a particular account may be accessed through the ACE Portal when that account is transferred to a new owner.

C. ACE Non-Portal Accounts

CBP has also permitted certain parties to participate in specified ACE tests without establishing ACE Portal Accounts (''Non-Portal Accounts''). On October 24, 2005, CBP published a General Notice in the **Federal Register** (70 FR 61466) announcing that importers could establish ACE non-portal accounts and participate in the PMS test under certain conditions. On March 29, 2006, CBP published another General Notice in the **Federal Register** (71 FR 15756) announcing that truck carriers who do not have ACE Truck Carrier Accounts may use third parties to transmit truck manifest information on their behalf electronically in the ACE Truck Manifest system via Electronic Data Interface (EDI) messaging.

II. Test Concerning New ACE Entry Summary, Accounts and Revenue (ESAR) Capabilities

This document announces CBP's plan to conduct a new test concerning ACE Entry Summary, Accounts and Revenue (ESAR) capabilities which will provide enhanced account management functions for ACE Portal Accounts and expand the universe of ACE account types. Features of these new ACE functions, as well as the eligibility, procedural and documentation requirements for voluntary participation in the test, are described below.

A. ACE Portal Account Enhancements

ACE is now the lead system for CBP-required master data elements (*e.g.*, company name, address, point of contact) as well as related reference files (*e.g.*, country code, port code, manufacturer ID, gold currency exchange rate and conversion calculator). *See* ACE Systems of Record Notice (71 FR 3109), published in the **Federal Register** on January 19, 2006. This means that the creation and maintenance of specified master data elements will originate in ACE and will be distributed to other CBP systems such as the Automated Commercial System (ACS).

B. Importer Portal Accounts

Importer Portal Accounts will have the ability to create and maintain specified importer data via the ACE

Portal. Filers will also have the ability to create a new CBP Form 5106 (Importer ID Input Record) via the ACE Portal or the Automated Broker Interface (ABI). For the present time, and until CBP's e-bond functionality is deployed, importers who have a continuous bond on file who want to update their CBP Form 5106 information will need to submit the CBP Form 5106, along with the paper bond rider, to the CBP Revenue Division in Indianapolis. Additionally, importers and filers will have the ability to view applicable Participating Government Agency (PGA) licenses, permits and certificates via the ACE Portal. Eligibility requirements for Importer Portal Accounts remain unchanged. *See* 67 FR 21800, May 1, 2002.

C. Broker Portal Accounts

Broker Portal Accounts will have access to the following functionalities through the ACE Portal: Maintenance of organizational demographic data (*e.g.*, addresses, points of contact, etc.); license and permit qualifiers; data on managing officials; employee lists; relationships to individual licensed brokers; points of contact and address information (at filer code level, for each local broker permit and each port covered by the local permit, and for the national broker permit). Broker Portal Accounts will also be able to generate the following reports: Local and national broker permits on an annual basis; broker employee lists; open broker permits; and delinquent permit user fees by port or broker. Broker Portal Accounts with a filer code may be used to create the CBP Form 5106 via the ACE Portal and can view applicable PGA licenses, permits and certificates. Eligibility requirements for Broker Portal Accounts remain unchanged. *See* 69 FR 5362, February 4, 2004.

D. Truck Carrier Portal Accounts

In addition to its current capabilities, a Truck Carrier Portal Account will now be able to view any applicable PGA licenses, permits and certificates and have access to the following functionalities through the ACE Portal: Maintenance of addresses and points of contact; and pre-registered truck conveyance, equipment, shipper, and consignee data. A Truck Carrier Portal Account will also be able to create and maintain driver accounts and search for and correlate existing driver accounts to their Carrier Account (*see also* Section III.D of this document). Eligibility requirements for Truck Carrier Portal Accounts remain unchanged. See 69 FR 5360, February 4, 2004.

III. Expanded ACE Portal Account Types

The ACE Portal will now provide for the following additional Portal Account types: Carriers (all modes: air, rail, sea); Cartman; Lighterman; Driver/Crew; Facility Operator; Filer; Foreign Trade Zone (FTZ) Operator; Service Provider; and Surety. To be eligible to establish an ACE Portal Account, interested parties must be able to connect to the Internet.

A. Application Process

The term ''application,'' as used throughout this notice, is defined as a statement of intent from an interested party to establish an ACE Portal Account. Anyone wishing to establish an ACE Portal Account with access to the ACE Portal must submit an application to CBP (available at *http://www.CBP.gov*) either via U.S. regular mail to the address noted on *http://www.CBP.gov* or via e-mail to *ACE.Applications@dhs.gov*. In addition to the eligibility requirements described in this Notice, the application must include the information set forth under the applicable business category, as well as the name, address, and e-mail address of a point of contact to receive further information. Anyone providing incomplete information, or otherwise not meeting participation requirements, will be notified and given the opportunity to resubmit their application. Upon receipt of a complete application, CBP will contact the applicant with regard to any additional information that may be required. Participants will be required to acknowledge a continuing obligation to provide CBP with any updates or changes to the information originally submitted.

Each participant must designate an individual or an entity as the ACE Portal Trade Account Owner on the application. The Trade Account Owner will be responsible for the information entered into the participant's ACE Portal Account. The ACE Portal Trade Account Owner will be responsible for safeguarding the ACE Portal account information, controlling all disclosures of that information to authorized persons, authorizing user access to the ACE Portal account, and ensuring that access by authorized persons to the ACE Portal information is strictly controlled (*see* Terms and Conditions of Portal Access, 72 FR 27632, published May 16, 2007).

All data submitted and entered into the ACE Portal is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law (*see* 19 U.S.C. 1431(c)).

As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act request , a name(s) of an approved participant(s) will be disclosed by CBP in accordance with 5 U.S.C. 552.

B. Carriers (All Modes: Air, Rail, and Sea)

To establish a Carrier (all modes: air, rail and sea) Portal Account, the following information is required:

a. SCAC (Standard Carrier Alpha Code), International Air Transport Association (IATA), or International Civil Aviation Organization (ICAO) designator (as applicable); and

b. Method of transportation (*i.e.*, air, rail, vessel).

Initially, Carriers (all modes: air, rail and sea) who establish ACE Portal Accounts will only have access to the static data and basic account profile information necessary to establish their portal account. Any new ACE Portal Account functionalities that may be made available to Carriers on a test basis will be announced in a future General Notice published in the **Federal Register**. At that time, CBP will deploy an initial group of participants for participation in the NCAP test.

It is anticipated that Carrier Portal Accounts will eventually derive the following benefits:

- Access to operational data through the ACE Portal;
- Electronic interaction with CBP;
- Receipt of status messages concerning Account transactions;
- Access to integrated Account data from multiple system sources;
- Ability to manage and disseminate information in an efficient and secure manner; and
- Ability to electronically transmit a manifest and obtain release of its cargo, crew, conveyances, and equipment via the ACE Portal or Electronic Data Interchange (EDI) messaging.

C. Cartman or Lighterman Portal Account

To establish a Cartman or Lighterman Portal Account, the following information is required:

a. Employer Identification Number (EIN) or Social Security Number (SSN);

b. CBP-issued license number; and

c. CBP-issued license number.

Once the Portal Account is established, Cartmen or Lightermen will be able to maintain addresses, points of contact, employee information and manage its official data via the Portal.

D. Driver/Crew Portal Accounts

Drivers/Crew who are interested in having their information entered into ACE are encouraged to contact: (1) A truck carrier with EDI or an ACE Portal Account; or (2) a third party provider (this includes importers, brokers, and service centers) with an ACE Portal Account.

Although Drivers/Crew are not required to establish an ACE Portal Account to transact business with CBP, Drivers/Crew who elect to have their own ACE Portal Account with a Driver/Crew view will be required to submit the following information:

a. Name;
b. Date of Birth; and
c. Commercial Driver's License (CDL).

E. Bonded Warehouse, Container Freight Station (CFS), and Container Examination Station (CES) Facility Operator Portal Accounts

To establish a Bonded Warehouse, Container Freight Station (CFS), or Container Examination Station (CES) Facility Operator Portal Account, the following information is required:

a. Employer Identification Number (EIN) or Social Security Number (SSN);
b. Facilities Information and Resources Management System (FIRMS) code; and
c. Bond number.

Once the Portal Account is established, Facility Operators will be able to maintain Facility Operator addresses, points of contact, facility points of contact, and employee lists at the facility level, as well as store and view pertinent documents pertaining to the facility via the ACE Portal.

F. Filer Portal Accounts

To establish a Filer Portal Account, the Filer must provide their Filer Code to CBP. Once the Filer Portal Account is established, Filers will be able to maintain addresses and points of contact (at the filer code level and port level).

G. Foreign Trade Zone (FTZ) Operator

To establish a FTZ Operator Portal Account, the following information is required:

a. Employer Identification Number (EIN) or Social Security Number (SSN);
b. Facilities Information and Resources Management System (FIRMS) code;
c. Zone Number;
d. Sub-zone Number (if applicable);
e. Site Number; and
f. Bond Number.

Once the Portal Account is established, FTZ Operators will have the ability to maintain FTZ Operator addresses, points of contact, and certifications pertinent to the site. FTZ Operator Portal Account Owners will also have the ability to view all sites operated by the FTZ Operator, as well as view and store documents pertinent to the site.

H. Service Provider Portal Account

To establish a Service Provider Portal Account, the following information is required:

a. Software Vendor: Filer Code and/or SCAC;
b. Service Bureau/Center: Filer code and/or SCAC;
c. Port Authority: SCAC;
d. Preparer: SCAC; and
e. Surety agent: Filer code.

Once the Service Provider Portal Account is established, Service Providers will be able to maintain addresses and points of contact via the ACE Portal.

I. Surety

To establish a Surety Portal Account, the following information is required:

a. Surety Code; and
b. Employer Identification Number (EIN).

Once the Portal Account is established, sureties will be able to access the following functionality via the Portal: maintain addresses; points of contact; and Corporate Surety Power of Attorney data; and view Continuous bond data.

IV. Suspension of Regulations

During the testing of the Entry Summary, Accounts and Revenue (ESAR) functionality, CBP is suspending provisions in part 24 of title 19 of the Code of Federal Regulations (19 CFR part 24) relating to the filing of the CBP Form 5106, as well as provisions in 19 CFR part 111 relating to current procedures that are done via paper by customs brokers and that will now be done electronically. Absent any alternate procedures set forth above in the description of the test, the current regulations apply.

V. Misconduct Under the Test

An ACE test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or suspension from this test for any of the following:

- Failure to follow the terms and conditions of this test.
- Failure to exercise reasonable care in the execution of participant obligations.
- Failure to abide by applicable laws and regulations.
- Failure to deposit duties or fees in a timely manner.
- Misuse of the ACE Portal.
- Engagement in any unauthorized disclosure or access to the ACE Portal.
- Engagement in any activity which interferes with the successful evaluation of the new technology.

Suspensions for misconduct will be administered by the Executive Director, Commercial Targeting and Enforcement, Office of International Trade, CBP Headquarters. A notice proposing suspension will be provided in writing to the participant. Such notice will apprise the participant of the facts or conduct warranting suspension and will inform the participant of the date that the suspension will begin.

Any decision proposing suspension of a participant may be appealed in writing to the Assistant Commissioner, Office of International Trade, within 15 calendar days of the notification date. Should the participant appeal the notice of proposed suspension, the participant must address the facts or conduct charges contained in the notice and state how compliance will be achieved. In cases of non-payment, late payment, willful misconduct or where public health interests or safety is concerned, the suspension may be effective immediately.

VI. Test Evaluation Criteria

To ensure adequate feedback, participants are required to participate in an evaluation of this test. CBP also invites all interested parties to comment on the design, implementation and conduct of the test at any time during the test period. CBP will publish the final results in the **Federal Register** and the Customs Bulletin as required by 19 CFR 101.9(b).

The following evaluation methods and criteria have been suggested:

1. Baseline measurements to be established through data analysis.
2. Questionnaires from both trade participants and CBP addressing such issues as:

- Workload impact (workload shifts/volume, cycle times, etc.).
- Cost savings (staff, interest, reduction in mailing costs, etc.).
- Policy and procedure accommodation.
- Trade compliance impact.
- Problem resolution.
- System efficiency.
- Operational efficiency.
- Other issues identified by the participant group.

Dated: October 15, 2007.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade .

[FR Doc. E7–20553 Filed 10–17–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117-N–91]

Notice of Submission of Proposed Information Collection to OMB; Recertification of Family Income and Composition

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Recertification information is submitted by homeowners to mortgagees to determine their continued eligibility for assistance and to determine the amount of assistance a homeowner is to receive. The information collected is also used by mortgagees to report statistical and general program data to HUD.

DATES: *Comments Due Date:* November 19, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0082) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Recertification of Family Income and Composition.

OMB Approval Number: 2502–0082.

Form Numbers: HUD–93101, and HUD–93101A.

Description of the Need for the Information and Its Proposed Use:

Recertification information is submitted by homeowners to mortgagees to determine their continued eligibility for assistance and to determine the amount of assistance a homeowner is to receive. The information collected is also used by mortgagees to report statistical and general program data to HUD.

Frequency of Submission: On occasion, Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	3,500	1		1.35		4,725

Total Estimated Burden Hours: 4,725.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 12, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–20527 Filed 10–17–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan for Golden-Cheeked Warbler and Receipt of Application for Development and Construction Activities on the 153-Acre Property on City Park Road, Travis County, TX (K&W Webb Family Partnership, LTD.)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: K&W WEBB FAMILY PARTNERSHIP, LTD. (Applicant) has applied for an incidental take permit (TE–162051–0) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The requested permit would authorize incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of general development and construction activities on 153-acre Webb Tract on City Park Road, Travis County, Texas.

DATES: To ensure consideration, written comments must be received on or before November 19, 2007.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the Environmental Assessment/Habitat Conservation Plan (EA/HCP) may obtain a copy by contacting Bill Seawell, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service at the above address. Written data or comments concerning the application and EA/HCP should be submitted to Adam Zerrenner, Field Supervisor, U.S.

Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–162051–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Bill Seawell at the U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057) or by e-mail, *Bill_Seawell@fws.gov.*

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Golden-cheeked warbler. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the EA/HCP for the incidental take application. A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: The K&W Webb Family Partnership, Ltd plans to develop a 153-acre property on City Park Road, Travis County, Texas. This action will eliminate 122.88 acres of golden-cheeked warbler habitat and result in indirect impacts on and off the property. The Applicant proposes to compensate for this incidental take of the golden-cheeked warbler by setting aside an on-site preserve of 28.69 acres and payment of mitigation ($5,000 per acre as of July 2007) to the Balcones Canyonlands Preserve. This money shall be used for the purchase of golden-cheeked warbler habitat within western Travis County.

Christopher T. Jones,

Acting Regional Director, Region 2.

[FR Doc. 07–5159 Filed 10–17–07; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force. The meeting is open to the public. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION** section.

DATES: The ANS Task Force will meet from 8 a.m. to 5 p.m. on Tuesday, November 6 and Wednesday, November 7, and from 8 a.m. to 12 p.m. on Thursday, November 8, 2007.

ADDRESSES: The ANS Task Force meeting will take place at the U.S. Fish and Wildlife Service office, 4401 North Fairfax Drive, Arlington, VA 22203; (703) 358–2148. You may inspect minutes of the meeting at the office of the Chief, Division of Fish and Wildlife Management and Habitat Restoration, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203, during regular business hours, Monday through Friday. You may also view the minutes on the ANS Task Force Web site at: *http://anstaskforce.gov/meetings.php*.

FOR FURTHER INFORMATION CONTACT: Scott Newsham, ANS Task Force Executive Secretary, at (703) 358–1796, or by e-mail at *Scott_Newsham@fws.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces meetings of the ANS Task Force. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics the ANS Task Force plans to cover during the meetings include: Climate change and invasive species, Regional Panel ANS issues and recommendations, consideration for approval of the Asian Carps management and control plan, consideration for approval of state ANS management plans, and ballast water management. The agenda and other related meeting information are on the ANS Task Force Web site at: *http://anstaskforce.gov/meetings.php*.

Dated: September 25, 2007.

Mamie A. Parker,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries & Habitat Conservation.

[FR Doc. E7–20543 Filed 10–17–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1430–PN–252Z; CACA 42646]

Notice of Realty Action: Conveyance of Mineral Interests in California; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In the **Federal Register** notice document 01–8406 beginning on page 18109 in the issue of Thursday, April 5, 2003, make the following correction: On page 18109 in the third column the legal description reads, ''sec. 6, SE1/4NW1/4, SW1/4NE1/4''. This should read ''All the coal and other minerals within that portion of Parcel 2 Map 2415 recorded October 24, 1985 in the Office of the County Recorder, County of Madera, State of California, in Book 31, of Maps, at Page 173, that is within a portion of Lot 3 of Section 6, T. 9S., R. 22 E., Mount Diablo Base and Meridian, according to the official plat thereof, as reserved in patent number 1096001 dated March 11, 1938, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat., 862).

Containing 25 acres, more or less.''

Dated: October 10, 2007.

Robert M. Doyel,

Chief, Branch of Lands Management.

[FR Doc. E7–20548 Filed 10–17–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–210–5320–AL–DUMP–241A]

Notice of Temporary One-Day Recreational Shooting Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: To comply with 43 CFR 8365.1–4(a)(2) Public Health, Safety and Comfort, approximately 6,000 acres of public lands in the Table Mesa Road area, north of Phoenix, Arizona, will be temporarily closed to recreational shooting and all other potentially unsafe or conflicting activities on October 20, 2007 during an all-day BLM sponsored National Public Lands Day (NPLD) volunteer clean-up project.

DATES: Effective October 20, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Skordinsky, Bureau of Land Management, Hassayampa Field Office, 21605 North 7th Avenue, Phoenix, Arizona 85027, (623) 580–5500.

SUPPLEMENTARY INFORMATION: To ensure the safety and welfare of volunteers and BLM staff participating in the NPLD clean-up project, no activities posing as a potential hazard or safety concern will be allowed. Recreational shooting is defined as discharging of any projectile,

by means including, but not limited to, firearms, bows, crossbows, airsoft and paintball guns. Any person failing to heed posted notices and found in violation of 43 CFR 8365.1–4(a)(2), will be issued a citation. In addition, those found in violation of other subsections contained within 43 CFR 8365.1–1(a) and (b)(1) through (b)(6) regarding littering and 43 CFR 8365.1–5(a)(1) and (2) regarding resource damage will also be cited. This regulation remains in effect following the temporary closure.

Public lands affected by this temporary closure are described as follows:

T. 7 N., R. 2 E., Sections 4 and 5; T. 8 N., R. 2 E., Sections 20, 21, 28, 29, 32–34 and those portions of Sections 27 and 34 west of Interstate 17. A map of the closure can be viewed at: *http://www.blm.gov/az/st/en/fo/hassayampa_field_office.html*.

Dated: October 3, 2007.

D. Remington Hawes,

Acting Hassayampa Field Manager.

[FR Doc. E7–20551 Filed 10–17–07; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision on the Final Environmental Impact Statement for the General Management Plan, Rock Creek Park and the Rock Creek and Potomac Parkway, Washington, DC

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of availability of a Record of Decision on the Final Environmental Impact Statement for the General Management Plan, Rock Creek Park and the Rock Creek and Potomac Parkway, Washington, DC.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) announces the availability of the Record of Decision for the Final Environmental Impact Statement for the General Management Plan, Rock Creek Park and the Rock Creek and Potomac Parkway, Washington, DC. On June 6, 2007 the National Capital Regional Director approved the Record of Decision for the General Management Plan for the Final Environmental Impact Statement. Specifically, the NPS has selected the preferred alternative (Alternative A) as described in the Final General Management Plan for the Environmental Impact Statement based on consideration of economic, environmental, technical, and other factors.

The selected alternative and three other alternatives, including a no-action alternative, were analyzed in the Draft and Final Environmental Impact Statements. Each alternative considered (a) how traffic should be managed in the park and on the parkway; (b) the most appropriate levels of service and locations for visitor interpretation and education in the park; (c) the appropriate balance between rehabilitation of historic structures and cultural landscapes and preservation of natural resources; and (d) the most appropriate locations to support park administration and operations functions to minimize resource disturbance. The full range of foreseeable environmental consequences was assessed. The NPS believes Alternative A would best accomplish its goals for managing Rock Creek Park and the Rock Creek and Potomac Parkway. Alternative A was selected by the NPS based on its ability to maintain traditional visitor experiences and activities, enhance resources protection, improve control over non-recreational use of park roads to heighten safety and the quality of the visitor experience, and optimize the use of structures for park purposes. The selected alternative will not result in the impairment of resources and values.

The most difficult decision to be made in this general management planning process was the management of traffic on the park road system because these park roads are recognized historic resources and are also the primary means for most visitors to experience the park. They are also heavily used as commuter routes. Under the selected alternative, the existing park roadway system will be retained and non-recreational through-traffic will be accommodated. It continues weekday auto travel throughout the park, but will use traffic-calming and speed enforcement measures to reduce traffic speeds and volumes to improve visitor safety and better control traffic volumes and speeds through the park. Speed tables and additional traffic signs will be installed on Beach Drive in the gorge area.

The selected alternative will also enhance interpretation and education opportunities and improve the use of park resources, especially cultural resources. It generally retains the current scope of visitor uses. Additional aspects of this alternative include trail improvement; rehabilitation of the Peirce Mill complex to better focus on history; the moving of park administrative offices from the Peirce-Klingle Mansion at Linnean Hill which will be rehabilitated for adaptive use compatible with park values; the relocation of the U.S. Park Police substation from the Lodge House on Beach Drive with the Lodge House converted to a visitor contact station; and that the nature center will be rehabilitated and expanded, and the planetarium upgraded.

The Record of Decision includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a finding of no impairment of park resources and values and an overview of public involvement in the decision-making process. This decision is the result of a public planning process that began in 1996. The official responsible for this decision is the NPS Regional Director, National Capital Region.

ADDRESSES: The Record of Decision, Plan and other information are available for public review in the Office of the Superintendent, Rock Creek Park at 3545 Williamsburg Lane, NW., Washington, DC 20008–1207 and at the following locations: Chief of Planning, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, (202) 619–7000 and the Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, (202) 208–6843. Copies of the Record of Decision may also be obtained from the contacts listed above or may be viewed online at: *http://www.nps.gov/rocr/parkmgmt/*.

FOR FURTHER INFORMATION CONTACT: Superintendent, Rock Creek Park, at 3545 Williamsburg Lane, NW., Washington, DC 20008–1207 or by telephone at (202) 895–6004.

Dated: August 24, 2007.

Joseph M. Lawler,

Regional Director, National Capital Region.

[FR Doc. E7–20544 Filed 10–17–07; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–744 (Second Review)]

Brake Rotors From China

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on brake rotors from China.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of

the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on brake rotors from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* October 5, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. 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. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: On October 5, 2007, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic and respondent interested party group responses to its notice of institution (72 FR 36037, July 2, 2007) were adequate. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 11, 2007.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E7–20528 Filed 10–17–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1123 (Preliminary)]

Steel Wire Garment Hangers From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of steel wire garment hangers, provided for in statistical reporting number 7326.20.0020 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value.

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in this investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in the investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On July 31, 2007, a petition was filed with the Commission and Commerce by M&B Metal Products Company, Inc. on behalf of the domestic industry that produces steel wire garment hangers, alleging that an industry in the United States is materially injured or threatened with material injury by reason of less-than-fair-value imports of steel wire garment hangers from China. Accordingly, effective July 31, 2007, the Commission instituted antidumping duty investigation No. 731–TA–1123 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 10, 2007 (72 FR 45069). The conference was held in Washington, DC, on August 21, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in the investigation to the Secretary of Commerce on October 10, 2007. The views of the Commission are contained in USITC Publication 3951 (October 2007), entitled *Steel Wire Garment Hangers from China: Investigation No. 731–TA–1123 (Preliminary).*

By order of the Commission.

Issued: October 11, 2007.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E7–20529 Filed 10–17–07; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1123 (Preliminary)]

Steel Wire Garment Hangers From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of steel wire garment hangers, provided for in statistical reporting number 7326.20.0020 of the Harmonized Tariff Schedule of the

[1] The record is defined in section 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

United States, that are alleged to be sold in the United States at less than fair value.

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in this investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in the investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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By order of the Commission.

Issued: October 11, 2007.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E7–20564 Filed 10–17–07; 8:45 am]

BILLING CODE 7020–02–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

October 2, 2007.

TIME AND DATE: 10 a.m., Thursday, October 11, 2007.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *The American Coal Company,* Docket Nos. LAKE 2005–129 and LAKE 2006–28. (Issues include whether the Administrative Law Judge erred in concluding that the operator violated the escapeway requirements of 30 CFR 75.380(a).)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 07–5168 Filed 10–16–07; 12:37 pm]

BILLING CODE 6735–01–M

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 9 a.m. to 12 p.m., Friday, November 9, 2007.

PLACE: The offices of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, 130 South Scott Avenue, Tucson, AZ 85701.

STATUS: This meeting will be open to the public, unless it is necessary for the Board to consider items in executive session.

MATTERS TO BE CONSIDERED: (1) A report on the U.S. Institute for Environmental Conflict Resolution; (2) A report from the Udall Center for Studies in Public Policy; (3) A report on the Native Nations Institute; (4) Program Reports; and (5) A Report from the Management Committee.

PORTIONS OPEN TO THE PUBLIC: All sessions with the exception of the session listed below.

PORTIONS CLOSED TO THE PUBLIC: Executive session.

CONTACT PERSON FOR MORE INFORMATION: Christopher L. Helms, Executive Director, 130 South Scott Avenue, Tucson, AZ 85701, (520) 901–8500.

Dated: October 15, 2007.

Christopher L. Helms,

Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and Federal Register Liaison Officer.

[FR Doc. 07–5160 Filed 10–16–07; 10:39 am]

BILLING CODE 6820–FN–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public

comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 19, 2007 (Note that the new time period for requesting copies has changed from 45 to 30 days after publication). Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending (Note that the new time period for requesting copies has changed from 45 to 30 days after publication):

1. Department of Homeland Security, National Protection and Programs Directorate (N1–563–07–8, 2 items, 2 temporary items). Inputs and master files of an electronic information system which contains information about participants who are authorized to use a critical data communications system. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium, except for master files.

2. Department of Homeland Security, National Protection and Programs Directorate (N1–563–07–12, 1 item, 1 temporary item). Master files for an electronic information system which contains information about participants who are authorized to use special telecommunications services when conventional communication services are ineffective or unavailable.

3. Department of Homeland Security, Office of Operations Coordination (N1–563–07–14, 2 items, 2 temporary items). Master files and outputs for an electronic information system which prepares and maintains a roster of personnel needed to ensure a minimum level of organizational performance. The schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium, except for master files.

4. Department of Homeland Security, Office of Operations Coordination (N1–563–07–15, 1 item, 1 temporary item). Master files for an electronic information system which tracks disruptive and threatening callers.

5. Department of Homeland Security, U.S. Coast Guard (N1–26–07–9, 1 item, 1 temporary item). Records documenting long–term medical, physical, psychological, mental or educational disability of all Coast Guard personnel's dependents. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of the Interior, Office of the Secretary (N1 48–07–2, 6 items, 5 temporary items). Records of the Office of the Solicitor, including litigation files, legal advice files, working papers, finding aids, and reference materials. Proposed for permanent retention are recordkeeping copies of legal opinions.

7. Department of Justice, Federal Bureau of Investigation (N1–65–07–18, 1 item, 1 temporary item). Records relating to administrative standard operating procedures and instructions. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of the Treasury, Internal Revenue Service (N1–58–07–11, 4 items, 4 temporary items). Regional, district, and headquarters criminal investigative case files and index.

9. Environmental Protection Agency, Office of Research and Development (N1–412–07–71, 31 items, 20 temporary items). This schedule authorizes the agency to apply the existing disposition instructions to records regardless of recordkeeping medium. The record series include water supply laboratory certification program files, employee exposure to ionizing radiation files. laboratory activity report files, case files related to basic, exploratory research, instrument and project logbooks, project status reports, non–decisional reference and background files, submissions from the public, work papers, and administrative correspondence files. Paper recordkeeping copies of these files were previously approved for disposal. Also included are record copies of program files from the environmental process and effects research program, environmental engineering and technology program, health research program, health and environmental assessment program, and

health, risk and exposure assessment program, as well as integrated risk information system decision files, source dats files relating to radiological research projects, and research project files related to rulemaking, for which paper recordkeeping copies previously were approved as permanent.

10. Foreign Economic Administration, USSR Branch (N1–169–07–1, 7 items, 4 temporary items). Microfilm copies of requisitions, requisition cards, ships manifests, and worksheets and statistical lists on shipments. Proposed for permanent retention are microfilm copies of three series of subject files.

11. National Ocenic and Atmospheric Administration, National Weather Service (N1–370–07–6, 1 items, 1 temporary item). Magnetic tapes, 1970–71, that are unreadable because of age, absence of documentation, and lack of appropriate hardware, and which cover meteorological observations taken by aircraft serving the National Hurrican Research Laboratory.

Dated: October 11, 2007.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E7–20524 Filed 10–17–07; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities; Meeting of Arts and Artifacts Indemnity Panel

AGENCY: The National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 716, from 9 a.m. to 5 p.m., on Monday, November 5, 2007.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 2008.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemption (4) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact Acting Advisory Committee Management Officer, Heather Gottry, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/606–8322.

Heather C. Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. E7–20578 Filed 10–17–07; 8:45 am]

BILLING CODE 7536–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather C. Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* November 5, 2007.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for America's Historical and Cultural Organizations Planning Grants, submitted to the Division of Public Programs, at the September 5, 2007 deadline.

2. *Date:* November 6, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for World Studies in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

3. *Date:* November 8, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Music and Performing Arts in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

4. *Date:* November 8, 2007.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for Interpreting America's Historic Places Planning Grants, submitted to the Division of Public Programs, at the September 5, 2007 deadline.

5. *Date:* November 27, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Anthropology and Archaeology in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

6. *Date:* November 27, 2007.
Time: 9 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Faculty Humanities Workshops, submitted to the Division of Education Programs, at the September 17, 2007 deadline.

7. *Date:* November 29, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Visual Arts in

Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

8. *Date:* November 29, 2007.

Time: 9 a.m. to 5:30 p.m.

Room: 315.

Program: This meeting will review applications for Faculty Humanities Workshops, submitted to the Division of Education Programs, at the September 17, 2007 deadline.

Heather C. Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. E7–20546 Filed 10–17–07; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by December 17, 2007 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (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.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilso Boulevard, Suite 295, Arlingon, Virginia 22230; telephone (703) 292–7556; or sent e-mail to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Descriptive and Exploratory Study of the National Science Foundation's Small Grants for Exploratory Research Funding Mechanism.

OMB Number: 3145–New.

Expiration Date of Approval: Not applicable.

Type of request: New.

Abstract: The SGER funding mechanism was developed in 1989 by an external committee, and authorized by NSF Director Bloch for use beginning at the start of Fiscal Year 1990. The committee's charge was to recommend whether NSF as a whole should adopt a mechanism similar to one that had been piloted by the Engineering Directorate, known as Small Grants for Expedited Research. While that title emphasized award timeliness, the mechanism's purposes included funding innovative research ideas. The current formulation of SGER remains conceptually and administratively similar to its original purposes and practices. Over time, NSF has broadened award parameters (award ceiling and duration) and sharpened definitions of purposes (e.g., inserting the term Transformative Research). In at least one case the SGER mechanism was modified for a specific program purpose (the Nanoscale Exploratory Grants, which were externally reviewed).

All applicants will be asked about topics relating to the application process (how they found out about SGER, why this mechanism and not a standard proposal, etc.). Awardees will also be asked about activities resulting from their awards, such as follow-on proposals, involvement of graduate students, and testing of new instrumentation. Declinees will be asked, for example, what action they took concerning the declined proposal (wrote standard proposal to NSF or another agency, and whether that was awarded). All applicants will be asked about the guidelines and funding and mechanism, and how they can be improved, e.g., through changes in their design components, expected outcomes, proposal review criteria, etc.

The survey data collection will be done on the World Wide Web.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Government grant holders—Individuals.

Estimated Number of Responses per Form: 2500.

Estimated Total Annual Burden on Respondents: 400 hours (800 respondents at 30 minutes per response).

Frequency of Response: Once.

Dated: October 12, 2007.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 07–5137 Filed 10–17–07; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (#1171).

Date/Time: November 8, 2007; 8:30 a.m. to 5 p.m.; November 9, 2007; 8:30 a.m. to 1 p.m.

Place: National Science Foundation, 4121 Wilson Blvd., Room 555, Stafford II Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Mr. Tyrone Jordan, Office of the Assistant Director, Directorate for Social, Behavioral, and Economic Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 905, Arlington, VA 22230, 703–292–8741.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to Social, Behavioral and Economic Sciences Directorate programs and activities.

Agenda: Thursday, November 8, 2007.

- Programmatic Updates—Science of Science and Innovation Policy, Science of Learning Centers.
- Broadening Participation—Presentation of NSF-wide Working Group, SBE Specific Topics.
- Cyber-enabled Discovery and Innovation.
- Emerging Areas in SBE—Complexity and Systems Thinking Cyberinfrastructure, Environment, Neuroscience, Learning.

Friday, November 9, 2007.

- Working Group on Impact of Proposal Award & Management Mechanisms Briefing.
- Discussion with Deputy Director, NSF.

• SBE Infrastructure—Current Status, Environmental Observatories, Data Dream machine.

Dated: October 15, 2007.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E7–20540 Filed 10–17–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143]

Notice of License Amendment Request of Nuclear Fuel Services, Inc., Erwin, TN, and Opportunity To Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license amendment, and opportunity to request a hearing.

DATES: A request for a hearing must be filed by December 17, 2007.

FOR FURTHER INFORMATION CONTACT: Kevin M. Ramsey, Senior Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492–3123; fax number: (301) 492–3359; e-mail: *kmr@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) has received, by letter dated May 15, 2007, a license amendment application from Nuclear Fuel Services, Inc., requesting to increase the uranium-235 possession limit at its facility site located in Erwin, Tennessee. License No. SNM–124 authorizes the licensee to manufacture nuclear reactor fuel. Specifically, the amendment provides authorization to receive and store more uranium-235 than the current license permits.

An NRC administrative review, documented in a letter to Nuclear Fuel Services dated June 18, 2007, found the application acceptable to begin a technical review. If the NRC approves the amendment, the approval will be documented in an amendment to NRC License No. SNM–124. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment regarding a possession limit increase. In accordance with the general requirements in Subpart C of 10 CFR Part 2, as amended on January 14, 2004 (69 FR 2182), any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing.

In accordance with 10 CFR 2.302 (a), a request for a hearing must be filed with the Commission either by:

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications;

2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff, between 7:45 a.m. and 4:15 p.m., Federal workdays;

3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or

4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff, at (301) 415–1101; verification number is (301) 415–1966.

In accordance with 10 CFR 2.302 (b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. The applicant, Nuclear Fuel Services, Inc., 1205 Banner Hill Road, Erwin, Tennessee 37650, Attention: Ann M. Ward, General Counsel; and

2. The NRC staff, by delivery to the Office of the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hearing requests should also be transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415–3725, or by e-mail to *ogcmailcenter@nrc.gov*.

The formal requirements for documents contained in 10 CFR 2.304 (b), (c), (d), and (e), must be met. In accordance with 10 CFR 2.304 (f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304 (b), (c), and (d), as long as an original and two (2) copies otherwise complying with all of the requirements of 10 CFR 2.304 (b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. In accordance with 10 CFR 2.309 (b), a request for a hearing must be filed by *December 17, 2007*.

In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;

2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial, or other interest in the proceeding;

4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and

5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309 (b).

In accordance with 10 CFR 2.309 (f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;

2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each

dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309 (f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.
2. Environmental—primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.
3. Emergency Planning—primarily concerns issues relating to matters discussed or referenced in the Emergency Plan as it relates to the proposed action.
4. Physical Security—primarily concerns issues relating to matters discussed or referenced in the Physical Security Plan as it relates to the proposed action.
5. Miscellaneous—does not fall into one of the categories outlined above.

If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so in writing within 10 days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309 (g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the document related to this Notice is ML072550166, Redacted Version of Amendment Request to Increase Uranium-235 Possession Limit. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 9th day of October 2007.

For the Nuclear Regulatory Commission.

Peter J. Habighorst,

Chief, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E7–20583 Filed 10–17–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28013; File No. 812–13380]

MetLife Insurance Company of Connecticut, et al.

October 12, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to section 26(c) of the Investment Company Act of 1940 (the ''Act'') approving certain substitutions of securities and an order of exemption pursuant to section 17(b) of the Act from section 17(a) of the Act.

SUMMARY OF APPLICATION: The Substitution Applicants (defined below) request an order to permit certain unit investment trusts to substitute: (a) Shares of MetLife Investment Large Company Stock Fund for shares of MetLife Stock Index Portfolio; (b) shares of MetLife Investment Small Company Stock Fund for shares of Russell 2000 Index Portfolio; (c) shares of MetLife Investments International Stock Fund for shares of Morgan Stanley EAFE Index Portfolio; and (d) shares of MetLife Investment Diversified Bond Fund for shares of Lehman Brothers Aggregate Bond Index Portfolio. The shares are currently held by certain unit investment trusts to fund certain group and individual variable annuity contracts and variable life insurance policies (collectively, the ''Contracts'') issued by the Insurance Companies (defined below). The Applicants also hereby apply for an order of exemption pursuant to section 17(b) of the Act from section 17(a) of the Act to permit the Insurance Companies to carry out certain substitutions.

APPLICANTS: The MetLife Insurance Company of Connecticut (''MetLife of CT''), MetLife Life and Annuity Company of Connecticut (''MetLife LAN''), MetLife Investment Funds, Inc. (''MLIF'') and Metropolitan Series Fund, Inc. (''Met Series Fund'') (MLIF and Met Series Fund are referred to as the ''Investment Companies'' and Metlife of CT and Metlife LAN are referred to as the ''Insurance Companies''), and MetLife of CT Separate Account Five for Variable Annuities (''Separate Account Five''), MetLife of CT Separate Account Six for Variable Annuities (''Separate Account Six''), MetLife of CT Fund U for Variable Annuities (''Fund U''), MetLife of CT Separate Account QP for Variable Annuities (''Separate Account QP''), MetLife of CT Separate Account QPN for Variable Annuities (''Separate Account QPN''), MetLife of CT Fund UL

II for Variable Life Insurance (''Fund UL II''), and MetLife of CT Fund UL for Variable Life Insurance (''Fund UL ''), (together with Separate Account Five, Separate Account Six, Fund U, Separate Account QP, Separate Account QPN, Fund UL II, and Fund UL, the ''Separate Accounts''). The Insurance Companies and the Separate Accounts are referred to herein collectively as the ''Substitution Applicants.'' The Insurance Companies, the Separate Accounts and the Investment Companies are referred to herein collectively as the ''Applicants.''

FILING DATE: The application was filed on April 26, 2007 and amended and restated on October 11, 2007.

HEARING OF 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 the Secretary of the Commission and serving Applicants with a copy of the request personally by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 6, 2007 and should be accompanied by proof of service on Applicants, 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 reasons for the request and the issue contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. *Applicants:* Curtis A. Young, Senior Counsel—Securities Products and Regulation, MetLife Group, One MetLife Plaza, 27–01 Queens Plaza North, Long Island City, NY 11101.

FOR FURTHER INFORMATION CONTACT: Alison White, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 100 F Street, NE., Washington, DC 20549, (tel. (202–551–8090).

Applicant's Representations

1. MetLife of CT, formerly known as The Travelers Insurance Company, is a stock life insurance company organized in 1863 under the laws of Connecticut. MetLife of CT is a wholly-owned subsidiary of MetLife, Inc. (''MetLife'') MetLife of CT's principal place of business is located at One Cityplace, Hartford, Connecticut 06103. For purposes of the Act, MetLife of CT is the depositor and sponsor of Separate Account Five, Fund U, Separate Account QP, Separate Account QPN and Fund UL.

2. MetLife LAN, formerly known as The Travelers Life and Annuity Company, is a stock life insurance company organized in 1973 under the laws of Connecticut. MetLife LAN is an indirect wholly-owned subsidiary of MetLife, Inc. MetLife LAN's principal place of business is located at One Cityplace, Hartford, Connecticut 06103. For purposes of the Act, MetLife LAN is the depositor and sponsor of Separate Account Six and Fund UL II.

3. Separate Account Five, Separate Account Six, Fund U, Separate Account QP, Fund UL II, and Fund UL are registered under the Act as unit investment trusts for the purpose of funding the Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933.

4. Separate Account QPN is exempt from registration under the Act. Security interests under the Contracts have been registered under the Securities Act of 1933.

5. MLIF and Met Series Fund are each registered under the Act as open-end management investment companies of the series type, and their securities are registered under the Securities Act of 1933. MetLife Investment Funds Management LLC, an affiliate of MetLife, serves as investment adviser to MLIF. MetLife Advisers, LLC, an affiliate of MetLife, serves as investment adviser to the Met Series Fund.

6. The Contracts permit the Insurance Companies to substitute shares of one fund with shares of another, including a fund of a different registered investment company.

7. Each Insurance Company, on its behalf and on behalf of the Separate Accounts, proposes to make certain substitutions of shares of four funds of MLIF (the ''Existing Funds'') held in sub-accounts of its respective Separate Accounts for certain series (the ''Replacement Funds'') of the Met Series Fund.

8. Set forth below are the fees and expenses of each Existing Fund and its corresponding Replacement Fund, as well as a description of each fund's investment objectives and principal investment policies. Additional information including asset sizes, risk factors, and comparable performance history for each Existing Fund and Replacement Fund can be found in the application.

9. MetLife Investment Large Company Stock Fund—MetLife Stock Index Portfolio: The MetLife Investment Large Company Stock Fund seeks maximum long-term total return by investing primarily in common stocks of well-established companies. The MetLife Stock Index Portfolio seeks to equal the performance of the S&P 500 Index. The Fund purchases the common stocks of all the companies in the S&P Index.

	Management fees	Distribution (12b–1) fees	Other expenses	Acquired fund fees and expenses	Total annual expenses	Expense waivers	Net annual expenses
Existing Fund—MetLife Investment Large Company Stock Fund	.52%	.....	.11%	.....	.63%	.....	.63%
Replacement Fund—MetLife Stock Index Portfolio	.25%	.....	.05%	.....	.30%	.01%	.29%

10. MetLife Investment Small Company Stock Fund—Russell 2000® Index Portfolio: The MetLife Investment Small Company Stock Fund seeks maximum long-term total return by investing primarily in common stocks of small companies. The Russell 2000® Index Portfolio seeks to equal the return of the Russell 2000 Index. The Fund invests in a statistically selected sample of the 2000 stocks included in the Index.

	Management fees	Distribution (12b–1) fees	Other expenses	Acquired fund fees and expenses	Total annual expenses	Expense waivers	Net annual expenses
Existing Fund—MetLife Investment Small Company Stock Fund	.64%		.14%		.78%		.78%
Replacement Fund—Russell 2000 Index Portfolio	.25%		.09%	.02%	.36%	.01%	.35%

11. MetLife Investment International Stock Fund—Morgan Stanley EAFE Index Portfolio: The MetLife Investment International Stock Fund seeks maximum long-term total return by investing primarily in common stocks of established non-U.S. companies. The Morgan Stanley EAFE Index Portfolio seeks to equal the performance of the MSCI EAFE Index. The Fund invests in a statistically selected sample of the 1000 stocks included in the Index.

	Management fees	Distribution (12b–1) fees	Other expenses	Acquired fund fees and expenses	Total annual expenses	Expense waivers	Net annual expenses
Existing Fund—MetLife Investment International Stock Fund	.73%		.20%		.93%		.93%
Replacement Fund—Morgan Stanley EAFE Index Portfolio	.30%		.13%	.02%	.01		.44%

12. MetLife Investment Diversified Bond Fund—Lehman Brothers® Aggregate Bond Index Portfolio: The MetLife Investment Diversified Bond Fund seeks maximum long-term total return by investing primarily in fixed income securities. The Lehman Brothers® Aggregate Bond Index Portfolio seeks to equal the performance of the Lehman Brothers Aggregate Bond Index and invests in a sampling of bonds included in the Index.

	Management fees	Distribution (12b–1) fees	Other expenses	Acquired fund fees and expenses	Total annual expenses	Expense waivers	Net annual expenses
Existing Fund—MetLife Investment Diversified Bond Fund	.41%		.09%		.50%		.50%
Replacement Fund—Lehman Brothers® Aggregate Bond Index Portfolio	.25%		.06%		.31%	.01	.30%

Applicant's Legal Analysis

1. The Substitution Applicants request that the Commission issue an order pursuant to section 26(c) of the Act approving the proposed substitutions.

2. The Contracts permit the applicable Insurance Company, subject to compliance with applicable law, to substitute shares of another investment company for shares of an investment company held by a sub-account of the Separate Accounts. The prospectuses for the Contracts and the Separate Accounts contain appropriate disclosure of this right.

3. The proposed Replacement Fund for each Existing Fund has an investment objective that is at least substantially similar to that of the Existing Fund. Moreover, the principal investment policies of the Replacement Funds are similar to those of the corresponding Existing Funds. In addition, the Existing Funds are not being offered for new sales, and are not available as new investment options under Contracts previously or currently offered by the Insurance Companies or, if available, are not available for additional contributions and/or transfers from other investment options under Contracts.

4. The Substitution Applicants submit there is little likelihood that significant additional assets, if any, will be allocated to the Existing Funds and, therefore, because of the cost of maintaining such Funds as investment options under the Contracts, it is in the interest of shareholders to substitute the applicable Replacement Funds which are currently being offered as investment options by the Insurance Companies.

5. Applicants submit that because the Replacement Funds are managed as index funds or managed to replicate the return of an index, each Replacement Fund has lower management fees and lower total operating expenses than the corresponding Existing Fund. Contract owners with balances invested in the Replacement Fund will therefore have a lower expense ratio. However, the Substitution Applicants agree that the Insurance Companies will not increase total separate account charges (net of any reimbursements or waivers) for any existing owner of the Contracts on the date of the substitutions for a period of two years from the date of the substitutions.

6. The substitution will not negatively impact the ability of contract owners to choose from a variety of funds available in the products. Of all the variable products affected by this substitution, the minimum number of funds currently available in any product before the substitution is 23, and after the substitution the minimum number available will be 22 funds (of the four Replacement Funds, one is already available in this product, leading to a decrease of one in the number of available funds).

7. The Substitution Applicants assert that the replacement of the Existing Funds with the Replacement Funds is consistent with the protection of Contract owners and the purposes fairly intended by the policies and provisions of the Act.

8. The Substitution Applicants represent that by disclosure in the prospectuses for the variable annuity

Contracts, and supplements to the prospectuses for the life insurance Contracts, each Insurance Company will notify all owners of the Contracts of its intention to take the necessary actions, including seeking the order requested by this Application, to substitute shares of the funds as described herein.

9. The disclosure in the prospectuses and the prospectus supplements will advise Contract owners that from the date of the prospectuses and the supplements until the date of the proposed substitution, owners are permitted to make one transfer of Contract value (or annuity unit exchange) out of the Existing Fund sub-account to one or more other sub-accounts without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited numbers of transfers (or exchanges) permitted without a transfer charge.

10. The disclosure in the prospectuses and the prospectus supplements also will inform Contract owners that the Insurance Company will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed substitutions.

11. The disclosure in the prospectuses and the prospectus supplements will also advise Contract owners that for at least 30 days following the proposed substitutions, the Insurance Companies will permit Contract owners affected by the substitutions to make one transfer of Contract value (or annuity unit exchange) out of the Replacement Fund sub-account to one or more other sub-accounts without the transfer (or exchange) being treated as one of a limited number of permitted transfers (or exchanges) or a limited number of transfers (or exchanges) permitted without a transfer charge. Other than the restrictions concerning market timing/excessive trading, as disclosed in the prospectuses, the Contracts currently permit transfers of all or part of contract value between the variable funding options at any time.

12. The proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's Contract value, cash value, or death benefit or in the dollar value of his or her investment in the Separate Accounts.

13. The process for accomplishing the transfer of assets from each Existing Fund to its corresponding Replacement Fund will be determined on a case-by-case basis. In most cases, it is expected that the substitutions will be effected by redeeming shares of an Existing Fund for cash and using the cash to purchase shares of the Replacement Fund. In certain other cases, it is expected that the substitutions will be effected by redeeming the shares of an Existing Fund in-kind; those assets will then be contributed in-kind to the corresponding Replacement Fund to purchase shares of that Fund.

14. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or an Insurance Company's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitutions, including brokerage, legal, accounting, and other fees and expenses, will be paid by the Insurance Companies. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions. No fees will be charged on the transfers made at the time of the proposed substitutions because the proposed substitutions will not be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract year.

15. In addition to the prospectuses and prospectus supplements distributed to owners of Contracts, within five business days after the proposed substitutions are completed, Contract owners will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer of all Contract value or cash value under a Contract invested in any one of the sub-accounts on the date of the notice to one or more other sub-accounts available under their Contract at no cost and without regard to the usual limit on the frequency of transfers from the variable account options to the fixed account options. The notice will also reiterate that (other than with respect to ''market timing'' activity) the Insurance Company will not exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers or to impose any charges on transfers until at least 30 days after the proposed substitutions.

16. The Insurance Companies will also send each Contract owner current prospectuses for the Replacement Funds involved to the extent that they have not previously received a copy.

17. Each Insurance Company also is seeking approval of the proposed substitutions from any state insurance regulators whose approval may be necessary or appropriate.

18. The Substitution Applicants agree that for those who were Contract owners on the date of the proposed substitutions, the Insurance Companies will reimburse, on the last business day of each fiscal period (not to exceed a fiscal quarter) during the twenty-four months following the date of the proposed substitutions, those Contract Owners whose subaccount invests in the Replacement Fund such that the sum of the Replacement Fund's operating expenses (taking into account fee waivers and expense reimbursements) and subaccount expenses (asset-based fees and charges deducted on a daily basis from subaccount assets and reflected in the calculation of subaccount unit values) for such period will not exceed, on an annualized basis, the sum of the Existing Fund's operating expenses (taking into account fee waivers and expense reimbursements) and subaccount expenses for fiscal year 2006.

19. The Applicants request an order under section 17(b) exempting them from the provisions of section 17(a) to the extent necessary to permit the Insurance Companies to carry out each of the proposed substitutions.

20. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the Act generally prohibits the persons described above, acting as principals, from knowingly purchasing any security or other property from the registered company.

21. Because shares held by a separate account of an insurance company are legally owned by the insurance company, the Insurance Companies and their affiliates collectively own of record substantially all of the shares of MLIF and Met Series Fund. Therefore, MLIF and Met Series Fund and their respective funds are arguably under the control of the Insurance Companies notwithstanding the fact that Contract owners may be considered the beneficial owners of those shares held in the Separate Accounts. If MLIF and Met Series Fund and their respective funds are under the control of the Insurance Companies, then each Insurance Company is an affiliated person or an affiliated person of an affiliated person of MLIF and Met Series Fund and their respective funds. If MLIF and Met Series Fund and their respective funds are under the control of

the Insurance Companies, then MLIF and Met Series Fund and their respective funds are affiliated persons of the Insurance Companies.

22. Regardless of whether or not the Insurance Companies can be considered to control MLIF and Met Series Fund and their respective funds, because the Insurance Companies own of record more than 5% of the shares of each of them and are under common control with each Existing Fund's and Replacement Fund's investment adviser, the Insurance Companies are affiliated persons of both MLIF and Met Series Fund and their respective funds. Likewise, their respective funds are each an affiliated person of the Insurance Companies.

23. Because the substitutions may be effected, in whole or in part, by means of in-kind redemptions and purchases, the substitutions may be deemed to involve one or more purchases or sales of securities or property between affiliated persons. The proposed transactions may involve a transfer of portfolio securities by the Existing Funds to the Insurance Companies; immediately thereafter, the Insurance Companies would purchase shares of the Replacement Funds with the portfolio securities received from the Existing Funds. Accordingly, as the Insurance Companies and certain of the Existing Funds listed above, and the Insurance Companies and the Replacement Funds, could be viewed as affiliated persons of one another under section 2(a)(3) of the Act, it is conceivable that this aspect of the substitutions could be viewed as being prohibited by section 17(a).

24. Section 17(b) of the Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of section 17(a) if the evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(b) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and records filed under the Act; and (c) the proposed transaction is consistent with the general purposes of the Act.

25. The Applicants submit that for all the reasons described herein the terms of the proposed in-kind redemptions of shares of the Existing Funds and in-kind purchases of shares of the Replacement Funds by the Insurance Companies, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Applicants also submit that the proposed in-kind redemptions and purchases by the Insurance Companies are consistent with the policies of MLIF and the Met Series Fund. Finally, the Applicants submit that the proposed substitutions are consistent with the general purposes of the Act.

26. To the extent that the in-kind redemptions by the Insurance Companies of the Existing Funds' shares and in-kind purchases by the Insurance Companies of the Replacement Funds' shares are deemed to involve principal transactions among affiliated persons, the procedures described below should be sufficient to assure that the terms of the proposed transactions are reasonable and fair to all participants. The Applicants maintain that the terms of the proposed in-kind redemption and purchase transactions, including the consideration to be paid and received by each fund involved, are reasonable, fair and do not involve overreaching principally because the transactions will conform with all but one of the conditions enumerated in Rule 17a–7. The proposed transactions will take place at relative net asset value in conformity with the requirements of section 22(c) of the Act and Rule 22c–1 thereunder with no change in the amount of any Contract owner's contract value or death benefit or in the dollar value of his or her investment in any of the Separate Accounts. Contract owners will not suffer any adverse tax consequences as a result of the substitutions. The fees and charges under the Contracts will not increase because of the substitutions. Even though the Separate Accounts, the Insurance Companies, MLIF and Met Series Fund may not rely on Rule 17a–7, the Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons. In addition, any in-kind redemptions will only be made in accordance with the conditions set out in the *Signature Financial Group* no-action letter (December 29, 1999).

27. The boards of MLIF and Met Series Fund have adopted procedures, as required by paragraph (e)(1) of Rule 17a–7, pursuant to which the series of each may purchase and sell securities to and from their affiliates. The Applicants will carry out the proposed Insurance Company in-kind redemptions and purchases in conformity with all of the conditions of Rule 17a–7 and each series' procedures thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. Nevertheless, the circumstances surrounding the proposed substitutions will be such as to offer the same degree of protection to each Existing Fund and Replacement Fund from overreaching that Rule 17a–7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business. In particular, the Insurance Companies (or any of their affiliates) cannot effect the proposed transactions at a price that is disadvantageous to any of the Existing Funds or Replacement Funds. Although the transactions may not be entirely for cash, each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7, and (2) the net asset value per share of each Existing Fund and corresponding Replacement Fund valued in accordance with the procedures disclosed in its respective Investment Company's registration statement and as required by Rule 22c–1 under the Act. No brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed in kind purchase transactions.

28. The sale of shares of Replacement Funds for portfolio securities, as contemplated by the proposed Insurance Company in-kind purchases, will be consistent with the investment policies and restrictions of the Replacement Funds because (1) the shares will be sold at their net asset value, and (2) the portfolio securities will be of the type and quality that the Replacement Funds would each have acquired with the proceeds from share sales had the shares been sold for cash. To assure that the second of these conditions is met, MetLife Advisers, LLC and the subadviser, as applicable, will examine the portfolio securities being offered to each Replacement Fund and accept only those securities as consideration for shares that it would have acquired for each such fund in a cash transaction.

29. The Applicants submit that the proposed Insurance Company in-kind redemptions and purchases, as described herein, are consistent with the general purposes of the Act as stated in the Findings and Declaration of Policy in Section 1 of the Act. The proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent.

30. The Applicants request that the Commission issue an order pursuant to section 17(b) of the Act exempting the Separate Accounts, the Insurance Companies, MLIF, Met Series Fund and each Replacement Fund from the provisions of section 17(a) of the Act to the extent necessary to permit the Insurance Companies on behalf of the Separate Accounts to carry out, as part of the substitutions, the in-kind redemption and purchase of shares of the Existing Fund and Replacement Funds which may be deemed to be prohibited by section 17(a) of the Act.

31. The Applicants represent that the proposed in-kind redemptions and purchases meet all of the requirements of section 17(b) of the Act and that an exemption should be granted, to the extent necessary, from the provisions of section 17(a).

Conclusion

Applicants assert that for the reasons summarized above the proposed substitutions and related transactions meet the standards of section 26(c) of the Act and are consistent with the standards of section 17(b) of the Act and that the requested orders should be granted.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20542 Filed 10–17–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56650; File No. SR–Amex–2007–35]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Criteria for Securities That Underlie Options Traded on the Exchange

October 12, 2007.

I. Introduction

On April 5, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain rules to permit the initial and continued listing and trading on the Exchange of options on Index Multiple Exchange Traded Fund Shares (''Multiple Fund Shares'') and Index Inverse Exchange Traded Fund Shares (''Inverse Fund Shares'') (collectively, the ''Fund Shares''). On August 20, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on September 6, 2007.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change as modified by Amendment No. 1.

II. Description of the Proposal

The purpose of the proposed rule change is to revise Amex Rules 915 and 916 to enable the listing and trading on the Exchange of options on Multiple Fund Shares[5] and Inverse Fund Shares.[6] Multiple and Index Fund Shares differ from traditional exchange-traded fund (''ETFs'') shares in that they do not merely correspond to the performance of a given index, but rather attempt to match a multiple or inverse of such underlying index performance. Current Multiple Fund Shares trading on the Exchange include the ProShares Ultra Funds and Index Inverse Fund Shares trading on the Exchange include the Short Funds and UltraShort Funds.[7]

In order to achieve investment results that provide either a positive multiple or inverse of the benchmark index, Multiple Fund Shares or Inverse Fund Shares may hold a combination of financial instruments, including, among other things, stock index futures contracts; options on futures; options on securities and indices; equity caps, collars and floors; swap agreements; forward contracts; repurchase agreements; and reverse repurchase agreements (the ''Financial Instruments''). The underlying portfolios of Multiple Fund Shares generally will hold at least 85% of their assets in the component securities of the underlying relevant benchmark index. The remainder of any assets are devoted to Financial Instruments that are intended to create the additional needed exposure to such Underlying Index necessary to pursue its investment objective. Normally, 100% of the value of the underlying portfolios of Inverse Fund Shares will be devoted to Financial Instruments and money market instruments, including U.S. government securities and repurchase agreements (the ''Money Market Instruments'').

Currently, Commentary .06 to Amex Rule 915 provides securities deemed appropriate for options trading shall include shares or other securities (''Exchange-Traded Fund Shares'') that are principally traded on a national securities exchange or through the facilities of a national securities association and defined as an ''NMS stock'' under Rule 600 of Regulation NMS, and that (i) represent an interest in a registered investment company organized as an open-end management investment company, a unit investment trust or a similar entity which holds securities constituting or otherwise based on or representing an investment in an index or portfolio of securities; (ii) represent interest in a trust or other similar entity that holds a specified non-U.S. currency and/or currencies deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and/or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency and/or currencies, if any, declared and paid by the trust; or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (''Commodity Pool ETFs'').

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 superseded and replaced the original filing in its entirety.

[4] *See* Securities Exchange Act Release No. 56336 (August 29, 2007), 72 FR 51281.

[5] Multiple Fund Shares seek to provide investment results, before fees and expenses, that correspond to a specified multiple of the percentage performance on a given day of a particular foreign or domestic stock index.

[6] Inverse Fund Shares seek to provide investment results, before fees and expenses, that correspond to the inverse (opposite) of the percentage performance on a given day of a particular foreign or domestic stock index by a specified multiple.

[7] *See* Securities Exchange Act Release Nos. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR–Amex–2004–62) (approving the listing and trading of the Ultra Funds and Short Funds) and 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR–Amex–2006–41) (approving the listing and trading of the UltraShort Funds). The Ultra Funds are expected to gain, on a percentage basis, approximately twice (200%) as much as the underlying benchmark index and should lose approximately twice (200%) as much as the underlying benchmark index when such prices decline. The Short Funds are expected to achieve investment results, before fees and expenses, that correspond to the inverse or opposite of the daily performance (−100%) of an underlying benchmark index. Lastly, the UltraShort Funds are expected to achieve investment results, before fees and expenses that correspond to twice the inverse or opposite of the daily performance (−200%) of the underlying benchmark index.

The Exchange proposes to amend Commentary .06 to Amex Rule 915 to expand the type of options to include the listing and trading of options based on Multiple Fund Shares and Inverse Fund Shares [8] that may hold or invest in any combination of securities, Financial Instruments and/or Money Market Instruments. Multiple Fund Shares and Inverse Fund Shares will continue to otherwise satisfy the listing standards in Commentary .06 to Amex Rule 915. In addition, the Exchange proposes to remove the reference to a ''national securities association'' in Commentary .06 to Amex Rule 915.

As set forth in proposed amended Commentary .06 to Amex Rule 915, Multiple Fund Shares and Inverse Fund Shares must be traded on a national securities exchange and must be an ''NMS stock'' as defined under Rule 600 of Regulation NMS. In addition, Multiple Fund Shares and Inverse Fund Shares must meet either: (i) The criteria and guidelines under Commentary .01 to Amex Rule 915; or (ii) be available for creation or redemption each business day in cash or in kind from the investment company at a price related to net asset value. In addition, the investment company shall provide that shares may be created even though some or all of the securities and/or cash (in lieu of the Financial Instruments) needed to be deposited have not been received by the investment company, provided the authorized creation participant has undertaken to deliver the shares and/or cash as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the fund which underlies the option as described in the prospectus.

The current continuing or maintenance listing standards for options on Exchange Traded Fund Shares will continue to apply.

The Exchange proposes to amend Commentary .07 to Amex Rule 916 to indicate that the index or portfolio may consist of securities, Financial Instruments and/or Money Market Instruments. The Exchange also seeks to delete references to ''national market securities,'' ''national securities association'', and ''national market association'' set forth in Commentary .07 to Amex Rule 916.

Under the applicable continued listing criteria in Commentary .07 to Amex Rule 916, options on Fund Shares may be subject to the suspension of opening transactions as follows: (1) Following the initial twelve-month period beginning upon the commencement of trading of the Fund Shares, there are fewer than 50 record and/or beneficial holders of the Fund Shares for 30 or more consecutive trading days; (2) the value of the index, non-U.S. currency, portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities, or portfolio of securities and/or Financial Instruments on which the Fund Shares are based is no longer calculated or available; or (3) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable. Additionally, the Fund Shares shall not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Multiple Fund Shares or Inverse Fund Shares, if the Shares are halted from trading on their primary market or if the Shares are delisted in accordance with the terms of Amex Rule 916 or the value of the index or portfolio on which the Shares are based is no longer calculated or available.

The Exchange represents that the expansion of the types of investments that may be held by Multiple Fund Shares or Inverse Fund Shares under Commentary .06 to Amex Rule 915 will not have any effect on the rules pertaining to position and exercise limits [9] or margin.[10]

In addition, the Exchange also seeks to add ''reverse repurchase agreements'' within the rule text of Amex Rule 1000A–AEMI(b)(2)(ii) in order to correct the definition of Financial Instruments.

The Exchange has represented that its existing surveillance procedures applicable to trading in options are adequate to properly monitor the trading in Multiple Fund Shares options and Inverse Fund Shares options.

III. Discussion

After careful consideration, 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,[11] and in particular, the requirements of section 6(b) of the Act.[12] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[13] which requires, among other things, that the rules of a national securities exchange be 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 of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Surveillance

The Commission notes that the Exchange has represented that its existing surveillance procedures applicable to trading options are adequate to properly monitor trading in Multiple Fund Shares options and Inverse Fund Shares options. In addition, the Exchange represented that the expansion of the types of investments that may be held by Multiple Fund Shares or Inverse Fund Shares under Commentary .06 to Amex Rule 915 will not have any effect on the rules pertaining to position and exercise limits [14] or margin.[15]

Listing and Trading Options on Fund Shares

The Commission notes that, pursuant to the proposed rule change, the Exchange represented that the current continuing or maintenance listing standards for options on Exchange Traded Fund Shares will continue to apply. These provisions include requirements regarding initial and continued listing standards, suspension of opening transactions, and trading halts. Proposed amended Commentary .06 to Amex Rule 915, would require that Multiple Fund Shares and Inverse Fund Shares be traded on a national securities exchange and must be an ''NMS stock'' as defined under Rule 600 of Regulation NMS.[16]

The Commission believes that this proposal is necessary to enable the Exchange to list and trade options on the shares of the Ultra Fund, Short Fund and UltraShort Fund of the ProShares Trust. The Commission believes that the ability to trade options on the Multiple and Inverse Fund Shares will provide investors with additional risk management tools. The Commission further believes that the proposed amendment to the Exchange's listing criteria for options on Exchange Traded Fund Shares will ensure that the Exchange will be able to list options on

[8] *See* Amex Rule 1000A–AEMI(b)(2).

[9] *See* Amex Rules 904 and 905.

[10] *See* Amex Rule 462.

[11] 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).

[12] 12 15 U.S.C. 78f(b).

[13] 13 15 U.S.C. 78f(b)(5).

[14] *See* Amex Rules 904 and 905.

[15] *See* Amex Rule 462.

[16] 17 CFR 242.600(b)(47).

the Funds of the ProShares Trust as well as other Multiple Fund Shares or Inverse Fund Shares that may be introduced in the future, thereby affording investors greater investment choices.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–2007–35), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20533 Filed 10–17–07; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56652; File No. SR–BSE–2007–48]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect the Fact That Sun Microsystems, Inc. Has Changed Its Trading Symbol From SUNW to JAVA

October 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 October 4, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the BSE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which rendered 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

The Exchange proposes to change a reference in the BOX rule text to reflect the fact that Sun Microsystems, Inc. has changed its trading symbol from SUNW to JAVA. The text of the proposed rule change is available at the Commission's Public Reference Room and on the Exchange's Web site *http://www.bostonstock.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 purpose of the proposed rule change is to change a reference in the BOX Rules, Chapter V, Section 33(b), to reflect the fact that Sun Microsystems, Inc. has changed its trading symbol from SUNW to JAVA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and promote just and equitable principles of trade.

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 by the Exchange.

[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)(6).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder,[8] because the foregoing proposed rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30-days after the date of filing.[9] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[10] The Exchange has requested that the Commission waive the 5-day pre-filing requirement and the 30-day operative delay. The Commission believes that waiving the 5-day pre-filing requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will promote clarity in the Exchange's rules and will prevent investor confusion. For these reasons, the Commission designates the proposal to be operative upon filing with the Commission.[11]

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.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* 15 U.S.C. 78s(b)(3)(C).

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–BSE–2007–48 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–BSE–2007–48. 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 the BSE. 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–BSE–2007–48 and should be submitted on or before November 8, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20534 Filed 10–17–07; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56655; File No. SR–BSE–2007–47]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Listing of Options Series With $2.50 Strike Price Intervals Between $50 and $75

October 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 October 4, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Supplementary Material to Section 6 of Chapter IV of the Rules of the Boston Options Exchange (''BOX'') pertaining to $2.50 strike price intervals. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.bostonoptions.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. NYSE has substantially 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 the BOX rules to clarify its existing practice of listing options series with $2.50 strike price intervals for strike prices between $50 and $75 on those option classes that have been selected as part of the $2.50 Strike Price Program,[5] provided that the $2.50 strike price intervals between $50 and $75 are no more than $10 from the closing price of the underlying stock in its primary market on the preceding day. For example, if an options class has been selected as part of the $2.50 Strike Price Program, and the underlying security closes at $48.50 in its primary market, the Exchange may list strike prices of $52.50 and $57.50 on the next business day. If an underlying security closes at $54.00, the Exchange may list strike prices of $52.50, $57.50, and $62.50 on the next business day.

The proposed rule change is intended to provide customers with greater flexibility in their investment choices for options on stocks priced between $50 and $75. Similar proposals have been approved and adopted at competitor exchanges, resulting in additional trading opportunities, creation of increased flexibility in trading decisions, and affording customers more precision in their investment strategies.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, because it is designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* BOX Rules Ch. IV, Sec. 6, Supp. Mat. .03. Pursuant to the existing terms of the $2.50 Strike Price Program, BOX is permitted to list strike prices at $2.50 intervals where the strike price is greater than $25 but less than $50 on 200 option classes selected by the various options exchanges for participation in the program.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the Exchange has designated the proposed rule change as one that does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9] The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing.[10]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would benefit investors by clarifying the terms of BOX's $2.50 Strike Price Program, and would promote competition by bringing the rules regarding BOX's program into agreement with the rules of other options exchanges with similar programs.[11] Therefore, the Commission designates the proposal operative upon filing.[12]

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 the 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-BSE–2007–47 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–BSE–2007–47. 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 should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2007–47 and should be submitted on or before November 8, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20536 Filed 10–17–07; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business before doing so.

[11] *See, e.g.,* International Securities Exchange Rule 504(g).

[12] For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56653; File No. SR–NASD–2007–056]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.); Order Approving Proposed Rule Change To Establish a Membership Waive-In Process for Certain NYSE Member Organizations

October 12, 2007.

I. Introduction

On July 25, 2007, the National Association of Securities Dealers, Inc. (''NASD'') (n/k/a Financial Industry Regulatory Authority, Inc. (''FINRA'')) [1] filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to adopt Interpretive Material 1013–1 (''IM–1013–1''), a membership waive-in process for certain New York Stock Exchange (''NYSE'') member organizations, and Interpretive Material Section 4(b)(1) and 4(e) (''IM-Section 4(b)(1) and 4(e)'') to Schedule A of the By-Laws, a membership application fee waiver for those NYSE member organizations that apply for membership pursuant to IM–1013–1. The proposed rule change was published for comment in the **Federal Register** on September 7, 2007.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

[1] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to the Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. (''NYSE Regulation''). *See* Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007).

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 56347 (August 31, 2007), 72 FR 51483 (''Notice'').

II. Description of the Proposed Rule Change

In connection with the recently approved plan to consolidate the member regulation operations of NASD and NYSE Regulation into a single organization (''Transaction''),[5] NASD proposed to establish a waive-in process to enable approximately 95 NYSE member organizations that are not also NASD members to become members of FINRA. The proposed waive-in process would apply to firms that, as of July 25, 2007: (1) Are approved NYSE member organizations; or (2) have submitted an application to become an NYSE member organization and are subsequently approved for NYSE membership (together, ''NYSE-only member organizations''), provided that such firms were not also NASD members as of the closing of the Transaction (*i.e.*, as of July 30, 2007).[6]

IM–1013–1 would establish a process to allow NYSE-only member organizations to become automatically FINRA members and to register automatically all associated persons whose registrations are approved with NYSE in registration categories recognized by FINRA, upon submission to FINRA's Member Regulation Department (''Department'') of a signed waive-in membership application (''Waive-In Application'').[7] The Department would review the Waive-In Application within three business days of receipt and, if complete, issue a letter notifying the applicant that it has been approved for membership. The Membership Agreement would become effective on the date of such notification letter.[8] In addition, the proposed rule change would create IM-Section 4(b)(1) and 4(e) to Schedule A of the NASD By-Laws, which would exempt the applicants from the fee for each initial Form U–4 for the registration of any representative or principal associated with the firm at the time it submits its application for FINRA membership pursuant to IM–1013–1 and from the FINRA membership application fee.

As set forth in proposed IM–1013–1, the NYSE-only member organizations admitted to FINRA membership would be subject to the NYSE rules incorporated by FINRA, FINRA's By-Laws and Schedules to By-Laws, including Schedule A (Assessments and Fees), and NASD Rule 8000 (Investigations and Sanctions) and Rule 9000 (Code of Procedure) Series, provided that their securities business is limited to floor brokerage on the NYSE, or routing away to other markets orders that are ancillary to their core floor business under NYSE Rule 70.40 (''permitted floor activities'').[9] If an NYSE-only member organization admitted pursuant to proposed IM–1013–1 seeks to expand its business operations to include any activities other than the permitted floor activities, such firm must apply for and receive approval to engage in such business activity pursuant to NASD Rule 1017. Upon approval of such business expansion, the firm would become subject to all NASD rules, in addition to those NYSE rules incorporated by FINRA.

In addition, associated persons of an NYSE-only member organization admitted to FINRA pursuant to IM–1013–1 would be subject to the same set of rules as the firm with which they are associated, namely the NYSE rules incorporated by FINRA, FINRA's By-Laws and Schedules to By-Laws, and the NASD Rule 8000 and 9000 Series.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities association.[10] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(2) of the Exchange Act,[11] which requires a national securities association to be so organized and have the capacity to carry out the purposes of the Exchange Act and to enforce compliance by its members and persons associated with its members with the provisions of the Exchange Act. Further, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act,[12] in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change is intended to facilitate the consolidation of the member firm regulation functions of NASD and NYSE Regulation under a single self-regulatory organization, thereby encouraging more effective and efficient regulation of brokers and dealers and their associated persons. The Commission notes that NYSE has a comprehensive membership application and review process.[13] Accordingly, eligible NYSE-only member organizations that will become FINRA members pursuant to the waive-in process already have been subject to NYSE's extensive screening process.

The proposed rule change provides eligible NYSE-only member organizations (and their associated persons) with an expedited process to become FINRA members, provided that they engage in permitted floor activities only. Moreover, an eligible NYSE-only member organization would not be assessed either FINRA's membership application fee or the initial Form U–4 registration fee when it submits its application for FINRA membership.

[5] On July 26, 2007, the Commission approved amendments to NASD's By-Laws to implement governance and related changes to accommodate the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56145 (July 26, 2007), 72 FR 42169 (August 1, 2007). The date of closing of the Transaction was July 30, 2007.

[6] The NYSE filed a companion proposal to amend NYSE Rule 2(b) to require its member organizations to be members of FINRA, which the Commission approved today. *See* Securities Exchange Act Release No. 56654 (SR–NYSE–2007–67) (''Release No. 34–56654'').

[7] The Waive-In Application would require information such as: (1) General company information (including the Central Registration Depository (''CRD'') Number and contact person); (2) an attestation that all information on the applicant's CRD form, as of the date of submission of the Waive-In Application is accurate and complete and fully reflects all aspects of the applicant's current business, including, but not limited to, ownership structure, management, product lines and disclosures; (3) the identity of the firm's Executive Representative; (4) completed and signed Entitlement Forms; (5) a signed FINRA Membership Agreement; and (6) representations that the applicant's Uniform Application for Broker-Dealer Registration (Form BD) will be amended as needed to keep current and accurate, that all individual and entity registrations with FINRA will be kept current; and that all information and statements contained in the Waive-In Application are current, true and complete.

[8] The Commission notes that, under the amendment to NYSE Rule 2(b), which was approved today, NYSE-only member organizations are provided a 60 day grace period within which they must apply for and be approved for FINRA membership. *See* Release No. 34–56654, *supra* note 6.

[9] For purposes of this filing, activities that are ancillary to a Floor broker's core business include: (i) Routing orders in NYSE-traded securities to an away market for any reason relating to their ongoing Floor activity, including regulatory compliance or meeting best-execution obligations; or (ii) provided that the majority of transactions effected by the firm are effected on the NYSE, sending to other markets orders in NYSE-traded or non-NYSE-traded securities and/or futures if such orders relate to hedging positions in NYSE-traded securities, or are part of arbitrage or program trade strategies that include NYSE-traded securities.

[10] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78o–3(b)(2).

[12] 15 U.S.C. 78o–3(b)(6).

[13] *See, e.g.*, NYSE Rules 301 (Qualifications for Membership) and 304A (Member and Allied Member Examination Requirements).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NASD–2007–056), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20523 Filed 10–17–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56654; File No. SR–NYSE–2007–67]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Relating to NYSE Rule 2 (''Member,'' ''Membership,'' ''Member Firm,'' etc.)

October 12, 2007.

I. Introduction

On July 24, 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 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to reflect changes in the Exchange's membership requirements as a result of the consolidation of the member firm regulatory functions of the National Association of Securities Dealers, Inc. (''NASD'') and NYSE Regulation, Inc. (''NYSE Regulation''), which resulted in a combined self-regulatory organization called Financial Industry Regulatory Authority, Inc. (''FINRA'').[3] The proposed rule change was published for comment in the **Federal Register** on August 7, 2007.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

In connection with the recently approved plan to consolidate the member regulation operations of NASD and the NYSE Regulation into a single organization (''Transaction''),[5] NYSE proposes to require all organizations that currently are NYSE member organizations but are not NASD members (''NYSE-only member organizations''), or are organizations that propose to become NYSE member organizations, to also be members of FINRA. The Exchange notes that most NYSE member organizations are already also members of FINRA. According to the Exchange, there are approximately 95 NYSE member organizations that are not currently FINRA members and that will be required to become FINRA members in order to remain NYSE member organizations and to utilize a NYSE trading license.[6] FINRA would become the designated examining authority (''DEA'') for all NYSE member organizations.[7]

The Exchange proposes to amend the definition of ''member organization'' in NYSE Rule 2(b) to provide that membership in FINRA is a condition to becoming a member organization of NYSE. NYSE intends to keep NYSE Rule 308 (Acceptability Proceedings) in order to retain for itself the discretion to deem an applicant unacceptable for NYSE membership.

NYSE-only member organizations would have a 60-day grace period within which they must apply for and be approved for FINRA membership. This grace period would run from the later of the date of Commission approval of either this proposed rule change or NASD's proposed rule change to amend its membership rules to permit eligible NYSE-only member organizations to become FINRA members through an expedited process.[8]

III. Discussion and Commission Findings

After careful consideration, 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[9] and, in particular, the requirements of Section 6 of the Act.[10] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that most NYSE member organizations are also members of FINRA. Thus, the proposed rule change will primarily affect approximately 95 NYSE-only member organizations, in addition to those organizations that propose to become NYSE member organizations.

The Commission believes that the proposed rule change would further the consolidation of the member firm regulation functions of NASD and NYSE Regulation, as approved by the Commission.[12] The Commission notes that the approximately 95 NYSE-only member organizations that must become FINRA members will be able to avail themselves of the expedited FINRA membership procedures and the waiver of certain FINRA registration and application fees.[13] Further, the Commission believes that the 60-day grace period for eligible NYSE-only

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[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to FINRA in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56146 (July 26, 2007).

[4] *See* Securities Exchange Act Release No. 56173 (July 31, 2007), 72 FR 44205 (''Notice'').

[5] On July 26, 2007, the Commission approved amendments to NASD's By-Laws to implement governance and related changes to accommodate the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56145 (July 26, 2007), 72 FR 42169 (August 1, 2007) (''Release No. 34–56145''). The date of closing of the Transaction was July 30, 2007.

[6] NYSE also has allowed an organization to be an NYSE ''regulation only'' member without purchasing a trading license, if the organization qualifies and subjects itself to NYSE regulatory jurisdiction. After the Transaction, NYSE will continue to provide this status to an organization that is or becomes a FINRA member and subjects itself to NYSE jurisdiction, even though the organization does not have a NYSE trading license.

[7] Historically, NYSE was the DEA for virtually all of its member organizations. As part of the Transaction, it is contemplated that the Commission will name FINRA as the DEA for all the organizations for which NYSE was the DEA.

[8] NASD filed a companion proposal, which the Commission approved today, that specifies the terms on which eligible NYSE-only member organizations can become FINRA members on an expedited basis. Pursuant to that proposal, NASD would adopt Interpretive Material 1013–1 (''IM–1013–1''), which establishes a membership waive-in process for eligible NYSE-only member organizations, and Interpretive Material Section 4(b)(1) and 4(e) to Schedule A of the By-Laws, which exempts the applicants from the fee for each initial Form U–4 for the registration of any representative or principal associated with the firm at the time it submits its application for FINRA membership pursuant to IM–1013–1 and from the FINRA membership application fee. *See* Securities Exchange Act Release No. 56653 (SR–NASD–2007–056) (''Release No. 34–56653'').

[9] In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Release No. 34–56145, *supra* note 5.

[13] *See* Release No. 34–56653, *supra* note 8.

member organizations to become FINRA members is reasonable.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–NYSE–2007–67), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20535 Filed 10–17–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56651; File No. SR–Phlx–2007–71]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Eliminate Position and Exercise Limits on Russell 2000® Index Options

October 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 September 21, 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 and II below, which Items have been substantially prepared by the Exchange. On September 27, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. This order provides notice of the proposed rule change, as modified by Amendment No. 1, and approves the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rule 1079 (FLEX Index and Equity Options)[3] and Rule 1001A (Position Limits) to specify that full-value options on the Russell 2000® Index (''RUT'') and one tenth (1/10th) value options on the Russell 2000® Index (''RMN'') shall have no position limits, and that reduced-value or mini-size contracts shall be aggregated with full-value or full-size contracts and counted by the amount by which they equal a full-value contract. The text of the proposed rule change is available at Phlx, the Commission's Public Reference Room, and *http://www.phlx.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 III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Phlx Rules 1079 and 1001A to eliminate the position limits on RUT options and RMN options, which are multiply-listed and heavily traded options on the broad-based Russell 2000® Index.[4] The purpose of the proposed rule change is also to clarify that reduced-value or mini-size options contracts shall be aggregated with full-value or full-size options contracts and shall be counted by the amount by which they equal a full-value contract.

The current position limits for RUT options of 50,000 contracts, with no more than 30,000 of such contracts in a series in the nearest expiration month, and 500,000 contracts for RMN options, with 300,000 contracts in the nearest expiration month, were established when the Commission approved the rule change that provided for the listing and trading of RUT and RMN options on the Exchange, and have remained unchanged.[5] These limits are similar to the position limits established on other exchanges trading options on the Russell 2000® Index, which have recently received Commission approval to eliminate position limits on these options.[6]

The Exchange believes that the circumstances and considerations relevant to the Commission approving the elimination of position and exercise limits for other heavily traded broad-based index options (*e.g.*, options on the Standard & Poor's 500 Index (''SPX''), the Standard & Poor's 100 Index (''OEX''), the Dow Jones Industrial Average Index (''DJX''), and the Nasdaq-100 Index (''NDX'')) equally apply to the current proposal relating to RUT and RMN position limits.[7] In approving the elimination of position limits for SPX, OEX, DJX, and NDX options, the Commission considered that the enormous capitalization of each of these indexes and the deep and liquid markets for the securities underlying each index significantly reduced concerns of market manipulation or disruption in the underlying markets. The Commission also noted the active trading volume for options on these respective indexes.

Phlx believes that RUT shares common factors with the SPX, OEX, DJX, and NDX. As of the date of this filing, the approximate market capitalizations of the SPX, OEX, DJX, and NDX were $13.95 trillion, $8.06 trillion, $4.4 trillion and $2.36 trillion, respectively; the average daily trading volume (''ADTV'') for all underlying components of the indexes were 1.27 billion, 540 million, 240 million, and 400 million shares, respectively; and the ADTV for options on the indexes were 610,000 contracts, 60,000 contracts, 34,000 contracts, and 58,000 contracts respectively.[8] Phlx believes that RUT has very comparable characteristics. The market capitalization for RUT is approximately $1.73 trillion dollars, the

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[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Flexible Exchange Options (''FLEX options'') are customized equity or index option contracts made available by Phlx and other option exchanges that allow certain terms of the option to be specified, such as the underlying security, the type of the option, the exercise price, the expiration date, and the exercise style. *See* Phlx Rule 1079.

[4] As result of the rule changes proposed herein, RUT options and RMN options would likewise have no exercise limits. *See* Phlx Rules 1079(e) and 1002A.

[5] *See* Securities Exchange Act Release No. 55305 (February 15, 2007), 72 FR 8240 (February 23, 2007) (SR–Phlx–2006–65).

[6] *See* Securities Exchange Act Release Nos. 56351 (September 4, 2007), 72 FR 51875 (September 11, 2007) (SR–Amex–2007–81); and 56350 (September 4, 2007), 72 FR 51878 (September 11, 2007) (SR–CBOE–2007–79) (collectively, ''RUT Approval Orders'').

[7] *See* Securities Exchange Act Release Nos. 44994 (October 26, 2001), 66 FR 55722 (November 2, 2001) (SR–CBOE–2001–22) (elimination of position and exercise limits on SPX, OEX, and DJX options) (''SPX, OEX, and DJX Position Limit Elimination Approval Order''); and 52650 (October 21, 2005), 70 FR 62147 (October 28, 2005) (SR–CBOE–2005–41) (elimination of position and exercise limits on NDX options) (''NDX Position Limit Elimination Approval Order''). The Exchange also notes that there are no position and exercise limits for the Chicago Board Options Exchange, Incorporated (''CBOE'') volatility index options based on SPX, DJX, and NDX.

[8] ADTVs are calculated over the previous three months of trading.

ADTV for the underlying securities is 535 million shares, and the ADTV for the option is 79,000 contracts.

In approving the elimination of position and exercise limits for SPX, OEX, DJX, and NDX options, the Commission also noted that the financial requirements imposed by an exchange (and the Commission) would serve to address any concerns that a member or its customer(s) may try to maintain an inordinately large unhedged position in the indexes. Similar financial requirements would also apply to RUT options. Under Phlx rules, for example, the Exchange has the authority to impose additional margin and/or assess capital charges and the ability to monitor accounts to determine when such action is warranted.[9]

In approving the elimination of position limits for SPX, OEX, DJX, and NDX, the Commission also relied heavily on the Exchange's ability to provide surveillance and reporting safeguards to detect and deter trading abuses arising from the elimination of position and exercise limits in options on these indexes. The Exchange represents that it monitors trading in RUT options in much the same manner as trading in its other index options (*e.g.*, Phlx Gold/Silver Sector options, Phlx Oil Service Sector options) and that the current Phlx surveillance procedures are more than adequate to continue monitoring RUT options. Moreover, the proposed rule change would impose a reporting requirement on Phlx members or member organizations that trade RUT options.[10] This reporting requirement would require members or member organizations who maintain in excess of 100,000 RUT option contracts on the same side of the market, for their own accounts or for the account of customers, to report information to the Exchange as to whether the positions are hedged and if applicable, provide a description of the hedge and information concerning collateral used to carry the position. In the interest of consistency, the Exchange also proposes to amend Exchange Rule 1079 relating to the trading of FLEX broad-based index options to reflect that there shall be no position or exercise limits on RUT and RMN options.

Finally, position and exercise limits for reduced-value options are aggregated with full-value options for the purpose of determining compliance with position and exercise limits. The Exchange proposes amending its Rules 1007(d) and 1001A(e) to clarify that reduced-value options contracts will be aggregated with full-value options contracts and counted by the amount by which they are equivalent to a full-value contract (*e.g.*, ten (10) one tenth (1/10th) value contracts equal one (1) full-value contract). In light of this general aggregation and counting rule, the Exchange proposes to delete language that indicates how specific reduced value contracts must be counted for aggregation purposes.

The Exchange believes that eliminating position and exercise limits for RUT options (including FLEX options) and clarifying the applicable aggregation methodology is consistent with the rules of other exchanges relating to RUT and similar broad-based indexes, and allows Phlx members and their customers greater hedging and investment opportunities.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act, specifically,[12] in that it is designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and promotes just and equitable principles of trade. The proposal would achieve these objectives by clarifying the Exchange's position limit rules regarding multiply-listed and heavily-traded RUT and RMN options and placing them on an equal basis with the rules of other exchanges trading such options.

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. 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–2007–71 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–2007–71. 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, 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 should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2007–71 and should be submitted on or before November 8, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a

[9] *See* Phlx Rules 1001A and 722 (Margin Accounts). The Exchange notes that File No. SR–Phlx–2007–33, which is pending before the Commission, proposes to amend Phlx Rule 722 to make this rule similar to CBOE and New York Stock Exchange LLC margin rules.

[10] *See* Phlx Rule 1001A(c).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

national securities exchange.[13] In particular, the Commission believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.[14]

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position.

The Commission notes that it continues to believe that the fundamental purposes of position and exercise limits remain valid. Nevertheless, the Commission believes that experience with the trading of index options as well as enhanced reporting requirements and the Exchange's surveillance capabilities have made it possible to approve the elimination of position and exercise limits on certain broad-based index options.[15] The Commission believes that the considerations upon which it relied in approving the elimination of position and exercise limits for other index options equally apply with respect to options on RUT.[16]

As noted by the Exchange, the market capitalization of the RUT is approximately $1.73 trillion. The ADTV for all underlying components of the index is approximately 535 million shares. The Commission believes that the enormous market capitalization of RUT and the deep, liquid market for the underlying component securities significantly reduce concerns regarding market manipulation or disruption in the underlying market. Removing position and exercise limits for RUT options may also bring additional depth and liquidity, in terms of both volume and open interest, to RUT options without significantly increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.

In addition, the Commission believes that financial requirements imposed by both the Exchange and the Commission adequately address concerns that a Phlx member or its customer may try to maintain an inordinately large unhedged position in RUT options. Current risk-based haircut and margin methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer. Under the proposal, Phlx also would have the authority under its rules to impose a higher margin requirement upon an account maintaining an under-hedged position when it determines a higher requirement is warranted. In addition, the clearing firm carrying the account would be subject to capital charges under Rule 15c3–1 under the Act[17] to the extent of any margin deficiency resulting from the higher margin requirement.

In approving the elimination of position and exercise limits for other index options, the Commission took note of the enhanced surveillance and reporting safeguards that the exchanges had adopted to allow it to detect and deter trading abuses that might arise as a result.[18] Phlx represents that it monitors trading in RUT options and RMN options in much the same manner as trading in its other index options. These safeguards, including the new 100,000-contract reporting requirement described above, would allow Phlx to monitor large positions in order to identify instances of potential risk and to assess and respond to any market concerns at an early stage. In this regard, the Commission expects Phlx to take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop. Moreover, as previously noted, the Exchange has the flexibility to specify other reporting requirements, as well as to vary the limit at which the reporting requirements may be triggered. The Exchange also proposes to amend its rules to state that reduced-value options will be aggregated with full-value options when calculating reporting requirements.

The Commission finds good cause, consistent with Section 19(b)(2) of the Act, to grant accelerated approval of the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that it recently approved substantially similar proposals filed by the American Stock Exchange LLC and CBOE.[19] The Commission believes that Phlx's proposal to eliminate position and exercise limits for RUT options raises no new issues. Moreover, accelerating approval of the proposed rule change will allow Phlx members and their customers greater hedging and investment opportunities in RUT options without further delay.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Phlx–2007–71), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20522 Filed 10–17–07; 8:45 am]

BILLING CODE 8011–01–P

[13] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* SPX, OEX, and DJX Position Limit Elimination Approval Order and NDX Position Limit Elimination Approval Order, *supra* note 7.

[16] *See id.*

[17] 17 CFR 240.15c3–1.

[18] *See* SPX, OEX, and DJX Position Limit Elimination Approval Order and NDX Position Limit Elimination Approval Order, *supra* note 7.

[19] *See* RUT Approval Orders, *supra* note 6.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways

to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed, faxed or emailed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov.*

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. Advanced Notice of Termination of Child's Benefits & Student's Statement Regarding School Attendance—20 CFR 404.350–404.352, 404.367–404.368—0960–0105. The information collected on Forms SSA–1372–BK and SSA–1372–BK–FC is needed to determine whether children of an insured worker are eligible for student benefits. The data allows SSA to determine student entitlement and whether entitlement will end. The respondents are student claimants for Social Security benefits, their respective schools and, in some cases, their representative payees.

Type of Request: Extension of an OMB-approved information collection.

SSA–1372–BK

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Individuals/Households	99,850	1	11	18,306
State/Local/Tribal Government	99,850	1	11	18,306
Totals	199,700			36,612

SSA–1372–BK–FC

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Individuals/Households	150	1	11	28
State/Local/Tribal Government	150	1	11	28
Totals	300			56

2. Acknowledgement of Receipt (Notice of Hearing)—20 CFR 404.938 & 416.1438—0960–0671. The HA–504 is used to acknowledge receipt of the notice of hearing issued by an Administrative Law Judge. The ALJ uses the information collected on Form HA–504 to: (1) Prepare for the hearing as scheduled; or (2) reschedule the hearing to a different date and/or location. The respondents are applicants for Social Security benefits who request a hearing to appeal an unfavorable entitlement or eligibility determination.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 660,000.

Frequency of Response: 1.

Average Burden Per Response: 1 minute.

Estimated Annual Burden: 11,000 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. Request for Corrections of Earnings Record—20 CFR 404.820 & 20 CFR 422.125—0960–0029. The information collected by From SSA–7008 is needed when an individual alleges his/her earnings record is inaccurate. The information is used to check against the record maintained by SSA and, as necessary, initiate development to resolve the issue. The respondents are individuals who request correction of earnings posted to their Social Security earnings record.

Type of Request: Extension of an OMB-approved information collection.

	Number of respondents	Frequency of response	Estimated burden per response (minutes)	Estimated annual burden (hours)
Paper Version	37,500	1	10	6,250
In-person or telephone interview	337,500	1	10	56,250
Total	375,000			62,500

2. Statement of Agricultural Employer (Year Prior to 1988; and 1988 and later)—20 CFR 404.702, 404.802, 404.1056—0960–0036. The information from forms SSA–1002–F3 and SSA–1003–F3 is used by SSA to resolve discrepancies when farm workers allege their employers did not report their wages, or reported the wages incorrectly. If an agricultural employer has incorrectly reported wages, or failed to report any wages for an employee, SSA must attempt to correct its records by contacting the employer to obtain convincing evidence of the wages paid. The respondents are agricultural employers having knowledge of wages paid to agricultural employees.

Type of Request: Extension of an OMB-approved information collection.

Form number	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
SSA–1002	75,000	1	30	37,500
SSA–1003	50,000	1	30	25,000
Total	125,000			62,500

3. Medical Report (General)—20 CFR 404.1512–404.1515, 416.912–416.915—0960–0052. SSA, through its agents, the Disability Determination Services (DDSs), uses form SSA–3826–F4 to make determinations in disability claims cases. The information collected on the SSA–3826–F4 is used in determining the claimant's physical and mental status prior to making a disability determination, and to document the disability claims folder with the medical evidence. Thus, it provides disability adjudicators and reviewers with a narrative record and history of the alleged disability and with the objective medical findings necessary to make a disability determination. SSA uses the medical evidence provided on this form in making a determination of whether an individual's impairment meets the severity and duration requirements for disability benefits. The respondents are members of the medical community including individual and hospital physicians, medical records librarians, and other medical sources.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 150,000.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 75,000 hours.

4. Travel Expense Reimbursement—20 CFR 404.999(d) and 416.1499—0960–0434. The Social Security Act provides for travel expense reimbursement by the State agency or Federal agency for claimant travel incidental to medical examinations and to parties, their representatives, and all reasonably necessary witnesses for travel exceeding 75 miles to attend medical examinations, reconsideration interviews and proceedings before an administrative law judge. Reimbursement procedures require the claimant to provide (1) a list of expenses incurred, and (2) receipts of such expenses. State and Federal personnel review the listings and receipts to verify the amount to be reimbursed to the requestor. The respondents are claimants for Title II benefits and Title XVI payments, their representatives and witnesses.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 8,333 hours.

5. Disability Hearing Officer's Report of Disability Hearing—20 CFR 404.917, 416.1407, 416.1417—0960–0440. Form SSA–1205–BK is used by the Disability Hearing Officer conducting the disability interview in preparation for a written reconsidered determination—specifically for evaluating Title II and Title XVI adult disability claims. The form provides the framework for addressing crucial elements in the case and is used in formulating the completed official documentation of the decision. Respondents are Disability Hearing Officers.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 35,600.

Frequency of Response: 1.

Average Burden per Response: 60 minutes.

Estimated Annual Burden: 35,600 hours.

6. Beneficiary Recontact Report— 20 CFR 404.703 and 404.705—0960–0536. SSA needs to ensure that eligibility for benefits continues after entitlement is established. Studies show that payees of childern who marry fail to report the marriage, which is a terminating event. SSA asks childern ages 15, 16, and 17 information about marital status to detect overpayments and avoid continuing payment to those no longer entitled. Form SSA–1587–OCR–SM is used to obtain information regarding marital status from those children who have representative payees. Respondents are recipients of survivor Social Security benefits who have representative payees.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 982,357.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 49,118 hours.

7. Certificate of Coverage Request—20 CFR 404.1913—0960–0554. The United States has Social Security agreements with 21 countries. These agreements eliminate double Social Security coverage and taxation where, except for the provisions of the agreement, a period of work would be subject to coverage and taxes in both countries. The individual agreements contain rules for determining the country under whose laws the period of work will be covered and to whose system taxes will be paid. The agreements further provide that, upon the request of the worker or employer, the country under whose system the period of work is covered will issue a certificate of coverage. The certificate serves as proof of exemption from coverage and taxation under the system of the other country. The information collected is needed to determine if a period of work is covered by the U.S. Social Security system under an agreement and to issue a U.S. certificate of coverage. Respondents are workers and employers wishing to establish exemption from foreign social security taxes.

Type of Request: Extension of an OMB-approved information collection.

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Individuals	30,000	1	30	15,000
Private Sector	20,000	1	30	10,000
Totals	50,000			25,000

8. Incorporation by Reference of Oral Findings of Fact and Rationale in Wholly Favorable Written Decisions (Bench Decision Regulation)—20 CFR 404.953 and 416.1453—0960–0694. Sections 20 CFR 404.953 and 416.1453 of our regulations state that if an administrative law judge makes a wholly favorable oral decision for a claimant of Title II or Title XVI payments at an administrative appeals hearing, and if this oral decision includes all findings and the rationale for the decision, the records from the oral hearing preclude the need for a written decision. This is known as the incorporation-by-reference process. These regulations also state that if the involved parties want a record of the oral decision, they may submit a written request for these records.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 2,500.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 208 hours.

9. Request for Proof(s) from Custodian of Records—20 CFR 404.703, 404.704, 404.720, 404.721, 404.723, 404.725, & 404.728—0960–NEW. SSA prepares the SSA–L707 for individuals who need help in obtaining evidence of death, marriage, or divorce in connection with claims for benefits. The information collected on the SSA–L707 is used to request and receive the needed evidence. The respondents are custodians of records including statistics and religious entities, coroners, funeral directors, attending physicians, state agencies.

Type of Request: Existing Information Collection in Use Without an OMB Number.

Number of Respondents: 600.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 100 hours.

10. Protection and Advocacy for Beneficiaries of Social Security (PABSS)–Program Performance Report–0960–NEW.

Background

In August of 2004, SSA announced its intention to award grants to establish community-based protection and advocacy projects in every State and U.S. Territory, as authorized under section 1150 of the Social Security Act. Potential awardees were protection and advocacy organizations established under Title I of the Developmental Disabilities Assistance and Bill of Rights Act which submitted a timely application conforming to the requirements in the notice. The projects funded under this grant are part of SSA's strategy to increase the number of beneficiaries who return to work and achieve self-sufficiency as the result of receiving advocacy or other services. The overall goal of the program is to provide information and advice about obtaining vocational rehabilitation and employment services and to provide advocacy or other services that a beneficiary with a disability may need to secure, maintain, or regain gainful employment.

Collection Activity

The PABSS Program Performance Report collects statistical information from the various Protection and Advocacy (P&A) projects to manage program performance. SSA uses the information to evaluate the efficacy of the program and to ensure that those dollars appropriated for PABSS services are being spent on SSA beneficiaries. The project data will be valuable to SSA in its analysis of and future planning for the Social Security Disability Insurance (SSDI) and SSI programs. The respondents to this collection are the 57 designated P&A project system sites in each of the fifty States, the District of Columbia, and the U.S. Territories and beneficiaries of SSDI and SSI programs.

Please note that we have included in this notice the reporting burden for beneficiary participants that was not included in the initial notice published on July 31, 2006 at 71 FR 43270.

Type of Request: Collection in Use Without an OMB Number.

Type of respondent	Number of respondents	Frequency of response	Number of annual responses	Average burden per response (minutes)	Estimated annual burden (hours)
PABSS Program Grantees	57	2	114	60	114
Beneficiaries	5,000	1	5,000	15	1,250
Totals	5,057		5,114		1,364

Dated: October 12, 2007.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E7–20557 Filed 10–17–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5960]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Study of the United States Institutes on American Politics and Political Thought, Contemporary American Literature, Religious Pluralism in the United States, U.S. Foreign Policy, and for Secondary Educators

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/USS–08–05.

Catalog of Federal Domestic Assistance Number: 19.418.

Key Dates:

Application Deadline: December 14, 2007.

Executive Summary: The Branch for the Study of the United States, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, invites proposal submissions for the design and implementation of five Study of the United States Institutes to take place over the course of six weeks beginning in June 2008. These institutes should provide a multinational group of experienced educators with a deeper understanding of U.S. society, culture, values and institutions.

Four of these institutes will be for groups of 18 foreign university level faculty each, focusing on American Politics and Political Thought, Contemporary American Literature, U.S. Foreign Policy, and Religious Pluralism in the United States. The fifth institute will be a general survey course on the study of the United States, for a group of 30 foreign secondary educators.

Applicants may only propose to host one institute listed under this competition.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * * ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: Study of the United States Institutes are intensive academic programs whose purpose is to provide foreign university faculty, secondary educators, and other scholars the opportunity to deepen their understanding of American society, culture and institutions. The ultimate goal is to strengthen curricula and to improve the quality of teaching about the United States in academic institutions abroad.

The Bureau is seeking detailed proposals for five different Study of the United States Institutes from U.S. colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in a field or discipline related to the specific program themes.

Overview: Each program should be six weeks in length; participants will spend approximately four weeks at the host institution, and approximately two weeks on the educational study tour, including two to three days in Washington, DC, at the conclusion of the institute. The educational travel component should directly complement the academic program, and should include visits to cities and other sites of interest in the region around the grantee institution, as well as to another geographic region of the country. The grantee institution also will be expected to provide participants with guidance and resources for further investigation and research on the topics and issues examined during the institute after they return home.

The Study of the United States Institute on American Politics and Political Thought should provide a multinational group of 18 experienced foreign university faculty with a deeper understanding of U.S. political institutions and major currents in American political thought. The institute should provide the foreign participants insight into how intellectual and political movements have influenced modern American political institutions. The institute should provide an overview of political thought during the founding period (constitutional foundations), and the development and current functioning of the American presidency, Congress and the federal judiciary. The examination of political institutions might be expanded to include the electoral system, political parties and interest groups, the civil service system, media and think tanks, or the welfare/regulatory state. The institute should address modern political and cultural issues in the United States (including but not limited to civil rights, women's rights, immigration, etc.), and the significance of public discourse in the formulation of public policy. One award of up to $280,000 will support this institute.

The Study of the United States Institute on Contemporary American Literature should provide a multinational group of up to 18 experienced foreign university faculty and scholars with a deeper understanding of U.S. society and culture, past and present, through an examination of contemporary American literature. Its purpose is twofold: (1) To explore contemporary American writers and writing in a variety of genres; and (2) to suggest how the themes explored in those works reflect larger currents within contemporary American society and culture. The program should explore the diversity of the American literary landscape, examining how major contemporary writers, schools and movements reflect the traditions of the American literary canon. At the same time, the program should expose participants to writers who represent a departure from that tradition, and who are establishing new directions for American literature. One award of up to $280,000 will support this institute.

The Study of the United States Institute on Religious Pluralism in the United States should provide a multinational group of up to 18 experienced foreign university faculty and practitioners with a deeper understanding of U.S. society and culture, past and present, through an examination of religious pluralism in the United States and its intersection with American democracy. Employing a multi-disciplinary approach, drawing on fields such as history, political science, sociology, anthropology, law and others where appropriate, the program should explore both the historical and contemporary relationship between church and state in the United States; examine the ways in which religious thought and practice have influenced, and been influenced by, the development of American-style democracy; examine the intersections of religion and politics in the United States in such areas as elections, public policy,

and foreign policy; and explore the sociology and demography of religion in the United States today, including a survey of the diversity of contemporary religious beliefs and its impact on American politics. One award of up to $280,000 will support this institute.

The Study of the U.S. Institute on U.S. Foreign Policy should provide a multinational group of 18 experienced foreign university faculty with a deeper understanding of how U.S. foreign policy is formulated and implemented with an emphasis on the post Cold War period. This institute should begin with a review of the historical development of U.S. foreign policy and cover significant events, individuals, and philosophies that have dominated U.S. foreign policy. In addition, the institute should explain the role of key players in the field of foreign policy including the executive and legislative branches, the media, public opinion, think-tanks, non-governmental and international organizations and how these players debate, cooperate, influence policy, and are held accountable. Regional sessions, for the entire group, highlighting salient topics such as energy security and environmental policy in Europe; trade and human rights issues in Asia; foreign aid and humanitarian assistance in Africa; drug trafficking and immigration issues for the Western Hemisphere; and combating terrorism in the Near East and South Asia are among the relevant issues that might be explored. In addition, sessions focusing on current issues such nuclear disarmament, the Middle East peace process, or U.S. military actions would be appropriate. The host institution should provide a comprehensive and cohesive program, ensuring that a diversity of views is presented and remain flexible based on final composition of the participant group. One award of up to $280,000 will support this institute.

The Study of the U.S. Institute for Secondary Educators should provide a multinational group of 30 experienced secondary school educators (teachers, teacher trainers, curriculum developers, textbook writers, education ministry officials) with a deeper understanding of U.S. society, education, and culture, past and present. The institute should be organized around a central theme or themes in U.S. civilization and should have a strong contemporary component. Through a combination of traditional, multidisciplinary and interdisciplinary approaches, program content should be integrated in order to elucidate the history and evolution of U.S. educational institutions and values, broadly defined. The program should also serve to illuminate contemporary political, social, and economic debates in American society. One award of up to $350,000 will support this institute.

Program Design: Each Study of the U.S. Institute should be designed as an intensive, academically rigorous seminar for an experienced group of educators from abroad. Each institute should be organized through an integrated series of lectures, readings, seminar discussions, regional travel and site visits, and should also include sessions that expose participants to U.S. pedagogical philosophy and practice for teaching the discipline. Each institute should also include some opportunity for limited but well-directed independent research.

Applicants are encouraged to design thematically coherent programs in ways that draw upon the particular strengths, faculty and resources of their institutions as well as upon the nationally recognized expertise of scholars and other experts throughout the United States.

Further details on specific program responsibilities can be found in the Project Objectives, Goals, and Implementation (POGI) document. Interested organizations should read the entire **Federal Register** announcement for all information prior to preparing proposals. Please refer to the solicitation package for further instructions.

Please note: In a cooperative agreement, the Branch for the Study of the United States is substantially involved in program activities above and beyond routine grant monitoring. The Branch will assume the following responsibilities for the institute: participate in the selection of participants; oversee the institute through one or more site visits; debrief participants in Washington, DC at the conclusion of the institute; and engage in follow-on communication with the participants after they return to their home countries. The Branch may request that the grantee institution make modifications to the academic residency and/or educational travel components of the program. The recipient will be required to obtain approval of significant program changes in advance of their implementation.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is detailed in the previous paragraph.

Fiscal Year Funds: FY–2008 (pending availability of funds).

Approximate Total Funding: $1,470,000.

Approximate Number of Awards: 5.

Approximate Average Award: Four awards of $280,000 for 18 participants each; one award of $350,000 for 30 participants.

Floor of Award Range: $280,000.

Ceiling of Award Range: $350,000.

Anticipated Award Date: Pending availability of funds, March 1, 2008.

Anticipated Project Completion Date: August 2008

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew these cooperative agreements for two additional fiscal years, before openly competing them again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau strongly encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: (a.) Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. ECA anticipates awarding five grants in amounts over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

(b.) *Technical Eligibility:* It is the Bureau's intent to award five separate cooperative agreements to five different institutions under this competition. Therefore prospective applicants may

only submit one proposal under this competition. All applicants must comply with this requirement. Should an applicant submit multiple proposals under this competition, all proposals will be declared technically ineligible and given no further consideration in the review process.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533 to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E/USS–08–05 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from *grants.gov*. Please see section IV.3f. for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required application forms and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

For specific questions on the institutes on American Politics and Political Thought or Religious Pluralism in the United States, please specify Brendan Walsh, *WalshBM@state.gov*. For specific questions on the institute on Secondary Educators, please specify Jennifer Phillips, *PhillipsJA@state.gov*. For specific questions on the institute on U.S. Foreign Policy or Contemporary American Literature, please specify Sanda Chao, *ChaoSL@state.gov* and refer to the Funding Opportunity Number ECA/A/E/USS–08–05 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at: *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the *Grants.gov* Web site at *http://www.grants.gov*. Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under section IV.3f, ''Application Deadline and Methods of Submission,'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the form SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget. Please refer to the Solicitation Package. It contains the mandatory PSI document and the POGI document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to all regulations governing the J visa: The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, *Telephone:* (202) 203–5029, *FAX:* (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section (V.2.) for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation: Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau strongly recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions

(institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.
2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for overall program management, staffing, and coordination with Branch for the Study of the United States. The Branch considers these to be essential elements of your program; please be sure to give sufficient attention to them in your proposal. Please refer to the Technical Eligibility Requirements and the POGI in the Solicitation Package for specific guidelines.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire institute. Awards for the institutes on American Politics and Political Theory, Contemporary American Literature, U.S. Foreign Policy, and Religious Pluralism in the United States may not exceed $280,000. The award for the institute for Secondary Educators may not exceed $350,000. While there is no rigid ratio of administrative to program costs, the Bureau urges applicant organizations to keep administrative costs as low and reasonable as possible. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Institute staff salary and benefits.
(2) Participant housing and meals.
(3) Participant travel and per diem.
(4) Textbooks, educational materials and admissions fees.
(5) Honoraria for guest speakers.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: December 14, 2007.

Reference Number: ECA/A/E/USS–08–05.

Methods of Submission:

Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2.) Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and eight (8) copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547, *Reference Number:* ECA/A/E/USS–08–05.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to regional bureaus and Public Affairs Sections at U.S. embassies and for their review, as appropriate.

IV.3f.2. Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process: The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the ECA program office and the Public Affairs Sections, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

V.2. Review Criteria: Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of Program Idea/Plan: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity.

2. Ability to Achieve Overall Program Objectives: Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. Support for Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue, study tour venue, and program evaluation) and program content (orientation and wrap-up sessions, site visits, program meetings and resource materials).

4. Evaluation and Follow-Up: Proposals should include a plan to evaluate the institute's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original institute objectives is strongly recommended. Proposals should also discuss provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

5. Cost-Effectiveness/Cost-Sharing: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

6. Institutional Track Record/Ability: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be fully qualified to achieve the institute's goals.

VI. Award Administration Information

VI.1. Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements:

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one (1) copy of the final program and financial report no more than 90 days after the expiration of the award.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. Please refer to Application and Submission Instructions (IV.3d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Branch for the Study of the United States, ECA/A/E/USS, Room 314, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547; tel. (202) 453–8540; fax (202) 453–8533. For specific questions on the institutes on American Politics and Political Thought or Religious Pluralism in the United States, please contact Brendan Walsh, *WalshBM@state.gov.* For specific questions on the institute on Secondary Educators, please contact Jennifer Phillips, *PhillipsJA@state.gov.* For specific questions on the institute on U.S. Foreign Policy or Contemporary American Literature, please contact Sanda Chao, *ChaoSL@state.gov.* All correspondence with the Bureau concerning this RFGP should reference the title ''Study of the U.S. Institutes'' and number ECA/A/E/USS–08–05.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: October 9, 2007.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–20594 Filed 10–17–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program update that was submitted for Baltimore/Washington International Thurgood Marshall Airport under the provisions of 49 U.S.C. 47504 et. seq (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150 by the Maryland Aviation Administration. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Baltimore/Washington International Thurgood Marshall Airport were in compliance with applicable requirements, effective April 3, 2006, **Federal Register** Doc. 06–3624. The proposed noise compatibility program update will be approved or disapproved on or before March 28, 2008.

DATES: *Effective Date:* The effective date of the start of FAA's review of the noise compatibility program update is October 1, 2007. The public comment period ends November 30, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Mendelsohn, Eastern Region, Washington Airports District Office, Federal Aviation Administration, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166, Telephone: 703–661–1362. Comments on the proposed noise compatibility program update should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program update for Baltimore/Washington International Thurgood Marshall Airport, which will be approved or disapproved on or before March 28, 2008. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has formally received the noise compatibility program update for Baltimore/Washington International Thurgood Marshall Airport, effective on October 1, 2007. The airport operator has requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program update under section 47504 of the Act. Preliminary review of the submitted material indicates that it conforms to FAR Part 150 requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 28, 2008.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether they are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps and the proposed noise compatibility program update are available for examination at the following locations:

Federal Aviation Administration, Eastern Region—Airports Division, 1 Aviation Plaza, Jamaica, New York 11434.

Federal Aviation Administration, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166.

Maryland Aviation Administration, Division of Noise, Real Estate and Land Use Compatibility, 991 Corporate Boulevard, Linthicum, MD 21090.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Dulles, Virginia, on October 1, 2007.

Terry J. Page,

Manager, Washington Airports District Office.

[FR Doc. 07–5151 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourth Meeting: RTCA Special Committee 210, Cabin Management Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 210, Cabin Management System.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 210, Cabin Management.

DATES: The meeting will be held October 23–25, 2007 from 9–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036, ARINC, Colson & Garmin Rooms.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Special Committee 210, Cabin Management Systems meeting. The agenda will include:

- October 23:
  - Opening Plenary Session (Welcome, Introductions, and Administrative Remarks, Review of Agenda).
  - Approval of Summary of the Third held August 1–2, 2007, RTCA Paper No. 213–07/SC210–007.
  - PMC Update—RTCA.
  - Regulatory Update.
  - FAA.
  - Transport Canada.
  - EUROCAE/ICAO.
  - TSO 138 (Miscellaneous Non-Required Equipment) Discussion.
  - Discussion of Applicability of Wireless Cabin Equipment.
  - Reports from Working Groups.
  - Current Status (accomplishments since last plenary) except WG–1 to be complete and members to join other WGs.
  - Objective for this plenary.
  - Review of WG Project Schedule.
  - Overall direction for Working Groups (Chair).
  - Organization Items; Leadership, WG Structure, etc.
  - Project End Date for Communication to PMC.
  - Close Plenary Meeting.
  - Break-up for Specific Working Group Sessions.
  - Working Group 1, Document Review/Assessment, Garmin Room.
  - Working Group 2, Cabin Management Function Classification, ARINC Room.
  - Working Group 3, Commercial off-the-Shelf (COTS) Assessment, Colson Room.
  - Close out of day's activities.
  - Items for group discussion/resolution.
  - Review of tomorrow's activities.
- October 24:
  - Continue Specific Working Group Session.
  - WG–2, Cabin Management Function Classification.
  - WG–3, Commercial off-the-Shelf (COTS) Assessment.
  - Close out of day's activities.
  - Items for Group Discussion/Resolution.
  - Review of tomorrow's activities.
- October 25:
  - Continue Specific Working Group Sessions.
  - WG–2, Cabin Management Function Classification.
  - WG–3, Commercial off-the-Shelf (COTS) Assessment.
  - Convene to Continue Plenary Meeting.
  - Reports from Working Group Chairs.
  - Current Status (accomplishments during plenary).
  - Discussion/Resolution of outstanding issues.
  - Anticipated accomplishments by next plenary and plan to achieve.
  - Discussion of document creation and text writing assignments.
  - Document Structure/Review.
  - Assignment of Responsibilities.
  - Closing Plenary Session (Other Business, Establish Agenda for Next Meeting, Date, and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 1, 2007.

Robert L. Bostiga,

RTCA Advisory Committee (Acting).

[FR Doc. 07–5150 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34284]

Southwest Gulf Railroad—Construction and Operation Exemption—In Medina County, Texas

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Availability and Request for Public Review and Comment on a Draft Programmatic Agreement.

SUMMARY: The Surface Transportation Board's (STB or Board) Section of Environmental Analysis (SEA) is making available to the public, the official ''Section 106'' consulting parties, Indian tribes, and Federal, State, and local agencies, a Draft Programmatic Agreement (PA) for review and comment in the rail line construction and operation proposal described below. The Draft PA addresses historic preservation and cultural resource issues and is being developed to satisfy the requirements of section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f) and the regulations of the Advisory Council on Historic Preservation at 36 CFR 800.14 (b). Comments on the PA must be post-marked to the address below by November 19, 2007. To be considered, comments must focus on the contents of the PA. Comments addressing matters outside the PA or post-marked after the due date will not be considered.

On February 27, 2003, the Southwest Gulf Railroad (SGR) filed a petition with the STB seeking the Board's authorization to construct and operate a new rail line in Medina County, Texas (Finance Docket No. 34284). SGR's proposal involves the construction and operation of a rail line approximately seven miles long from a Vulcan Construction Materials, LP (VCM) proposed limestone quarry to the Union Pacific (UP) rail line near Dunlay, Texas. The Board issued a decision on May 19, 2003, finding that, from a transportation perspective, the proposed construction and operation met the standards of 49 U.S.C. 10502.

SEA issued a Draft Environmental Impact Statement (DEIS) for public review and comment in this proceeding in 2004. The DEIS assessed four potential rail routes for SGR's proposed rail line to the VCM proposed quarry, as well as the No-Action Alternative (the use of trucks to transport the limestone to the UP rail line if SGR's rail line were not built). Based on the comments received on the DEIS, SEA decided to

prepare a Supplemental Draft Environmental Impact Statement (SDEIS) for public review and comment. SEA issued the SDEIS on December 8, 2006. The SDEIS included additional historic property evaluation and analyzed three additional rail routes to the east of the routes originally considered. The SDEIS preliminarily concluded that two of these eastern routes would be environmentally preferable to the routes previously studied in the DEIS because they would avoid or minimize impacts to rural historic landscapes in the project area discovered during the course of the environmental review. The comment period on the SDEIS closed on January 29, 2007.

SEA is currently reviewing the comments received and preparing a Final Environmental Impact Statement (FEIS) that responds to the comments received on the DEIS and SDEIS. Once SEA issues the FEIS, the environmental review process will be concluded, and the Board will issue a final decision on SGR's proposal. Before issuing the FEIS, SEA will first complete the ''Section 106 process'' of the NHPA, which requires Federal agencies to consider the effects of their licensing actions on historic sites and structures. An executed PA is evidence of the agencies compliance with section 106.

The Draft PA is available for review on the Board's Web site at *http://www.stb.dot.gov* by clicking on the ''Environmental Matters'' link, then ''Key Cases'' then the ''Medina County, Texas'' link. Please refer to Finance Docket No. 34284 in all correspondence, including any e-filings.

DATES: Written comments on the Draft PA must be post-marked by November 19, 2007.

ADDRESSES: Send an original and two (2) copies of comments referring to STB Finance Docket No. 34284 to: Surface Transportation Board, Case Control Unit, 395 E Street, SW., Washington, DC 20423, Attention: Diana Wood, Section of Environmental Analysis.

FOR FURTHER INFORMATION CONTACT: Diana Wood (202) 245–0302; e-mail: *woodd@stb.dot.gov.* Federal Information Relay Service for the hearing impaired: 1–800–877–8339.

Decided: October 18, 2007.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. E7–20537 Filed 10–17–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 11, 2007.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 19, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–2056.

Type of Review: Extension.

Title: REG–147144–06 Section 1.367(a)–8 Revisions.

Description: These temporary and proposed regulations under IRC § 367(a) provide rules for taxpayers to avoid recognizing gain under a gain recognition agreement (GRA) if a new GRA and notice statement are filed. The regulations also provide a rule under which a taxpayer may reduce the basis in certain stock to meet one of the requirements for terminating a GRA. These regulations also revise an existing rule to facilitate electronic filing. The revision requires that information that a taxpayer currently would write on the face of its Federal income tax return shall instead be attached as a separate schedule to its return.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 240 hours.

OMB Number: 1545–1292.

Type of Review: Extension.

Title: PS–97–91 and PS–101–90 (Final) Enhanced Oil Recovery Credit.

Description: This regulation provides guidance concerning the costs subject to the enhanced oil recovery credit, the circumstances under which the credit is available, and procedures for certifying to the Internal Revenue Service that a project meets the requirements of section 43(c) of the Internal Revenue Code.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 880,333 hours.

OMB Number: 1545–1890.

Type of Review: Extension.

Title: Revenue Procedure 2004–44, Extension of the Amortization Period.

Description: This revenue procedure describes the process for obtaining an extension of the amortization period for the minimum funding standards set forth in section 412(e) of the Code.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 2,500 hours.

OMB Number: 1545–1623.

Type of Review: Extension.

Title: REG–246256–96 (Final) Excise Taxes on Excess Benefit Transactions.

Description: The rule affects organizations described in Internal Revenue Code section 501(c)(3) and (4) (applicable tax-exempt organizations). The collection of information entails obtaining and relying on appropriate comparability data and documenting the basis of an organization's determination that compensation is reasonable, or a property transfer (or transfer of the right to use property) is at fair market value. These actions comprise two of the requirements specified in the legislative history for obtaining the rebuttable presumption of reasonableness.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 910,083 hours.

OMB Number: 1545–0971.

Type of Review: Extension.

Title: Estimated Income Tax for Estates and Trusts.

Form: 1041–ES.

Description: Form 1041–ES is used by fiduciaries of estates and trusts to make estimated tax payments if their estimated tax is $1,000 or more. IRS uses the data to credit taxpayers' accounts and to determine if the estimated tax has been properly computed and timely paid.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 3,161,236 hours.

OMB Number: 1545–2071.

Type of Review: Revision.

Title: TE/GE Compliance Check Questionnaires.

Description: Compliance questionnaires are an invaluable tool for obtaining supplemental information to determine the compliance of specific entities without the burden for the taxpayer or the cost to the IRS of a traditional, full-scale audit. The information collected will be used to improve the quality of data available for

monitoring compliance, to correct identified instances of non-compliance and to determine where additional guidance, education or enforcement resources are most needed to prevent future non-compliance.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 37,500 hours.

OMB Number: 1545–1324.

Type of Review: Revision.

Title: CO–88–90 (Final) Limitation on Net Operating Loss Carryforwards and Certain Built-in Losses Following Ownership Change; Special Rule for Value of a Loss Corporation.

Description: This information serves as evidence of an election to apply section 382(1)(6) in lieu of section 382(1)(5) and an election to apply the provisions of the regulations retroactively. It is required by the Internal Revenue Service to assure that the proper amount of carryover attributes are used by a loss corporation following specified types of ownership changes.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 813 hours.

OMB Number: 1545–1752.

Type of Review: Extension.

Title: Revenue Procedure 2001–42 Modified Endowment Contract Correction Program Extension.

Description: This revenue procedure allows issuers (life insurance companies) to remedy inadvertent non-egregious failures to comply with the modified endowment rules set forth in section 7702A of the Internal Revenue Code.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 1,000 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–20500 Filed 10–17–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 11, 2007.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 19, 2007 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0096.

Type of Review: Revision.

Title: Federal Firearms and Ammunition Excise Tax Deposit.

Forms: TTB 5300.27.

Description: Businesses and individuals who manufacture or import firearms, shells and cartridges may be required to deposit Federal excise tax. TTB uses this information to identify the taxpayer and the deposit.

Respondents: Business and other for profits, individuals or households.

Estimated Total Burden Hours: 1,056 hours.

OMB Number: 1513–0001.

Type of Review: Extension.

Title: Tax Information Authorization.

Form: TTB 5000.19.

Description: TTB F 5000.19 is required by TTB to be filed when a respondent's representative, not having a power of attorney, wishes to obtain confidential information regarding the respondent. After proper completion of the form, information can be released to the representative. TTB uses this form to properly identify the representative and his/her authority to obtain confidential information.

Respondents: Business and other for profits, individuals or households.

Estimated Total Burden Hours: 50 hours.

OMB Number: 1513–0003.

Type of Review: Extension.

Title: Referral of Information.

Form: TTB 5000.21.

Description: When we discover potential violations of Federal, State, or local, we use TTB F 5000.21 to make referrals to Federal, State, or local agencies to determine if they plan to take action, and to internally refer potential violations of TTB administered statutes. We also use TTB F 5000.21 to evaluate effectiveness of these referrals.

Respondents: Business and other for profits, individuals or households.

Estimated Total Burden Hours: 500 hours.

OMB Number: 1513–0003.

Type of Review: Extension.

Title: Offer in Compromise of liability incurred under the provisions of Title 26 U.S.C. enforced and administered by the Alcohol and Tobacco Tax and Trade Bureau.

Form: TTB 5640.1.

Description: TTB F 5640.1 is used by persons who wish to compromise criminal and/or civil penalties for violations of the IRC. If accepted, the offer in compromise is a settlement between the government and the party in violation in lieu of legal proceedings or prosecution. The form identifies the party making the offer, violations, amount of offer and circumstances concerning the violations.

Respondents: Business and other for profits, individuals or households.

Estimated Total Burden Hours: 80 hours.

Clearance Officer: Frank Foote, (202) 927–9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G. Street, NW., Washington, DC 20005.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–20502 Filed 10–17–07; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket No. AC–17: OTS Nos. 17967, H–4001 and H–4445]

United Bank, United Mutual Holding Company, United Financial Bancorp, Inc., West Springfield, Massachusetts; Approval of Conversion Application

Notice is hereby given that on October 12, 2007, the Office of Thrift Supervision approved the application of United Bank, West Springfield, Massachusetts, to convert to the stock form of organization. Copies of the application are available for inspection

by appointment (phone number: 202–906–5922 or e-mail: *Public.Info@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and the OTS Northeast Regional Office, Harborside Financial Center Plaza Five, Suite 1600, Jersey City, New Jersey 07311.

Dated: October 12, 2007.

By the Office of Thrift Supervision.

Sandra E. Evans,

Legal Information Assistant.

[FR Doc. 07–5138 Filed 10–17–07; 8:45 am]

BILLING CODE 6720–01–M

Corrections

Federal Register

Vol. 72, No. 201

Thursday, October 18, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 172 and 178

[Docket No. PHMSA–2007–29245 (HM–244)]

RIN 2137–AE30

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications

Correction

In rule document E7–19138 beginning on page 55678 in the issue of Monday, October 1, 2007, make the following corrections:

§ 172.101 [Corrected]

1. On page 55690, in § 172.101, in the table, in the last row, in the seventh column, ''None'' should read ''....''.

2. On the same page, in the same section, in the same table, in the same row, in the eighth column, ''62'' should read ''None''.

3. On the same page, in the same section, in the same table, in the same row, in the ninth column, ''None'' should read ''62''.

4. On the same page, in the same section, in the same table, in the same row, in the 10th column, ''Forbidden'' should read ''None''.

5. On the same page, in the same section, in the same table, in the same row, in the 12th column, ''08'' should read ''Forbidden''.

6. On the same page, in the same section, in the same table, in the same row, in the 13th column, ''8E, 14E, 15E, 17E'' should read ''08''.

7. On the same page, in the same section, in the same table, in the same row, the 14th column should read ''8E, 14E, 15E, 17E''.

§ 178.348–4 [Corrected]

8. On page 55696, in § 178.348–4(d)(3), in the second column, in the first line,

$$C = 520[K(2/(K+1))[(K+1)/(K-1)]]0.5$$

should read

$$C = 520[K(2/(K+1))^{[(K+1)/(K-1)]}]^{0.5}.$$

[FR Doc. Z7–19138 Filed 10–17–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
October 18, 2007

Part II

Department of Housing and Urban Development

Notice of Submission of Proposed Information Collection to OMB; Disaster Recovery Grant Reporting System; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–92]

Notice of Submission of Proposed Information Collection to OMB; Disaster Recovery Grant Reporting System

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Cities, counties, and states that have received program grants describe their recovery needs, develop action plans, and report performance on a Disaster Recovery Grant Reporting System. HUD also uses the information for quarterly reports to Congress.

DATES: *Comments Due Date:* November 19, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0165) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Disaster Recovery Grant Reporting System.

OMB Approval Number: 2506–0165.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Cities, counties, and states that have received program grants describe their recovery needs, develop action plans, and report performance on a Disaster Recovery Grant Reporting System. HUD also uses the information for quarterly reports to Congress.

Frequency of Submission: Quarterly.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	53	4		41.84		8,872

Total Estimated Burden Hours: 8,872.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 12, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–20526 Filed 10–17–07; 8:45 am]

BILLING CODE 4210–67–P

Federal Register

Thursday,
October 18, 2007

Part III

Department of Housing and Urban Development

Changes in Certain Multifamily Mortgage Insurance Premiums for 2008; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4679–N–13]

Changes in Certain Multifamily Mortgage Insurance Premiums for 2008

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Notice.

SUMMARY: In accordance with HUD regulations, this notice announces the changes in the mortgage insurance premiums (MIP) for the following Federal Housing Administration (FHA) multifamily mortgage insurance programs whose commitments will be issued or reissued in Fiscal Year (FY) 2008. The new MIPs will be effective as of December 1, 2007.

DATES: *Comment Due Date:* November 19, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this Notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Interested persons also may submit comments electronically through the Federal eRulemaking Portal at: *http://www.regulations.gov*. Commenters should follow the instructions provided on that site to submit comments electronically. HUD strongly encourages commenters to submit their comments electronically through *http://www.regulations.gov*. The comments received through this portal are posted and can be easily viewed.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available, without change, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the public comments by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Copies of electronically filed comments are also available for inspection and downloading at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eric Stevenson, Director, Policy Division, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, Telephone: (202) 708–1142 (this is not a toll-free number). Hearing-or speech-impaired individuals may access these numbers through TTY by calling the Federal Information Relay Service at (800) 877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

HUD's regulations at 24 CFR 207.252, 207.252a and 207.254 provide that instead of setting the MIP at one specific rate for all programs, the Secretary is permitted to change an MIP program by program within the full range of HUD's statutory authority of one-fourth of one percent to one percent of the outstanding mortgage principal per annum through a notice, as provided in section 203(c)(1) of the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)). The regulation at 24 CFR 207.254 states that HUD will provide a 30-day period for public comment on notices changing MIPs in multifamily insured housing programs.

Pursuant to this 30-day comment procedure, this notice announces changes for FY 2008 in the MIP for programs authorized under the Act. These changes will be effective December 1, 2007.

Credit Subsidy

Appropriated positive credit subsidy is required for loan guarantee commitments under the three sections of the Act listed below:

- Section 221(d)(3) for new construction or substantial rehabilitation (NC/SR).
- Section 223(d) for operating loss loans for both apartments and health care facilities.
- Section 241(a) for supplemental loans for additions or improvements for apartments only.

The following programs will have MIP changes:

- Section 221(d)(4) New Construction/Substantial Rehabilitation (NC/SR): The MIP is increased from 45 basis points in FY2007 to 61 basis points in FY2008.
- Section 207/223(f) refinance or purchase of apartment mortgages: The MIP is increased from 45 basis points in FY2007 to 61 basis points in FY2008.
- Section 223(a)(7) refinance of FHA insured apartment mortgages: The MIP is increased from 45 basis points in FY2007 to 61 basis points in FY2008.

The increase of 16 basis points in section 221(d)(4) new construction and substantial rehabilitation (NC/SR), section 207/223(f) refinancing or purchase of apartments, and section 223(a)(7) refinancing of FHA insured apartment mortgages is to help cover administrative costs.

For all projects with low-income housing tax credits (LIHTC) the sponsor is required under the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101–235 (approved December 15, 1989) and HUD's implementing instructions to submit a certification regarding governmental assistance with all mortgage insurance applications.

The following MIPs are unchanged:

- All sections of the Act where the mortgagor equity is produced from the proceeds of the sale of low-income housing tax credits (LIHTC): the MIP remains at 45 basis points.
- Section 213 Cooperative Housing MIP remains at 50 basis points.
- Section 221(d)(3) Nonprofit/Cooperative MIP remains at 80 basis points.
- Section 223(d) Operating Loss Loans for apartments or health care facilities MIP remains at 80 basis points.
- Section 241(a) Improvements/Additions for apartments MIP remains at 80 basis points.
- Section 241(a) Improvements/Additions for Health Care Facilities MIP remains at 57 basis points.
- Section 207 Manufactured Home Parks (NC/SR) MIP remains at 50 basis points.
- Section 232 NC/SR Health Care Facilities MIP remains at 57 basis points.
- Section 220 Urban Renewal Housing MIP remains at 50 basis points.
- Section 231 Elderly Housing MIP remains at 50 basis points.
- Section 232/223(f) Refinance or Purchase of Health Care Facilities MIP remains at 50 basis points.
- Section 223(a)(7) refinance of Health Care Facilities MIP remains at 50 basis points.
- Section 242 Hospitals MIP remains at 50 basis points.
- Title XI—Group Practice MIP remains at 50 basis points.

The First Year MIP for the section 207/223(f) loans for apartments and 232/223(f) loans for health care facilities remains at one percent.

Premiums for risk-sharing applications under sections 542(b) and 542(c) of the Housing and Community Development Act of 1992 MIP remain at 50 basis points. Risk-sharing premiums are paid by a risk-sharing Housing Finance Agency depending on the percentage of risk assumed by it in accordance with regulations at 24 CFR 266.604. The premium paid by Fannie Mae or Freddie Mac is 50% of 50 basis points. The 50 basis points apply to all

risk-sharing loans whether or not they have LIHTC.

If the mortgagor's equity is produced from LIHTC for sections 221(d)(3) or 241(a), a credit subsidy obligation will not be required. Only nonprofit and nonprofit cooperative mortgagors can obtain a 100 percent mortgage under section 221(d)(3) of the Act. The nonprofits cannot be under the control or influence of profit-motivated entities and continue to require HUD approval prior to issuance of the firm commitment.

The mortgage insurance premiums to be in effect for FHA firm commitments issued or reissued in FY 2008 are shown in the table below:

FISCAL YEAR 2008 MIP RATES MULTIFAMILY LOAN PROGRAM

Loan program	Basis points
207 Multifamily Housing NC/SR without LIHTC	50
207 Multifamily Housing NC/SR with LIHTC	45
207 Manufactured Home Parks without LIHTC	50
207 Manufactured Home Parks with LIHTC	45
221(d)(3) Nonprofit/Cooperative mortgagor without LIHTC	80
221(d)(3) Limited dividend with LIHTC	45
221(d)(4) NC/SR without LIHTC	61
221(d)(4) NC/SR with LIHTC	45
232 NC/SR Health Care Facilities without LIHTC	57
232 NC/SR—Assisted Living Facilities with LIHTC	45
220 Urban Renewal Housing without LIHTC	50
220 Urban Renewal Housing with LIHTC	45
213 Cooperative	50
231 Elderly Housing without LIHTC	50
231 Elderly Housing with LIHTC	45
207/223(f) Refinance or Purchase for Apartments without LIHTC	*61
207/223(f) Refinance or Purchase for Apartments with LIHTC	*45
232/223(f) Refinance for Health Care Facilities without LIHTC	*50
232/223(f) Refinance for Health Care Facilities with LIHTC	*45
223(a)(7) Refinance of Apartments without LIHTC	61
223(a)(7) Refinance of Apartments with LIHTC	45
223(a)(7) Refinance of Health Care Facilities without LIHTC	50
223(a)(7) Refinance of Health Care Facilities with LIHTC	45
223d Operating loss loan for Apartments	80
223d Operating loss loan for Health Care Facilities	80
241(a) Improvements/additions for Apartments/coop without LIHTC	80
241(a) Improvements/additions for Apartments/coop with LIHTC	45
241(a) Improvements/additions for Health Care Facilities without LIHTC	57
241(a) Improvements/additions for Health Care Facilities with LIHTC	45
242 Hospitals	50
Title XI— Group Practice	50

*The First Year MIP for the section 207/223(f) loans for apartments is one percent for the first year, as specified in section 24 CFR 207.232b(a). The first year MIP for 232/223(f) health care facilities remains at one percent.

Applicable Mortgage Insurance Premium Procedures

The MIP regulations are found in 24 CFR part 207. This notice is published in accordance with the procedures stated in 24 CFR 207.252, 207.252(a), and 207.254.

Transition Guidelines

A. General

FHA will honor outstanding commitments issued before December 1, 2007 and endorse the notes for insurance.

B. Extension of Outstanding Firm Commitments

FHA may extend or amend outstanding firm commitments issued prior to December 1, 2007 when the Hub/Program Center determines that the underwriting conclusions (rents, expenses, construction costs, mortgage amount and cash required to close) are still valid in accordance with Mortgagee Letter 03–21, ''FHA Policies for Controlling Multifamily Firm Commitments and Credit Subsidy,'' dated December 3, 2003. If the commitment has been extended 90 days from the original expiration date, the mortgagee must provide updated appraisal, market cost and mortgage credit information. If the loan is processed under Traditional Application Processing, the Hub/program center must update its own conclusions (appraisal/market study, cost and mortgage credit underwriting). A new market study is required if the existing study is over one year old.

C. Reopening of Expired Firm Commitments

Reopening requests for expired firm commitments will be reprocessed by FHA field staff with updated appraisal, market cost and mortgage credit information using either traditional application processing (TAP) or multifamily accelerated processing (MAP) updated applications. The new MIP will apply to reopened commitments which are reissued on or after December 1, 2007. Reopening requests received within the 90 days of the expiration of the commitments are required to pay a reopening fee of $.50 per thousand of the requested mortgage. After expiration of the 90-day reopening period, mortgagees are required to submit new applications with the $3 per thousand application fee.

Dated: September 19, 2007.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 07–5149 Filed 10–15–07; 2:36 pm]

BILLING CODE 4210–67–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 474/P.L. 110–95

To award a congressional gold medal to Michael Ellis DeBakey, M.D. (Oct. 16, 2007; 121 Stat. 1008)

S. 1612/P.L. 110–96

International Emergency Economic Powers Enhancement Act (Oct. 16, 2007; 121 Stat. 1011)

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