Federal Register

6–30–06
Vol. 71 No. 126
Friday
June 30, 2006

Pages 37489–37806

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

How To Cite This Publication: Use the volume number and the page number. Example: 71 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

Printed on recycled paper.

Contents

Federal Register

Vol. 71, No. 126

Friday, June 30, 2006

Separate Parts In This Issue

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

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register

Vol. 71, No. 126

Friday, June 30, 2006

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 511 and 532

RIN 3206–AH38

Classification Under the General Schedule and Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Direct final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to remove obsolete references to OPM central and regional offices from its classification and job grading appeals regulations.

DATES: This rule is effective September 28, 2006 without further action, unless adverse comment is received by July 31, 2006. If adverse comment is received, OPM will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Send or deliver comments to Mark Doboga, Deputy Associate Director, Center for Talent and Capacity Policy, Strategic Human Resources Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415–9700, e-mail to *fedclass@opm.gov;* or fax to (202) 606–4891. Comments may also be sent through the Federal eRulemaking Portal at *http://www.regulations.gov.* All submissions received through the Portal must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Georgeanna Emery, by e-mail at *fedclass@opm.gov,* by telephone at 202–606–3600, or by fax at 202–606–4891.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is publishing a direct final rule to make nonsubstantive revisions to parts 511 and 532 of title 5, Code of Federal Regulations. These revisions are necessary to remove obsolete references to OPM central and regional offices.

The specific sections of 5 CFR parts 511 and 532 to be revised are §§ 511.605(c), 511.613, 511.701(b)(2), 511.702(b), and 532.705(f). We are also revising the phrase ''pay position'' in the first sentence of paragraph (c) of § 511.702 to read ''pay of the position.'' Pursuant to 5 U.S.C. 553(B), solicitation of comments through the proposed rule process is not necessary due to the nonsubstantive nature of the amendments, i.e., changes in organizational titles and offices and a clerical error correction.

E.O. 12866, Regulatory Review

The Office of Management and Budget (OMB) has reviewed this rule in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 511 and 532

Administrative practice and procedure, Freedom of Information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, the Office of Personnel Management is amending parts 511 and 532 of title 5, Code of Federal Regulations, as follows:

PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

■ 1. The authority citation for part 511 continues to read as follows:

Authority: 5 U.S.C. 5115, 5338, 5351.

Subpart F—Classification Appeals

■ 2. Revise paragraph (c) of § 511.605 to read as follows:

§ 511.605 Time limits.

* * * * *

(c) *Reconsideration.* An employee or agency may request reconsideration of an Office appellate decision. The request must be in writing, and filed not later than 45 calendar days after the decision is issued. This time limit may be waived under exceptional circumstances by either the Director or the Director's designee.

■ 3. Revise § 511.613 to read as follows:

§ 511.613 Appeals reconsideration by the Office.

The Office may, at its discretion, reopen and reconsider a certificate issued under this subpart.

(a) Requests which contain new and material information, or disagreements over the significance of information, will be remanded to the Director's designee for a decision.

(b) The Office may reopen and reconsider a decision only when written argument or evidence is presented which establishes a reasonable doubt concerning the technical accuracy of the decision.

Subpart G—Effective Dates of Position Classification Actions or Decisions

■ 4. Revise paragraph (b)(2) of § 511.701 to read as follows:

§ 511.701 Effective dates generally.

* * * * *

(b) * * *

(2) The implementation of the certificate may be suspended when it is determined before its effective date that a review of the classification decision is warranted and suspension is desirable. The determination to suspend implementation may be made by the Director or the Director's designee. Suspending the implementation of a certificate does not automatically change the effective date except when the certificate requires that the grade or pay of the position be reduced and the employee is not entitled to retained grade or pay.

* * * * *

■ 5. Revise paragraphs (b) and (c) of § 511.702 to read as follows:

§ 511.702 Agency or Office classification appeal decisions.

* * * * *

(b) The implementation of the decision may be suspended by the Office when it determines before the effective date that a review of the decision is warranted. The determination to suspend implementation may be made by the Director or the Director's designee. Suspending the implementation does not change the effective date of the decision except when the original decision requires that the grade or pay of the position be reduced and the employee is not entitled to grade or pay retention.

(c) When the original decision requires that the grade or pay of the position be reduced and the employee is not entitled to grade or pay retention, the reviewing authority, if sustaining the original decision, shall issue a new certificate and the effective date of the new certificate shall be not earlier than the date of the new decision and not later than the beginning of the fourth pay period following the date of the new decision, unless a subsequent date is specifically stated in the new decision.

PART 532—PREVAILING RATE SYSTEMS

■ 6. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 7. Revise paragraph (f) of § 532.705 to read as follows:

§ 532.705 Appeal to the Office of Personnel Management.

* * * * *

(f) The Office of Personnel Management may, at its discretion, reopen and reconsider any job-grading decision made by the Office when requested by an employee or an agency. This authority may be used under circumstances such as the following:

(1) An employee or an agency presents material facts not previously considered by the Office;

(2) There is room for reasonable doubt as to the appropriateness of the decision; or

(3) The potential impact of a decision on similar jobs is sufficiently significant to make further review of the decision desirable.

* * * * *

[FR Doc. 06–5891 Filed 6–29–06; 8:45 am]

BILLING CODE 6325–39–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AF28

Small Business Size Standards; Security Guards and Patrol Services Industry

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is increasing the small business size standard for Security Guards and Patrol Services (North American Industry Classification System (NAICS) 561612), from $11.5 million in average annual receipts to $17.0 million. This revised size standard better defines the size of a small business in this industry based on a review of the latest available data on industry characteristics and other relevant information.

DATES: This rule is effective July 31, 2006.

FOR FURTHER INFORMATION CONTACT: Carl J. Jordan, Office of Size Standards, (202) 205–6618, or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: On November 10, 2005, SBA proposed in the **Federal Register** (70 FR 68368) a 47.6 percent increase to the small business size standard for Security Guards and Patrol Services, NAICS 561612, from $10.5 million in average annual receipts to $15.5 million. SBA later issued an interim final rule on December 6, 2005 (70 FR 72577), increasing all receipts-based small business size standards to account for inflation that had occurred since its last increase for inflation on February 22, 2002. That interim final rule, which became effective on December 6, 2005, including an inflationary adjustment increase in the Security Guards and Patrol Services size standard from $10.5 million to $11.5 million.

In this final rule, SBA is adopting the same 47.6 percent increase in the Security Guards and Patrol Services size standard that it proposed on November 10, 2005. As applied to the current inflation-adjusted size standard of $11.5 million, the new size standard under this final rule is $17 million ($11,500,000 x 1.476 = $16,978,000, rounded to the nearest $500,000 increment, or $17,000,000). Based on SBA's evaluation of the one public comment it received in response to its November 10, 2005 proposed rule (see discussion below) and on SBA's analysis described in the proposed rule, SBA believes that this 47.6 percent increase is appropriate under the methodology SBA uses in evaluating size standards. As described in the proposed rule, SBA evaluates an industry's size standard by comparing that industry's characteristics to the characteristics and size standards established for other industries. Applying the proposed 47.6 percent increase to the current inflation-adjusted size standard maintains the relative relationship between the Security Guards and Patrol Services Industry size standard and the size standards of other industries as supported by the proposed rule's analysis.

Evaluation of Comments

In response to its November 10, 2005, proposed rule, SBA received one comment from a business concern in the Security Guards and Patrol Services Industry. The commenter recommended a size standard double that of SBA's proposal. In support of that recommendation, the commenter pointed out that there are increased security needs on various facilities, especially those of the Federal Government. SBA considered that issue as part of its decision to propose a 47.6 percent increase to the standard. SBA also examined newly available data on Federal contracting for Security Guards and Patrol Services. While some Federal contracts may be expanding in scope in response to heightened security concerns, the data do not show that the apparent increase in the size of Security Guards and Patrol Services contracts has necessarily diminished small business opportunities, so as to require an increase in the size standard beyond the amount SBA is implementing in this final rule. Accordingly, SBA declines to adopt the comment.

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

The Office of Management and Budget has determined that this rule is not a significant regulatory action for purposes of Executive Order 12866. This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguities and reduce burden to the extent practicable. The final rule does not have a retroactive or preemptive effect. This final rule will not have a substantial direct affect on the States or the distribution of power and responsibilities among various levels of government. Therefore, for purposes of Executive Order 13132, SBA has determined that this final rule does not have any Federalism implications warranting the preparation of a federalism assessment. For the purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule does not impose new reporting or recordkeeping requirements.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, this rule may have a significant impact on a substantial number of small entities engaged in the Security Guards and Patrol Services Industry. SBA described in the proposed rule the possible effects on business concerns seeking SBA 7(a) and 504 Guaranteed Loan Programs, and SBA's Economic Injury Disaster Loans. In addition, it affects those concerns that participate in Federal procurement programs for small businesses. The amended size standard may also affect small businesses participating in programs of other agencies that use SBA size standards. As a practical matter, SBA cannot estimate the impact of a revised size standard on every Federal program that uses its size standards. Nevertheless, SBA did not receive any comments raising concerns about the use of the proposed size standard on other Federal programs or regulations.

Immediately below, SBA sets forth its Final Regulatory Flexibility Analysis for this rule on the Security Guards and Patrol Services Industry addressing the following: (1) The need for and objective of the rule; (2) significant issues the public raised in its comments; (3) SBA's description and estimate of the number of small entities to which the rule will apply; (4) the projected reporting, recordkeeping, and other compliance requirements of the rule, and SBA's estimate of the classes of small entities that will be subject to the requirements; and, (5) steps SBA took to minimize the significant economic impact on small entities.

1. Need for and Objective of the Rule

The revised size standard for the Security Guards and Patrol Services Industry better defines the size of a small business in this industry that should be eligible for Federal small business assistance programs. Before SBA proposed increasing the size standard for this industry, it reviewed the structure of this industry using five factors that were compared with averages for two groups of comparable industries. A review of the latest available industry and program data supports the adopted increase to the current size standard.

2. Significant Issues the Public Raised in Its Comments

SBA received one comment from a business concern in the Security Guards and Patrol Services Industry. The commenter supported a size standard double that of SBA's proposal, because of increased security needs on various facilities, especially those of the Federal Government. SBA considered this issue in its analysis supporting the proposed size standard and in its review of Federal contracting data that became available after the publication of the proposed rule. SBA's analyses of that data do not provide a basis for increasing the size standard beyond the 47.6 percent that SBA originally proposed. Therefore, SBA is not making any change in the amount of proposed increase, other than applying it to the current inflation-adjusted size standard of $11.5 million, resulting in a new size standard of $17 million. SBA received no comments regarding its Initial Regulatory Flexibility Analysis.

3. SBA's Description and Estimate of the Number of Small Entities To Which the Rule Will Apply

SBA estimates that 55 additional firms out of 4,853 firms in this industry [i.e., 2.1 percent of total firms] would be considered small as a result of this final rule. These firms will be eligible to seek available SBA assistance if they meet other program requirements. The estimated number of firms becoming eligible for SBA assistance because of this rule cumulatively generate $950 million in this industry out of a total of $13.6 billion in annual receipts. The small business coverage in this industry will increase by 7.0 percent of total receipts. In addition, SBA estimates that approximately 65 small businesses that are within 20 percent of the existing size standard could grow and retain their small business status under the $17 million size standard.

4. Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, and SBA's Estimate of the Classes of Small Entities That Will Be Subject to the Requirements

A new size standard does not impose any additional reporting, recordkeeping or compliance requirements on small entities. Increasing size standards expands access to SBA programs that assist small businesses, and does not impose a regulatory burden because it neither regulates nor controls business behavior.

5. Steps SBA Took To Minimize the Significant Economic Impact on Small Entities

SBA considered an alternative size standard based on average number of employees instead of average annual receipts. It also considered a range of size standards as part of the assessment of each evaluation factor. Because of the large proportion of part-time employees in this industry, an employee size standard could unintentionally influence decisions of some firms to alter the use of part-time employees and subcontractors to remain as small businesses. SBA believes that a moderate increase to the size standard will assist businesses that should be included as small businesses and small businesses that are growing. In adopting a $17 million size standard, currently defined small businesses will not be competitively disadvantaged as compared to a much higher size standard. SBA did not receive any comments raising concerns about an adverse impact on currently defined small businesses of a higher size standard.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Loan programs ''business, Small businesses.''

■ For the reasons stated in the preamble, the Small Business Administration amends 13 CFR part 121 as follows.

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 637, and 662(5); and Public Law 105–135, sec 401, *et. seq,* 111 Stat. 2592.

■ In § 121.201, in the table ''Small Business Size Standards by NAICS Industry,'' under the heading Subsector 561—Administrative and Support Services, revise the entry for 561612 to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
* * *	* *	*	*
	Subsector 561 Administrative and Support Services		

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
* * * * * * *			
561612	Security Guards and Patrol Services	$17.0.	
* * * * * * *			

* * * * *

Dated: June 23, 2006.

Hector V. Barreto,

Administrator.

[FR Doc. 06–5894 Filed 6–29–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–225010; Airspace Docket No. 06–AAL–17]

RIN 2120–AA66

Revocation of Low Altitude Reporting Point; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Bishop Nondirectional Radio Beacon (NDB) as an Alaskan low altitude reporting point. The FAA has determined that this reporting point should be removed from the National Airspace System (NAS), since the Bishop NDB was de-commissioned and is no longer in service.

DATES: *Effective Date:* 0901 UTC, September 28, 2006.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

In October 2005, it was determined that continued operation of the Bishop, AK, NDB was in jeopardy at its current location because of riverbank erosion along the Yukon River to within 150 feet of the NDB site. The Bishop NDB was removed from service in early 2006 and action was taken by the FAA to reconfigure airways to exclude the Bishop NDB. The Bishop low altitude reporting point is no longer used by the FAA.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revoking the Bishop NDB low altitude reporting point. The Bishop low altitude reporting point no longer exists. Accordingly, since this action only involves a change in the legal description, notice and public procedure under 5 U.S.C. 533(b) are unnecessary.

Alaska low altitude reporting points are published in paragraph 7004 of FAA Order 7400.9O dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The low altitude reporting points listed in this document will be removed subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9O, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 7004 Alaskan Low Altitude Reporting Points.

* * * * *

Bishop NDB, AK [Revoked]

* * * * *

Issued in Washington, DC, on June 21, 2006.

Edith V. Parish,

Manager, Airspace and Rules.

[FR Doc. E6–10285 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–23872; Airspace Docket No. 06–AAL–9]

RIN 2120–AA66

Establishment of Offshore Airspace Area 1485L and Revision of Control 1485H; Barrow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Control 1485L and revises Control 1485H offshore airspace in the vicinity of Barrow, AK. This action establishes controlled airspace outside of 12 nautical miles (NM) of the U.S. shoreline upward from 1,200 feet mean sea level (MSL) along the North Slope of Alaska. Additionally, this action revises the altitudes of Control 1485H from FL 230/FL 450 to FL 180/FL 600. This action provides additional controlled airspace for aircraft executing instrument flight rules (IFR) operations at the airfields along the North Slope of

Alaska in anticipation of establishing terminal arrival areas associated with Area Navigation (RNAV) Standard Instrument Arrival Procedures (SIAPs).

DATES: *Effective Date:* 0901 UTC, September 28, 2006.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On April 20, 2006, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Control 1485L, and revise Control 1485H, offshore airspace area in Alaska (71 FR 20374). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Offshore Airspace Areas are published in paragraph 6007 of FAA Order 7400.9O dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Offshore Airspace Areas listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Control 1485L Offshore Airspace Area, AK, extending upward from 1,200 feet MSL along the North Slope of Alaska. This action provides controlled airspace beyond 12NM from the shoreline of the United States in those areas where there will soon be a requirement to provide IFR enroute air traffic control services and within which the United States is applying domestic procedures. This action will establish controlled airspace of sufficient size to support the terminal arrival area associated with new IFR operations at Atqasuk Airport, AK. Future plans for Barrow, AK are also taken into consideration for this action. The FAA Instrument Flight Procedures Production and Maintenance Branch have revised four SIAPs for the Atqasuk Airport, which requires controlled airspace outside the 12NM. Controlled airspace extending upward from 1,200 feet above the surface in international airspace is created by this action. Additionally, the floor of Control 1485H is lowered from FL 230 to FL 180 to fill the gap between low and high control areas and raises the ceiling from FL 245 to FL 600.

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

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of System Operations Airspace and AIM, Airspace & Rules, in areas outside the United States domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of Article 12 and Annex 11 is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft. Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9O, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6007 Offshore Airspace Areas.

* * * * *

Control 1485L [New]

That airspace extending upward from 1,200 feet MSL within the area bounded by a line beginning at a point 12 miles offshore at lat. 68°00′00″ N.; to lat. 68°00′00″ N., long. 168°58′23″ W.; to lat. 72°00′00″ N., long. 158°00′00″ W.; to lat. 72°00′00″ N., long. 144°00′11″ W.; to lat. 75°00′00″ N., long. 141°00′00″ W.; to a point 12 miles offshore at long.141°00′00″ W.; thence westward by a line 12 miles from and parallel to the shoreline to the point of beginning.

* * * * *

Paragraph 2003 Offshore Airspace Areas.

* * * * *

Control 1485H [Revised]

That airspace extending upward from 18,000 feet to FL 600 within the area bounded by a line beginning at a point 12 miles offshore at lat. 68°00′00″ N.; to lat. 68°00′00″ N., long. 168°58′23″ W.; to lat. 72°00′00″ N., long. 158°00′00″ W.; to lat. 72°00′00″ N., long. l44°00′11″ W.; to lat. 75°00′00″ N., long. 141°00′00″ W.; to a point 12 miles offshore at long.141°00′00″ W.;

thence westward by a line 12 miles from and parallel to the shoreline to the point of beginning.

* * * * *

Issued in Washington, DC, on June 23, 2006.

Edith V. Parish,

Manager, Airspace and Rules.

[FR Doc. E6–10282 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 5459]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This rule expands guidance to consular offices for the review of nonimmigrant visa issuances and refusals contained at 22 CFR 41.113(i) (new) and 22 CFR 41.121(c), respectively, to specify who should conduct the reviews, the types of cases to be reviewed, and the goals of the reviews.

DATES: *Effective Date:* This rule is effective on June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Charles E. Robertson, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106. Phone: 202–663–3969. E-mail: *robertsonce3@state.gov.*

SUPPLEMENTARY INFORMATION:

Why Is the Department Promulgating These Rules?

Nonimmigrant visa refusals and issuances are generally committed by law to the adjudicating consular officer. The Department nevertheless provides for them to be reviewed by consular experts in a supervisory capacity. Such reviews are a significant management and instructional tool useful in maintaining the highest professional standards of adjudication and ensuring uniform and correct application of the law and regulations. The purpose of this rule revision is to expand the scope of reviews of nonimmigrant visa applications to ensure that Department supervisors are reviewing both issuances and refusals to the greatest extent practicable, while balancing workload considerations at consular posts.

Why Has the Department Imposed a Review of Applications of Nonimmigrant Issuances?

Current regulations require that the section chief or designee review all visa refusals. The Foreign Affairs Manual (FAM) calls for a spot check of NIV issuances. In order to enhance U.S. border security, we are placing greater emphasis on reviewing issuances to ensure that visas are issued in compliance with law and procedures. This rule revision will provide a regulatory framework for a regular and targeted review of both visa issuances and refusals.

Why Has the Department Reduced the Degree of Review of Refusals?

Due to the need to formalize our review of visa issuances beyond spot checks in order to promote border security, it will no longer be possible to review all visa refusals. We will continue to review refusals to ensure appropriate adjudication standards are maintained, while striking the appropriate balance between resources and essential functions.

Who Will Review the Applications?

The reviewing officer will be the adjudicating consular officer's direct supervisor, or a designated alternate. If the reviewing officer disagrees with the consular officer's decision, and he or she has a consular commission and title, the reviewing officer can assume responsibility for the case and readjudicate it. If the reviewing officer does not have a consular commission and title, he or she must consult with the adjudicating officer, or with the Visa Office, to resolve any disagreement. The Department's regulation at 22 CFR 41.121(c) specifies that a refusal must be reviewed without delay; that is, on the day of the refusal or as soon as is administratively possible. This rule will be applied to review of visa issuances as well.

Regulatory Findings

Administrative Procedure Act

The Department's implementation of this regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 553.

Regulatory Flexibility Act/Executive Order 13272: Small Business

This rule is not subject to the notice-and-comment rulemaking provisions of the Administrative Procedure Act or any other act, and, accordingly it does not require analysis under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and Executive Order 13272, section 3(b).

The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law No. 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

The Unfunded Mandates Reform Act of 1995

This rule is not subject to the notice-and-comment rulemaking provisions of the Administrative Procedure Act or any other act, and, accordingly it does not require analysis under the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4). Moreover, this rule is not expected to result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. Nor will it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132: Federalism

The Department finds that this regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Executive Order 12866: Regulatory Review

The Department does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in this Executive Order.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

The Paperwork Reduction Act of 1995

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Immigration, Nonimmigrants, Passports and visas, Students.

■ For the reasons stated in the preamble, the Department of State amends 22 CFR part 41 as follows:

PART 41—[AMENDED]

■ 1. The authority citation for part 41 shall continue to read as follows:

Authority: 8 U.S.C. 1104; Public Law No. 105–277, 112 Stat. 2681–795 through 2681–801. Additional authority is derived from Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) Public Law 104–208, 110 Stat. 3546.

■ 2. In § 41.113, add paragraph (i) to read as follows:

§ 41.113 Procedures in issuing visas.

* * * * *

(i) Nonimmigrant visa refusals must be reviewed, in accordance with guidance by the Secretary of State, by consular supervisors, or a designated alternate, to ensure compliance with applicable laws and procedures. Visa issuances must be reviewed without delay; that is, on the day of issuance or as soon as is administratively possible. If the reviewing officer disagrees with the decision and he or she has a consular commission and title, the reviewing officer may assume responsibility and readjudicate the case. If the reviewing officer does not have a consular commission and title, he or she must consult with the adjudicating officer, or with the Visa Office, to resolve any disagreement.

■ 3. In § 41.121, revise paragraph (c) to read as follows:

§ 41.121 Refusal of individual visas.

* * * * *

(c) Nonimmigrant visa issuances must be reviewed, in accordance with guidance by the Secretary of State, by consular supervisors, or a designated alternate, to ensure compliance with laws and procedures. If the ground(s) of ineligibility upon which the visa was refused cannot be overcome by the presentation of additional evidence, the refusal must be reviewed without delay; that is, on the day of the refusal or as soon as it is administratively possible. If the ground(s) of ineligibility may be overcome by the presentation of additional evidence, and the applicant has indicated the intention to submit such evidence, a review of the refusal may be deferred for not more than 120 days. If the reviewing officer disagrees with the decision and he or she has a consular commission and title, the reviewing officer can assume responsibility and readjudicate the case. If the reviewing officer does not have a consular commission and title, he or she must consult with the adjudicating officer, or with the Visa Office, to resolve any disagreement.

* * * * *

Dated: June 16, 2006.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. E6–10270 Filed 6–29–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–047]

Safety Zone: Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of implementation of final rule.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during July 2006. This action is necessary to provide for the safety of life and property on navigable waters during these events. These safety zones will restrict vessel traffic from a portion of the Captain of the Port Detroit Zone.

DATES: Effective from 12:01 a.m. (local) on July 1, 2006 to 11:59 p.m. (local) on July 31, 2006.

FOR FURTHER INFORMATION CONTACT: LTJG Cynthia Channell, Waterways Management, Sector Detroit, 110 Mt. Elliott Ave., Detroit, MI at (313) 568–9580.

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zones in 33 CFR 165.907 (published May 21, 2001, in the **Federal Register,** 66 FR 27868), for fireworks displays in the Captain of the Port Detroit Zone during July 2006. The following safety zones are in effect for fireworks displays occurring in the month of July 2006:

(1) *Lake Erie Metro Park Fireworks*, Brownstown, MI. Location: All waters off Lake Erie Metro Park, Lake Erie bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42° 03′ N, 083°11′ W (NAD 1983), on July 1, 2006, from 10 p.m. to 10:45 p.m.

(2) *Grosse Pointe Farms Fireworks*, Grosse Pointe Farms, MI. Location: All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°23′ N, 082°52′ W (NAD 1983), about 300 yards east of Grosse Pointe Farms, MI on July 1, 2006, from 10 p.m. to 11:30 p.m. Rain date: On July 2, 2006, from 10 p.m. to 11:30 p.m.

(3) *Caseville Fireworks*, Caseville, MI. Location: The waters off the Caseville breakwall, Saginaw River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°55′ N, 083°17′ W (NAD 1983) on July 1, 2006 from 10 p.m. to 11 p.m.

(4) *Algonac Pickerel Tournament Fireworks*, Algonac, MI. Location: All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°37′ N, 082°32′ W (NAD 1983), between Algonac and Russell Island, St. Clair River-North Channel, on July 1, 2006 from 10 p.m. to 11 p.m. Rain date: On July 2, 2006, from 10 p.m. to 11 p.m.

(5) *Port Sanilac Fireworks*, Port Sanilac, MI. Location: All waters off the South Harbor breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°25′ N, 082°31′ W (NAD 1983) on July 1, 2006 from 10 p.m. to 10:30 p.m.

(6) *Lexington Independence Festival Fireworks*, Lexington, MI. Location: All waters of Lake Huron within a 300-yard radius of the fireworks barge in approximate position 43°13′ N, 082°30′ W (NAD 1983), about 300 yards east of the Lexington breakwall Lake Huron, on July 3, 2006 from 10 p.m. to 10:45 p.m.

(7) *City of St. Clair Fireworks*, St. Clair, MI. Location: All waters off the St. Clair City Park, St. Clair River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°49′ N, 082°29′ W (NAD 1983) on July 4, 2006 from 10:45 p.m. to 11:30 p.m.

(8) *Port Austin Fireworks*, Port Austin, MI. Location: All waters off the Port Austin breakwall, Lake Huron bounded

by the arc of a circle with a 300-yard radius with its center in approximate position 43°03′ N, 082°40′ W (NAD 1983) on July 4, 2006 from 11 p.m. to 11:59 p.m.

(9) *City of Ecorse Water Festival Fireworks*, Ecorse, MI. Location: All waters of the Ecorse Channel within a 300-yard radius of the fireworks barge in approximate position 42°14′ N, 083°09′ W (NAD 1983), at the northern end of Mud Island, Ecorse, MI, on July 4, 2006 from 9:30 p.m. to 11 p.m.

(10) *Grosse Pointe Yacht Club 4th of July Fireworks*, Grosse Pointe Shores, MI. Location: All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°25′ N, 082°52′ W (NAD 1983), about 400 yards east of the Grosse Pointe Yacht Club seawall, on July 4, 2006 from 10 p.m. to 11:30 p.m.

(11) *Grosse Ile Yacht Club Fireworks*, Grosse Ile, MI. Location: All waters off the Grosse Ile Yacht Club Deck, Detroit River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°05′ N, 083°09′ W (NAD 1983) on July 4, 2006 from 09:45 p.m. to 10:45 p.m.

(12) *Trenton Fireworks Display*, Trenton, MI. Location: All waters of the Trenton Channel within a 300-yard radius of the fireworks barge in approximate position 42°09′ N, 083°10′ W (NAD 1983), about 200 yards east of Trenton, in the Trenton Channel, on July 4, 2006 from 10 p.m. to 11 p.m. Rain date: On July 5, 2006 from 10 p.m. to 11 p.m.

(13) *Belle Maer Harbor 4th of July Fireworks*, Harrison Township, MI. Location: All waters of Lake St. Clair within a 300-yard radius of the fireworks barge located in approximate position 42°36′ N, 082°47′ W (NAD 1983), about 400 yards east of Belle Maer Harbor, Lake St. Clair, on July 4, 2006 from 9:45 p.m. to 11 p.m. Rain date: On July 5, 2006 from 9:45 p.m. to 11 p.m.

(14) *Tawas City 4th of July Fireworks*, Tawas, MI. Location: All waters off the Tawas City Pier, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 44°13′ N, 083°30′ W (NAD 1983), on July 4, 2006 from 9:45 p.m. to 11 p.m.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be in effect for the duration of the events.

In the event that these safety zones affect shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the safety zone.

Requests must be made in advance and approved by the Captain of Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on channel 16, VHF–FM. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Dated: June 8, 2006.

P.W. Brennan,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. E6–10284 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–06–042]

RIN 1625–AA00

Safety Zone: Onset Fire District Fireworks Display, Onset Harbor, Onset, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in all navigable waters within a one thousand (1000) foot radius of the fireworks launching platform, located in Onset Harbor, Onset, Massachusetts on July 1, 2006. The safety zone is needed to safeguard the public from possible hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Southeastern New England.

DATES: This rule is effective from 8:15 p.m. EDT on July 1, 2006 through 10:30 p.m. EDT on July 1, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–06–042 and are available for inspection or copying at U.S. Coast Guard Sector Southeastern New England, East Providence Office, 20 Risho Avenue, E. Providence, RI between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward G. LeBlanc at Sector Southeastern New England, East Providence Office, (401) 435–2351.

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. Details regarding this event were not available to the Coast Guard in sufficient time to draft or publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the marine public from hazards associated with this fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The finalization of logistical details associated with this fireworks display were only recently determined. Any delay encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of Onset Harbor during the fireworks display thus ensuring that the maritime public is protected from any potential harm associated with such an event.

Background and Purpose

This regulation establishes a safety zone in all navigable waters within a one thousand (1000) foot radius of the fireworks launching platform, located in Onset Harbor, Onset, Massachusetts in approximate position 41–44.34 N, 070–39.5 W, from 8:15 p.m. EDT until 10:30 p.m. EDT on July 1, 2006. This safety zone is needed to protect the maritime community from possible hazards associated with a fireworks display that will be launched from a platform in Onset Harbor, Onset, Massachusetts. No vessel may enter the safety zone without permission of the Captain of the Port (COTP), Southeastern New England.

Discussion of Rule

The Town of Wareham is sponsoring a fireworks display on July 1, 2006. During the effective period of the safety zone vessel traffic will be restricted in the vicinity of the fireworks event so that the maritime public will be protected from the potential hazards associated with this type of display. The safety zone will be enforced from 8:15 p.m. EDT until 10:30 p.m. EDT on July 1, 2006. Marine traffic may transit safely outside the temporary zone during the event.

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.

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. The effect of this regulation will not be significant as it involves a very small area of Onset Harbor, Massachusetts, allowing vessel traffic to transit around the site, the event will be entered into the local notice to mariners, extensive maritime advisories will be made in advance of the event, and the safety zone will close this portion of the waterway for only two and one quarter hours.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit Onset Harbor in the vicinity of the launch site during the fireworks show. The safety zone will not have a significant impact on a substantial number of small entities for the following reasons: The safety zone involves a very small area of Onset Harbor, allowing vessel traffic to transit around the site safely, the event will be entered into the local notice to mariners, extensive maritime advisories will be made in advance of the event, and the safety zone will close this portion of the waterway for only two and one quarter hours.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call Mr. Edward G. LeBlanc at (401) 435–2351. 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 does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–

4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it establishes a safety zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T01–042 to read as follows:

§ 165.T01–042 Safety Zone: Onset Fire District Fireworks Display, Onset Harbor, Onset, Massachusetts.

(a) *Location.* The following area is a safety zone: All navigable waters of Onset Harbor within a one thousand (1000) foot radius of the fireworks launching platform, located in Onset Harbor, Onset, Massachusetts in approximate position 41–44.34 N, 070–39.5 W.

(b) *Effective Date.* This section is effective from 8:15 p.m. EDT on July 1, 2006 until 10:30 p.m. EDT on July 1, 2006.

(c) *Regulations.* (1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port and the designated on-scene U.S. Coast Guard patrol personnel. These personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

Dated: June 19, 2006.

R.A. Nash,

Captain, U.S. Coast Guard, Captain of the Port, Sector Southeastern New England.

[FR Doc. E6–10283 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–068]

RIN 1625–AA00

Safety Zone; Thunder on Wheathouse Bay, St. Lawrence River, Ogdensburg, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of the St. Lawrence River during the Hydroplane Races on July 1, 2006 and July 2, 2006. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with high speed boat races. This safety zone is intended to restrict vessel traffic from a portion of the St. Lawrence River in Ogdensburg, NY.

DATES: This rule is effective from 10 a.m. (local) July 1, 2006 until 5 p.m. (local) on July 2, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–06–068] and are available for inspection or copying at: U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, U.S. Coast Guard Sector Buffalo, at (716) 843–9573.

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 permit application was not received in time to publish an NPRM followed by a final rule before the effective date.

Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event, and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with high speed boat races. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo has determined high speed boat races in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the high speed boat races will help ensure the safety of persons and property at these events and help minimize the associated risk.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup and while the high speed boat races are taking place in conjunction with the Thunder on Wheathouse Bay. The high speed boat races will occur between 10 a.m. (local) until 5 p.m. (local) on July 1, 2006 and from 10 a.m. (local) until 5 p.m. (local) on July 2, 2006.

The safety zone consists of all navigable waters and adjacent shoreline of Wheathouse Bay on the St. Lawrence River bounded by a line drawn around the following sets of coordinates beginning at approximate position 44°42′35″ N, 075°29′08″ W, then extending north to approximate position 44°42′38″ N, 075°29′08″ W, then extending northeast to approximate position 44°42′45″ N, 075°28′23″ W, then extending south to approximate position 44°42′30″ N, 075°28′23″ W, then extending west back to the point of origin at approximate position 44°42′35″ N, 075°29′08″ W. All Geographic coordinates are North American Datum of 1983 (NAD 83). The size of this zone was determined using the COTP approval of the race course including guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. The Captain of the Port of Buffalo, or his designated on-scene representative, has the authority to terminate the event. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant 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 will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of the Onondaga Lake during the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect for a very limited duration from 10 a.m. (local) until 5 p.m. (local) on the days of the event. Vessel traffic can safely pass outside the safety zone during the event.

Assistance for Small Entities

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

Small businesses may send comments on 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 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 Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

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 would not result in such 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

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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 procedure; and related management system 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 made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–068 is added to read as follows:

§ 165.T09–068 Safety Zone; Thunder on Wheathouse Bay, St. Lawrence River, Ogdensburg, NY.

(a) *Location.* The following area is a temporary safety zone: all navigable waters of and adjacent shoreline of Wheathouse Bay on the St. Lawrence River bounded by a line drawn around the following sets of coordinates beginning at approximate position 44°42′35″ N, 075°29′08″ W, then extending north to approximate position 44°42′38″ N, 075°29′08″ W, then extending northeast to approximate position 44°42′45″ N, 075° 28′23″ W, then extending south to approximate position 44°42′30″ N, 075° 28′23″ W, then extending west back to the point of origin at approximate position 44°42′35″ N, 075° 29′08″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective period.* This section is effective from 10 a.m. (local) on July 1, 2006 until 5 p.m. (local) on July 2, 2006.

(c) *Enforcement period.* This section will be enforced from 10 a.m. (local) until 5 p.m. (local) on July 1, 2006 and from 10 a.m. (local) until 5 p.m. (local) on July 2, 2006.

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 19, 2006.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E6–10281 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–067]

RIN 1625–AA00

Safety Zone; Ferrier Wedding Fireworks, Lake Erie, Fairview, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of Lake Erie during the Ferrier Wedding Fireworks on July 1, 2006. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. This safety zone is intended to restrict vessel traffic from a portion of Lake Erie, Fairview, Pennsylvania.

DATES: This rule will be effective from 9:30 p.m. (local) until 9:45 p.m. (local) on July 1, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–06–067] and are available for inspection or copying at: U.S. Coast Guard, Sector Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, U.S. Coast Guard, Sector Buffalo, at (716) 843–9573.

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 permit application was not received in time to publish an NPRM followed by a final rule before the effective date.

Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event, and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones and the explosive hazard of fireworks, the Captain of the Port Buffalo has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the locations of the launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Ferrier Wedding Fireworks. The fireworks display will occur between 9:30 p.m. (local) and 9:45 p.m. (local) on July 1, 2006.

The safety zone consists of all navigable waters of Lake Erie within a 300-foot radius of the fireworks launch site in approximate position 42°04′21″ N, 080°14′38″ W, in Fairview, Pennsylvania. All geographic coordinates are North American Datum of 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. The Captain of the Port Buffalo, or his designated on-scene representative, has the authority to terminate the event. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant 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 will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of the Lake Erie during the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect for a very limited duration from 9:30 p.m. (local) until 9:45 p.m. (local) on the day of the event. Vessel traffic can safely pass outside the safety zone during the event.

Assistance for Small Entities

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

Small businesses may send comments on 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 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 Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

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 would not result in such 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

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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 procedure; and related management system 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 made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone, therefore paragraph (34)(g) of the Instruction applies.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–067 is added to read as follows:

§ 165.T09–067 Safety Zone; Ferrier Wedding Fireworks, Lake Erie, Fairview, PA.

(a) *Location.* The following area is a temporary safety zone: all navigable waters of Lake Erie within a 300 foot radius of the fireworks launch site in approximate position 42°04′ 21″ N, 080°14′ 38″ W, in Fairview, Pennsylvania. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective time and date.* This section is effective from 9:30 p.m. (local) until 9:45 p.m. (local) on July 1, 2006.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 19, 2006.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E6–10324 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–046]

Safety Zone: Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones for annual fireworks displays in the Captain of the Port Buffalo Zone during July 2006. This action is necessary to provide for the safety of life and property on navigable waters during these events. These safety zones will restrict vessel traffic from a portion of the Captain of the Port Buffalo Zone.

DATES: *Enforcement Dates:* 33 CFR 165.914 will be enforced from 9:30 p.m. (local) on July 2, 2006 to 10:30 p.m. (local) on July 3, 2006.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, Waterways Management Division Chief, Sector Buffalo, 1 Fuhrmann Blvd. Buffalo, NY at (716) 843–9573.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the permanent safety zones in 33 CFR 165.914 (published January 21, 2005, in the **Federal Register**, 70 FR 3147), for fireworks displays in the Captain of the Port Buffalo Zone during July 2006. The following safety zones are in effect for fireworks displays occurring in the month of July 2006:

(1) *Oswego Independence Day Fireworks, Oswego NY.* Location: All waters of Oswego Harbor, in Lake Ontario, within a 1,000-foot radius of the fireworks barge moored or anchored in approximate position 43°28′05″ N, 076°31′01″ W (NAD 1983).

(2) *Olcott Fireworks, Olcott, NY.* Location: All waters of Lake Ontario within a 300-yard radius of the fireworks display on the west break wall of the Olcott Harbor entrance located in position 43°20′25″ N, 078°43′09″ W (NAD 1983).

The Oswego Independence Day fireworks safety zone will be enforced on July 2, 2006, from 9:30 p.m. (local) until 10 p.m. (local.) The Olcott Fireworks safety zone will be enforced on July 3, 2006, from 10 p.m. (local) until 10:30 p.m. (local).

In order to ensure the safety of spectators and transiting vessels, these safety zones will be enforced for the duration of the events. In the event that these safety zones affect shipping, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone.

Requests must be made in advance and approved by the Captain of Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Sector Buffalo on channel 16, VHF–FM. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Dated: June 13, 2006.

S. J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E6–10280 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 424

[CMS–1306–CN2]

RIN 0938–AN82

Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Update for Rate Year Beginning July 1, 2006 (RY 2007) Final Rule; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects errors in the final rule that appeared in the May 9, 2006 **Federal Register** entitled ''Inpatient Psychiatric Facilities Prospective Payment System Update for Rate Year Beginning July 1, 2006 (RY 2007).''

DATES: Effective July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Dorothy Colbert, (410) 786–4533. Matthew Quarrick, (410) 786–9867.

SUPPLEMENTARY INFORMATION:

I. Background

FR Doc. 06–4202 (71 FR 27040) (hereinafter referred to as the RY 2007 final rule), includes errors that are identified and corrected in the ''Correction of Errors'' section below. The correction of errors identified in this correction notice do not change any policies contained in the RY 2007 final rule. Rather, the corrections merely conform the regulations text and preamble to the final policies. The provisions of this correction notice are effective as if they had been included in the final rule. Accordingly, the corrections are effective July 1, 2006.

II. Summary of Errors

In the RY 2007 final rule, we made several typographical errors including: Referencing FY instead of RY, IRF instead of IPF, and provided the incorrect cross reference for § 424.14(c)(iii) instead of § 424.14(c)(3). In the response to the comments section, we incorrectly stated that ''IPFs that did not train interns and residents during the time period of the IPF's most recent cost report filed before November 15, 2005 would receive an FTE cap of zero.'' The correct date that should be referenced is November 15, 2004, as stated in the regulations text at § 412.402 (definition for ''new graduate medical education'' program).

We are revising the regulations text for § 424.14, Requirements for inpatient services of inpatient psychiatric facilities, in order to be consistent with the policies we finalized in the preamble but mistakenly neglected to include in the final draft. First, we are revising § 424.14 to indicate that the patient continues to need, on a daily basis, active treatment furnished directly by or requiring the supervision of inpatient psychiatric facility personnel. Secondly, we are removing the phrase ''or other professional services that can only be provided on an inpatient basis''.

In Addendum B, we are correcting the RY 2007 CBSA based wage index for the SSA State/County Code for 11680 and 11691 to read 0.9198 instead of 0.91981. In Addendum C, Table 1, we displayed the wage index tables by CBSA. We are clarifying that these are the final wage index values for RY 2007 effective July 1, 2006, and not the proposed values as indicated by the titles of the tables. We also inadvertently omitted two counties from a CBSA in Addendum C, Table 1.

In addition, in the Provisions of the Final Rule, we inadvertently did not indicate that we were making revisions to § 424.14. However, we addressed these changes in the preamble and included them in the regulations text of the RY 2007 final rule.

III. Correction of Errors

A. Preamble Corrections

In the RY 2007 final rule, make the following corrections:

1. On page 27064, in column 1, at the end of the second full paragraph, line 2 from the bottom, ''FY'' is corrected to read ''RY''.

2. On page 27068, in column 3, in the second full paragraph, in line 16, add a close parenthesis after § 412.624(e)(4).

3. On page 27069, in column 3, in the second response, in line 5, ''November 15, 2005'' is corrected to read ''November 15, 2004.''

4. On page 27074, in column 1, in paragraph 4, in line 2 from the bottom, ''IRF PPS payments'' is corrected to read ''IPF PPS payments.''

5. On page 27077, in column 3—

a. In line 1, ''§ 424.14(c)(iii)'' is corrected to read § 424.14(c)(3).

b. In lines 2 and 3 from the top, remove the words ''the physician will also recertify that.''

Correction of Provisions of the Final Rule

1. On page 27080, in column 3—

a. After the ''ECT policy Payment'' section but before the ''Section 412.402 Definition'' section, insert the following:

Section 424.14 Requirements for inpatient services of inpatient psychiatric facilities

In § 424.14, we are finalizing the title from ''Requirements for inpatient services of psychiatric hospitals'' to ''Requirements for inpatient services of inpatient psychiatric facilities.''

We are finalizing that, for the purposes of payment under the IPF PPS, we are requiring that all IPFs (distinct part psychiatric units of acute care hospitals and CAHs and psychiatric hospitals) follow the physician certification and recertification requirements as specified in § 424.14.

We are finalizing the modification to § 424.14(d)(2) to require the first recertification as of the 12th day of hospitalization. Subsequent recertifications will be required at intervals established by the hospital's UR committee (on a case-by-case basis if desired), but no less frequently than every 30 days.

We are finalizing the content requirement of physician certifications at § 424.14(c)(3) by adding the following language: ''the patient continues to need, on a daily basis, active treatment furnished directly by or requiring the supervision of inpatient psychiatric facility personnel.''

b. Move ''Section 412.402 Definition'' section after ''Section 412.27 Excluded psychiatric units: Additional requirements'' and before ''Section 412.428 Publication of updates to the inpatient psychiatric facilities prospective payment system.''

B. Corrections to the Regulations Text

■ Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments to part 424:

PART 424—[CORRECTED]

■ 1. The authority citation for part 424 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 424.14 [Corrected]

■ 2. In § 424.14 paragraph (c)(3), in lines 2 and 3, ''inpatient psychiatric care'' should be corrected to ''treatment''.

■ 3. In § 412.14 paragraph (c)(3), in lines 3 and 5, remove the parentheses.

■ 4. In § 412.14 paragraph (c)(3), in lines 5 through 7, remove the words, ''or other professional services that can only be provided on an inpatient basis''.

C. Corrections of Addenda

Addendum B

1. On page 27095, in column 8 for 2006 CBSA-based wage index, in lines 23 and 25 from the bottom, the entries (with the subscript) ''0.91981'' are corrected to read ''0.9198.''

Addendum C

1. On page 27134 through 27156, Table 1, the title ''Proposed Wage Index For Urban Areas Based On CBSA Labor Market Areas'' is corrected to read ''Wage Index For Urban Areas Based On CBSA Labor Market Areas.''

2. On page 27152, Table 1, second column, for CBSA 42644, 11 lines from the bottom, insert ''King County, WA'' and ''Snohomish County, WA'' underneath the heading ''Seattle-Bellevue-Everett, WA''.

3. On page 27156, Table 2, the title ''Proposed Wage Index Based On CBSA Labor Market Areas For Rural Areas'' is corrected to read ''Wage Index Based On CBSA Labor Market Areas For Rural Areas.''

IV. Waiver of Proposed Rulemaking and Waiver of 30-Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive the notice and comment procedures if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

The policies and payment methodology expressed in the RY 2007 final rule have previously been subjected to notice and comment procedures. This correction notice makes changes to conform the regulation text to the policies described in the preamble of the RY 2007 final rule. This correction notice also revises the preamble of the RY 2007 final rule to make clarifications, correct references, and correct typographical errors. This correction notice does not make substantive changes to the policies or payment methodologies that were adopted in the RY 2007 final rule. This correction notice is intended to ensure that the RY 2007 final rule accurately reflects the policies adopted in the final rule. Therefore, we find it unnecessary to undertake further notice and comment procedures with respect to this correction notice.

We are also waiving the 30-day delay in effective date for this correction notice. We ordinarily provide a 30-day delay in the effective date of the provisions of a notice. Section 553(d) of the Administrative Procedure Act ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. We believe that it is in the public interest to ensure that the RY 2007 final rule accurately represents our prospective payment methodology and payment rates and that a delay in the effective date of these corrections would be contrary to the public interest. In addition, as the corrections made in this document are not substantive in nature, we also believe it is unnecessary to delay the effective date to make such corrections.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 27, 2006.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. E6–10277 Filed 6–29–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 420, 424, 489, and 498

[CMS–6002–F2]

RIN–0938–AH73

Medicare Program; Requirements for Providers and Suppliers To Establish and Maintain Medicare Enrollment; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: This correcting amendment corrects a technical error identified in the final rule that appeared in the April 21, 2006 **Federal Register** entitled ''Requirements for Providers and Suppliers to Establish and Maintain Medicare Enrollment.'' In that final rule, we require all providers and suppliers (other than physicians or practitioners who have elected to ''opt-out'' of the Medicare program) to: (1) Complete an enrollment form and submit specific information to us; and (2) periodically update and certify the accuracy of their enrollment information to receive and maintain billing privileges in the Medicare program. The final rule also implements statutory provisions requiring us to ensure that all Medicare providers and suppliers are qualified to provide the appropriate health care services. The effective date of the final rule was June 20, 2006.

DATES: *Effective Date:* This correcting amendment is effective on July 31, 2006.

FOR FURTHER INFORMATION CONTACT: Michael C. Collett, (410) 786–6121.

SUPPLEMENTARY INFORMATION:

I. Background and Summary of Error

In FR Doc. 06–3722 (71 FR 20754), the final rule entitled ''Requirements for Providers and Suppliers to Establish and Maintain Medicare Enrollment'' (hereinafter referred to the April 21, 2006 final rule), there was a technical error that is identified and corrected in the regulations text of this correcting amendment. The provisions of this correcting amendment are effective on July 31, 2006.

On page 20781 of the April 21, 2006 final rule, we made a technical error in the regulation text of § 498.3(b)(17). In this paragraph, we inadvertently omitted qualifying language related to our authority to deny, in addition to revoke, a provider or supplier's

Medicare enrollment. Accordingly, we are revising § 498.3(b)(17) to accurately reflect our authority to deny or revoke a provider or supplier's Medicare enrollment. Therefore, on page 20781 third column, lines 44 through 46, the paragraph ''The revocation of a provider or supplier's Medicare enrollment in accordance to § 424.535 of this chapter'' would be corrected to read ''Whether to deny or revoke a provider or supplier's Medicare enrollment in accordance with § 424.530 or § 424.535 of this chapter.''

II. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Our policy on the requirements for providers and suppliers to establish and maintain Medicare enrollment in the April 21, 2006 final rule has previously been subjected to notice and comment procedures. This correction is consistent with the discussion of this policy in the April 21, 2006 final rule and does not make a substantive change to this policy. This correcting amendment merely corrects a technical error in the regulations text of the April 21, 2006 final rule. As a result, this correcting amendment is intended to ensure that the April 21, 2006 final rule accurately reflects the policy adopted in this final rule and does not contradict policy found at § 424.530, which did not receive any comments during the original comment period. Therefore, we find that undertaking further notice and comment procedures to incorporate these corrections into the final rule is unnecessary.

III. Correction of Errors

■ Given the error summarized in section I. of the correcting amendment, we are making the following correcting amendment to 42 CFR part 498:

PART 498—APPEALS PROCEDURES FOR DETERMINATIONS THAT AFFECT PARTICIPATION IN THE MEDICARE PROGRAM AND FOR DETERMINATIONS THAT AFFECT THE PARTICIPATION OF ICFs/MR AND CERTAIN NFs IN THE MEDICAID PROGRAM

■ Section 498.3 is amended by revising paragraph (b)(17) to read as follows:

§ 498.3 [Corrected]

* * * * *

(b) * * *

(17) Whether to deny or revoke a provider or supplier's Medicare enrollment in accordance with § 424.530 or § 424.535 of this chapter.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 27, 2006.

Ann Agnew,

Executive Secretary to the Department.

[FR Doc. E6–10290 Filed 6–29–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050613158–5262–03; I.D. 090105A]

RIN 0648–AT48

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning

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

ACTION: Temporary rule; emergency action; extension of effective period.

SUMMARY: The regulations contained in the temporary rule, emergency action, published on October 18, 2005, at the request of the U.S. Food and Drug Administration (FDA) and that were subsequently extended on December 28, 2005, expire on June 30, 2006. This temporary rule extends the closure through December 31, 2006. The FDA has determined that current oceanographic conditions and alga sampling data suggests that the northern section of the Temporary Paralytic Shellfish Poison (PSP) Closure Area remain closed to the harvest of bivalve molluscan shellfish and that the southern area remain closed to the harvest of whole or roe-on scallops.

DATES: The temporary emergency action published on October 18, 2005 (70 FR 60450), is effective from October 18, 2005, through December 31, 2006.

ADDRESSES: Copies of the small entity compliance guide, the emergency rule, the environmental assessment, and the regulatory impact review prepared for the October 18, 2005, reinstatement of the September 9, 2005, emergency action and subsequent extensions of the emergency action, are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. These documents are also available via the internet at www.nero.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Brian Hooker, Fishery Policy Analyst, phone: (978) 281–9220, fax: (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

This emergency closure was implemented at the request of the FDA after samples of shellfish from the inshore and offshore waters off of the coasts of New Hampshire and Massachusetts tested positive for the toxins (saxotoxins) that cause Paralytic Shellfish Poisoning (PSP). These toxins are produced by the algae *Alexandrium fundyense* that can form blooms commonly referred to as red tides. Red tide blooms, also known as harmful algal blooms (HABs), can produce toxins that accumulate in filter-feeding shellfish. Shellfish contaminated with the toxin, if eaten in large enough quantity, can cause illness or death from PSP.

On June 10, 2005, the FDA requested that NMFS close an area of Federal waters off the coasts of New Hampshire and Massachusetts to fishing for bivalve shellfish intended for human consumption. On June 16, 2005, NMFS published an emergency rule (70 FR 35047) closing the area recommended by the FDA, i.e. the Temporary PSP Closure Area, through September 30, 2005. On July 7, 2005 (70 FR 39192), the emergency rule was modified to facilitate the testing of shellfish for the toxin that causes PSP by the FDA and/or FDA-approved laboratories through the issuance of a Letter of Authorization (LOA) from the Regional Administrator. On September 9, 2005 (70 FR 53580), the emergency regulation was once again modified by the division of the Temporary PSP Closure Area into northern and southern components. The northern area remained closed to the harvest of all bivalve molluscan shellfish while the southern component was reopened to the harvest of Atlantic surfclams and ocean quahogs but remained closed to the harvest of whole or roe-on scallops. The rule was extended as published on September 9, 2005, on October 3, 2005 (70 FR 57517), reinstated on October 18, 2005 (70 FR 60450) to correct a technical error, and extended on December 28, 2005 (70 FR 76713) through June 30, 2006. On June 15, 2006, the FDA indicated that they could not support the re-opening of the Temporary PSP Closure Area due to insufficient analytical data from the area. Sampling of the Temporary PSP Closure Area is expected to occur in July of 2006.

The boundaries of the northern component of the temporary closure area comprise Federal waters bound by the following coordinates in the order stated: (1) 43°00′ N. lat., 71°00′ W. long.; (2) 43°00′ N. lat., 69°00′ W. long.; (3) 41°39′ N. lat., 69° 00′ W. long.; (4) 41° 39′ N. lat., 71°00′ W. long., and then ending at the first point. Under this emergency rule this area would remain closed to the harvest of Atlantic surfclams, ocean quahogs, and whole or roe-on scallops. The boundaries of the southern component of the temporary closure area comprise Federal waters bound by the following coordinates in the order stated: (1) 41° 39′ N. lat., 71° 00′ W. long.; (2) 41° 39′ N. lat., 69° 00′ W. long.; (3) 40° 00′ N. lat., 69° 00′ W. long.; (4) 40° 00′ N. lat., 71° 00′ W. long., and then ending at the first point. Under this temporary emergency rule this southern component of the area would remain closed only to the harvest of whole or roe-on scallops.

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1855(c) (Magnuson-Stevens Act). The original emergency closure was in response to a public health emergency. Pursuant to section 305(c)(3)(C) of the Magnuson-Stevens Act, the closure to the harvest of shellfish, as modified on September 9, 2005, and re-instated on October 18, 2005, may remain in effect until the circumstances that created the emergency no longer exist, provided the public has had an opportunity to comment after the regulation was published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Commerce Secretary's action. During the initial comment period, June 16, 2005, through August 1, 2005, no comments were received. One comment was received after the re-opening of the southern component of the Temporary PSP Closure Area on September 9, 2005. The commenter expressed reluctance to re-opening a portion of the closure area without seeing the results of the FDA tests. Data used to make determinations regarding closing and opening of areas to certain types of fishing activity are collected from Federal, state, and private laboratories. NOAA maintains a Red Tide Information Center (*http://oceanservice.noaa.gov/redtide/*) which can be accessed directly or through the website listed in the **ADDRESSES** section. Information on test results, modeling of algal bloom movement, and general background on red tide can be accessed through this information center. While NMFS is the agency with the authority to promulgate the emergency regulations, it modified the regulations on September 9, 2005, at the request of the FDA, after the FDA has determined that the results of its tests warranted such action. If necessary, the regulations may be terminated at an earlier date, pursuant to section 305(c)(3)(D) of the Magnuson-Stevens Act, by publication in the **Federal Register** of a notice of termination, or extended further to ensure the safety of human health.

The rule, as last published on October 18, 2005, was determined to be not significant for the purposes of Executive Order (E.O.) 12866.

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

Dated: June 26, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 06–5936 Filed 6–27–06; 3:37 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 71, No. 126

Friday, June 30, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206–AL07

Allowances and Differentials

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing proposed regulations to increase the maximum annual uniform allowance rate. When civilian Federal employees are required to wear a uniform in the performance of their duties, agencies must pay a uniform allowance or furnish a uniform. Under the proposed rule, the maximum annual uniform allowance rate would be increased from $400 to $500.

DATES: Comments must be received on or before August 29, 2006.

ADDRESSES: Send or deliver written comments to Jerome D. Mikowicz, Acting Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; by fax at (202) 606–0824; or by e-mail at *pay-performance-policy@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Kitchelt, by telephone at (202) 606–2858; by fax at (202) 606–0824; or by e-mail at *pay-performance-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is proposing to increase the maximum annual uniform allowance rate. Under 5 U.S.C. 5901(a), when civilian Federal employees are required to wear a uniform in the performance of their duties, agencies must pay a uniform allowance not to exceed $400 a year or furnish a uniform at a cost not to exceed $400. Many agencies provide uniform allowances to employees, such as police officers, firefighters, customs and border patrol officers, and medical personnel. Under 5 U.S.C. 5902, OPM may, from time to time, adjust the maximum uniform allowance granted to employees for the cost of their uniforms. The maximum uniform allowance rate has not been increased since 1991. The Producer Price Index—Commodities (Seasonally Adjusted) increased approximately 24 percent between January 1991 and January 2005. Therefore, we are proposing to revise the regulations at 5 CFR 591.103 to increase the maximum annual uniform allowance rate from $400 to $500.

E.O. 12866, Regulatory Review

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

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

Accordingly, OPM is proposing to amend 5 CFR part 591 as follows:

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart A—Uniform Allowances

1. The authority citation for subpart A of part 591 continues to read as follows:

Authority: 5 U.S.C. 5903; E.O. 12748, 3 CFR 1991 Comp., p. 316. Source: 59 FR 43705, Aug. 25, 1994, unless otherwise noted.

2. In § 591.103, paragraphs (a) and (b) are revised to read as follows:

§ 591.103 Governmentwide maximum uniform allowance rate.

* * * * *

(a) Pay an allowance for a uniform not to exceed $500 a year; or

(b) Furnish a uniform at a cost not to exceed $500 a year.

[FR Doc. 06–5890 Filed 6–29–06; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25205; Directorate Identifier 2006–NM–071–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Boeing Model 767–200, –300, and –300F series airplanes. The existing AD currently requires an inspection of visually accessible areas for indications of overheating of the heater tape attached to the potable water fill and drain lines in the forward and aft cargo compartments, exposed foam insulation or missing or damaged protective tape around the potable water fill and drain lines, and debris or contaminants on or near the potable water fill and drain lines. That AD also requires corrective action, as necessary. This proposed AD would require repetitive inspections of the forward and aft cargo compartments, as applicable, for discrepancies of the potable water supply and gray water drain lines; and applicable corrective actions if necessary. This proposed AD also would require replacing the heater tapes on the potable water supply and gray water drain lines of the forward and aft cargo compartments, as applicable, with new ribbon heaters, which would end the repetitive inspections. This proposed AD results from a report of a fire in the aft cargo compartment. We are proposing this AD to prevent overheating of the heater tape on potable water fill and drain lines, which may ignite accumulated debris or contaminants on or near the potable water fill and drain lines, resulting in a fire in the airplane.

DATES: We must receive comments on this proposed AD by August 14, 2006.

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

• *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.

• *Fax:* (202) 493–2251.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT:
Donald Eiford, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6465; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–25205; Directorate Identifier 2006–NM–071–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or visit *http://dms.dot.gov.*

Examining the Docket

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

Discussion

On May 29, 2002, we issued AD 2002–11–11, amendment 39–12772 (67 FR 39265, June 7, 2002), for certain Boeing Model 767–200, –300, and –300F series airplanes. That AD requires an inspection of visually accessible areas for indications of overheating of the heater tape attached to the potable water fill and drain lines in the forward and aft cargo compartments, exposed foam insulation or missing or damaged protective tape around the potable water fill and drain lines, and debris or contaminants on or near the potable water fill and drain lines. That AD also requires correction action, as necessary. That AD resulted from a report of a fire in the aft cargo compartment. We issued that AD to prevent overheating of the heater tape on potable water fill and drain lines, which may ignite accumulated debris or contaminants on or near the potable water fill and drain lines, resulting in a fire in the airplane.

Actions Since Existing AD Was Issued

In the preamble to AD 2002–11–11, we indicated that the actions required by that AD were considered ''interim action,'' and that further rulemaking action was being considered. We now have determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Relevant Service Information

We have reviewed Boeing Service Bulletin 767–30A0038, Revision 2, dated February 23, 2006. Revision 2 of the service bulletin describes procedures for repetitive general visual inspections of the forward and aft cargo compartments, as applicable, for discrepancies of the potable water supply and gray water drain lines; and applicable corrective actions if necessary. The discrepancies include: foreign object debris (FOD), contamination, heat damage, exposed foam insulation, and missing or damaged protective tape of all heater tape. The applicable corrective actions include:

• Removing FOD or contamination;

• Replacing damaged heater tape with new heater tape;

• Disconnecting damaged heater tape;

• Applying a continuous wrap of external protective tape to cover the foam insulation; and

• Fully covering the heater tape with external protective tape.

In addition, the service bulletin describes procedures for replacing the heater tapes on the potable water supply and gray water drain lines of the forward and aft cargo compartments, as applicable, with new Adel Wiggins ribbon heaters, which ends the need for the repetitive inspections.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2002–11–11 to require accomplishing the actions specified in the service bulletin described previously.

Change to Existing AD

AD 2002–11–11 affects Model 767–200, –300, and –300F series airplanes with non-fully-enclosed cargo floors in the lower cargo areas. Since the issuance of that AD, Boeing has informed us that the new, improved heater tapes are being installed on airplanes, line numbers 919 and higher, in production. Boeing Service Bulletin 767–30A0038, Revision 2, specifies the current affected airplanes and operators. In addition, we have determined that Model 767–300F series airplanes are not subject to the identified unsafe condition and were inadvertently included in the applicability of AD 2002–11–11. Therefore, the applicability of this proposed AD limits the applicability of the existing AD to airplanes identified in Revision 2 of Boeing Service Bulletin 767–30A0038.

Costs of Compliance

There are about 455 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours [1]	Average labor rate per hour	Parts	Cost per airplane [1]	Number of U.S.-registered airplanes	Fleet cost [2]
Inspections	2 or 3	$80	None	$160 or $240, per inspection cycle.	83	Between $13,280 and $19,920, per inspection cycle.
Replacement (Ends Inspections).	Between 1 and 3	80	$8,000	Between $8,080 and $8,240.	83	Between $670,640 and $683,920.

[1] Depending on airplane configuration.
[2] Depending on fleet configuration.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–12772 (67 FR 39265, June 7, 2002) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–25205; Directorate Identifier 2006–NM–071–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by August 14, 2006.

Affected ADs

(b) This AD supersedes AD 2002–11–11.

Applicability

(c) This AD applies to Boeing Model 767–200 and –300 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 767–30A0038, Revision 2, dated February 23, 2006.

Note 1: For the purposes of this AD: An open cargo floor configuration, as identified in Boeing Service Bulletin 767–30A0038, is a floor without panels installed between all roller trays in the cargo compartment. A closed cargo floor configuration, as identified in Boeing Service Bulletin 767–30A0038, is a floor with panels installed between all roller trays in the cargo compartment.

Unsafe Condition

(d) This AD results from a report of a fire in the aft cargo compartment. We are issuing this AD to prevent overheating of the heater tape on potable water fill and drain lines, which may ignite accumulated debris or contaminants on or near the potable water fill and drain lines, resulting in a fire in the airplane.

Compliance

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

Repetitive Inspections

(f) Within 18 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 90 days after the effective date of this AD, whichever is later: Do the actions in Table 1 of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–30A0038, Revision 2, dated February 23, 2006.

TABLE 1.—INSPECTIONS

Do a general visual inspection of the forward and aft cargo compartments, as applicable, for—	And, repeat at intervals not to exceed—	Until the replacement required by—
(1) Foreign object debris (FOD) or contamination on, near, or around the potable water supply and gray water drain lines.	600 flight hours	Paragraph (h) of this AD is done.

TABLE 1.—INSPECTIONS—Continued

Do a general visual inspection of the forward and aft cargo compartments, as applicable, for—	And, repeat at intervals not to exceed—	Until the replacement required by—
(2) Indications of heat damage, exposed foam insulation, or missing or damaged protective tape of all heater tape on the potable water supply and gray water drain lines.	1,800 flight hours	Paragraph (h) of this AD is done.

Corrective Actions

(g) If any discrepancy identified in Table 1 of this AD is found during any general visual inspection required by either paragraph, before further flight, do the applicable corrective action by accomplishing all the actions in accordance with Accomplishment Instructions of Boeing Service Bulletin 767–30A0038, Revision 2, dated February 23, 2006.

Terminating Action

(h) At the applicable time specified in Table 2 of this AD: Replace the heater tapes on the potable water supply and gray water drain lines of the forward and aft cargo compartments, as applicable, with Adel Wiggins ribbon heaters, in accordance with Accomplishment Instructions of Boeing Service Bulletin 767–30A0038, Revision 2, dated February 23, 2006. Accomplishing the replacement ends the requirements of paragraph (f) of this AD.

TABLE 2.—COMPLIANCE TIME FOR REPLACEMENT

For airplanes on which the heater tape—	Compliance time
(1) Has not been replaced in accordance with Boeing Service Bulletin 767–30A0037, dated May 28, 2002; or Revision 1, dated July 19, 2002; as of the effective date of this AD.	Within 42 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original standard airworthiness certificate of the date of issuance of the original export certificate of airworthiness, or within 24 months after the effective date of this AD, whichever occurs later.
(2) Has been replaced in accordance with Boeing Service Bulletin 767–30A0037, dated May 28, 2002; or Revision 1, dated July 19, 2002; as of the effective date of this AD.	Within 42 months after replacing the heater tape, or within 24 months after the effective date of this AD, whichever occurs later.

Credit for Earlier Revisions of Service Bulletin

(i) For airplanes having variable number (VN) VN471 and VN472: Actions done in the forward cargo compartment before the effective date of this AD in accordance with Boeing Alert Service Bulletin 767–30A0038, dated December 16, 2004; or Revision 1, dated September 29, 2005; are acceptable for compliance with the corresponding requirements of this AD for the forward cargo compartment only.

(j) For airplanes having VN VS704 through VS707 inclusive: Actions done in the forward cargo compartment before the effective date of this AD in accordance with Boeing Alert Service Bulletin 767–30A0038, Revision 1, dated September 29, 2005, are acceptable for compliance with the corresponding requirements of this AD for the forward cargo compartment only.

(k) For airplanes other than those identified in paragraphs (i) and (j) of this AD: Actions done in the forward and aft cargo compartments, as applicable, before the effective date of this AD in accordance with Boeing Alert Service Bulletin 767–30A0038, dated December 16, 2004; or Revision 1, dated September 29, 2005; are acceptable for compliance with the corresponding requirements of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on June 20, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5874 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25219; Directorate Identifier 2005–NM–259–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 050 and Model F.28 Mark 0070 and 0100 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Fokker Model F27 Mark 050 and Model F.28 Mark 0070 and 0100 airplanes. This proposed AD would require repetitively removing the two existing escape rope assemblies in the flight compartment and installing new escape rope assemblies. This proposed AD results from reports of findings of small cracks in the polyester assembly block in which the cotton escape rope is stored. A test revealed that the escape ropes had deteriorated over time, and the load capability was considerably reduced. We are proposing this AD to ensure that flightcrew members safely reach the ground after exiting the flight compartment window during an emergency evacuation.

DATES: We must receive comments on this proposed AD by July 31, 2006.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–25219; Directorate Identifier 2005–NM–259–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

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

Discussion

The Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for The Netherlands, notified us that an unsafe condition may exist on Fokker Model F27 Mark 050 and Model F.28 Mark 0070 and 0100 airplanes with escape rope assemblies in the flight compartment. The CAA–NL advises that some operators reported finding small cracks in the polyester assembly block in which the cotton escape rope is stored. To establish the strength of the escape rope in the flight compartment after subsequent repair of the assembly block, a tensile test was done which revealed that the ropes had deteriorated over time, and the load bearing capability was considerably reduced. Correcting this condition would ensure that the flightcrew safely reach the ground after exiting the flight compartment window during an emergency evacuation.

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF50–25–059 (for Model F27 Mark 050 airplanes) and Fokker Service Bulletin SBF100–25–099 (for Model F.28 Mark 0070 and 0100 airplanes), both dated June 28, 2004. The service bulletins describe procedures for removing the two existing escape rope assemblies in the flight compartment and installing new escape rope assemblies. The service bulletins also specify sending the removed escape ropes to Fokker Services B.V. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA–NL mandated the service information and issued Dutch airworthiness directive 2004–159, dated December 24, 2004, to ensure the continued airworthiness of these airplanes in the Netherlands.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in the Netherlands and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA–NL has kept the FAA informed of the situation described above. We have examined the CAA–NL's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Among Proposed AD, Dutch Airworthiness Directive, and Service Information.''

Differences Among Proposed AD, Dutch Airworthiness Directive, and Service Information

The Dutch airworthiness directive requires amending the airplane maintenance schedule within one year after the effective date of the Dutch airworthiness directive to include a new discard task for the escape ropes after 6 years time-in-service. However, this proposed AD does not mandate a change to the maintenance schedule, but would instead require repeating the removal of the existing escape rope assemblies and installation of new escape rope assemblies every 72 months. These actions are essentially the same as the discard task (which would include replacement after discarding the escape ropes) required by the Dutch airworthiness directive.

Although the Accomplishment Instructions of the referenced service bulletins describe procedures for sending the escape ropes to Fokker Service B.V. after removal, this proposed AD would not require those actions. We do not have the authority to direct operators to return defective components to the parts manufacturer; we can only require repair or replacement of defective components that are installed on the airplane.

Costs of Compliance

This proposed AD would affect about 2 airplanes of U.S. registry. The proposed removal and installation would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Required parts would cost between $387 and $425 per airplane, depending on airplane configuration. Based on these figures, the estimated cost of the proposed AD for U.S. operators is between $1,094 and $1,170, or between $547 and $585 per airplane, per removal and installation.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2006–25219; Directorate Identifier 2005–NM–259–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by July 31, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Model F27 Mark 050 and Model F.28 Mark 0070 and 0100 airplanes, certificated in any category; with escape rope assemblies in the flight compartment.

Unsafe Condition

(d) This AD results from reports of findings of small cracks in the polyester assembly block in which the cotton escape rope is stored. A test revealed that the escape ropes had deteriorated over time, and the load capability was considerably reduced. We are issuing this AD to ensure that flightcrew members safely reach the ground after exiting the flight compartment window during an emergency evacuation.

Compliance

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

Replacement

(f) Within 12 months after the effective date of this AD: Remove the two existing escape rope assemblies in the flight compartment and install new escape rope assemblies in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–25–59 (for Model F27 Mark 050 airplanes); and Fokker Service Bulletin SBF100–25–099 (for Model F.28 Mark 0070 and 0100 airplanes); both dated June 28, 2004. Repeat the removal and installation thereafter at intervals not to exceed 72 months.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Related Information

(h) Dutch airworthiness directive 2004–159, dated December 24, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on June 22, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5873 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25221; Directorate Identifier 2006–NM–122–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 and A310 Airplanes; and Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes)

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A300 and A310 airplanes and A300–600 series airplanes. This proposed AD would require inspecting for discrepancies of all electrical bundles located in the leading and trailing edges of the wings, and performing corrective actions if necessary. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent an ignition source, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by July 31, 2006.

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

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

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–25221; Directorate Identifier 2006–NM–122–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

The European Aviation Safety Agency (EASA) notified us that an unsafe condition may exist on all Airbus Model A300 and A310 airplanes; and Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes). The EASA advises us of the potential for discrepancies, including but not limited to chafing, of all electrical bundles in the leading and trailing edges of the wings of these airplanes. This condition, if not corrected, could result in an ignition source, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Relevant Service Information

Airbus has issued the service bulletins listed in the table below.

Airplane model	Airbus service bulletin, including appendix 01	Date
A300	A300–24–0102	December 15, 2005.
A310	A310–24–2095	December 15, 2005.
A300–600 series	A300–24–6092	December 15, 2005.

These service bulletins describe procedures for performing detailed inspections for discrepancies of all electrical bundles located in the leading and trailing edges of the wings, and corrective actions if necessary. The inspections include inspecting for the following:

- Inadequate clearance between electrical wire harnesses and adjacent components or structure, including support structure, stringers, fasteners, pipes, bonding leads, or any metallic component which could create a conductive path to structure.
- Evidence of chafing of electrical cable harnesses.
- Discrepancies of clamps (including, but not limited to, unacceptable condition, unacceptable condition of

cushioning and anti-chafing devices, or evidence of chafing against electrical cable harnesses).

- Discrepancies of cable ties (including, but not limited to, unacceptable condition, or evidence of chafing against electrical cable harnesses).
- Discrepancies of convoluted conduits (including, but not limited to, unacceptable condition, evidence of chafing against electrical cable harnesses, and absence of drainage holes in the conduits).
- Discrepancies of metallic conduits (including, but not limited to, unacceptable condition, evidence of chafing against electrical cable harnesses, and absence of or unacceptable condition of drainage holes in the conduits).

Corrective actions include repairing any chafed electrical cable harnesses, replacing discrepant clamps with new clamps, repairing or replacing discrepant cable ties, installing drainage holes in convoluted or metallic conduits, and repairing any discrepant convoluted or metallic conduits. If clearance is not adequate between electrical wire harnesses and adjacent components or structure, the service bulletins specify contacting Airbus for corrective action. The service bulletins also specify to report all findings to Airbus.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006–0076, dated April 3, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. As described in FAA Order 8100.14A, ''Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness,'' dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Service Information.'' The proposed AD would also require sending the inspection results to Airbus.

Differences Between the Proposed AD and Service Information

The service bulletins specify to contact the manufacturer for instructions on how to correct inadequate clearance between electrical wire harnesses and adjacent components or structure and repair certain conditions, but this proposed AD would require correcting that condition using a method that we or the EASA (or its delegated agent) approve. In light of the type of corrective action that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a corrective action that we or the EASA approve would be acceptable for compliance with this proposed AD.

Clarification of Inspection Terminology

In this proposed AD, the ''detailed visual inspection'' specified in the EASA's AD and the Airbus service bulletins is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in a note in the proposed AD.

Costs of Compliance

This proposed AD would affect about 227 airplanes of U.S. registry. The proposed actions would take about 10 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $181,600, or $800 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2006–25221; Directorate Identifier 2006–NM–122–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by July 31, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A300 and A310 airplanes; and all Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, and F4–622R airplanes, and A300 C4–605R Variant F airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent an ignition source, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Service Bulletin Reference

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

(1) For Model A300 airplanes: Airbus Service Bulletin A300–24–0102, including Appendix 01, dated December 15, 2005;

(2) For Model A310 airplanes: Airbus Service Bulletin A310–24–2095, including Appendix 01, dated December 15, 2005; and

(3) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, and F4–622R airplanes, and A300 C4–605R Variant F airplanes: Airbus Service Bulletin A300–24–6092, including Appendix 01, dated December 15, 2005.

Inspections and Corrective Actions

(g) Within 44 months after the effective date of this AD, perform detailed inspections for discrepancies of all electrical bundles located in the leading and trailing edges of the wings, and all applicable corrective actions, by doing all of the actions in the service bulletin, except as provided by paragraph (h) of this AD. All corrective actions must be done before further flight.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Exception to Corrective Action Instructions

(h) If inadequate clearance is found between any electrical wire harness and adjacent components or structure: Before further flight, correct the inadequate clearance using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

Reporting

(i) Within 30 days after doing the inspections required by this AD, or within 30 days after the effective date of the AD, whichever is later: Submit a report of the findings (both positive and negative) of the inspections required by paragraph (g) of this AD to Airbus Engineering, c/o SE–E54, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. The report must include the airplane serial number or registration number, the number of flight cycles and flight hours on the airplane, the date of the inspection, the location of the defect, the conditions found, and the type of repair. Submitting Appendix 01 of the service bulletin to Airbus is acceptable for compliance with this requirement. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Related Information

(k) EASA's airworthiness directive 2006–0076, dated April 3, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on June 22, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5872 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25085; Directorate Identifier 2006–SW–02–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, and AS355E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters. This proposal would require replacing a certain hydraulic drive belt (drive belt). Also proposed is reducing the lubrication time interval for a certain hydraulic pump drive shaft (drive shaft). This proposal is prompted by in-flight failures of the drive belt and the drive shaft. The actions specified by this proposed AD are intended to prevent in-flight failure of the drive belt or drive shaft, loss of hydraulic power to the flight control system, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before August 29, 2006.

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

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

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5130, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES.** Include the docket number ''FAA–2006–25085, Directorate Identifier 2006–SW–02–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located at the plaza level of the Department of Transportation Nassif Building in Room PL–401 at 400 Seventh Street, SW., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On May 4, 2004, a Eurocopter Model AS350BA helicopter lost hydraulic system power, resulting in a non-fatal accident. An investigation of the accident showed that the drive belt, part number (P/N) 704A33–690–004, failed in-flight, approximately 160 hours short of its 600-hour time-in-service (TIS) life limit. Further investigations showed that the drive belt had been installed inside out and the exterior surface, as installed, had numerous lateral cracks. Historical records from both the FAA's Service Difficulty Report database and the National Transportation Safety Board's Accidents and Incidents database showed that 43 failures or replacements of the affected P/Ned drive belts occurred between February 1995 and January 2006. Twenty of the affected drive belts were replaced because they were found prematurely stretched or worn past their service limits and the remaining drive belts failed in-flight after averaging 277 hours TIS. These in-flight failures resulted in loss of hydraulic system pressure that required the pilots to make emergency landings; three of those in-flight failures, including the failure on May 4, 2004, resulted in accidents.

Prior to that May 2004 accident, the Transportation Safety Board of Canada (TSB) investigated a fatal accident in which a Eurocopter Model AS350B2 helicopter experienced hydraulic system failure and crashed. Examination of the installed drive belt showed that it had failed at the manufacturing seam, similar to the drive belt involved in the May 2004 accident. The TSB's further examinations showed that similar in-service, intact drive belts had extensive cracking in the same location, but that the one improved ''Poly-V'' drive belt examined had no cracks. On April 22, 2004, Transport Canada issued a Canadian AD mandating the installation of the ''Poly-V'' drive belt.

On January 9, 2006, the National Transportation Safety Board (NTSB) recommended that we:

- Require operators of Eurocopter AS–350 series helicopters to comply with the provisions of Eurocopter Service Bulletin AS350, No. 63.00.08, Revision 1, dated May 7, 2004, or subsequent revision (NTSB Safety Recommendation No. A–05–36).
- Identify an appropriate life limit or inspection interval for the existing Eurocopter AS–350 hydraulic pump flat drive belt and require Eurocopter AS–350 operators to comply with this limit/interval until they accomplish Eurocopter Service Bulletin AS350, No. 63.00.08, Revision 1, dated May 7, 2004 or subsequent revisions (NTSB Safety Recommendation No. A–05–37).

Eurocopter has issued the following:

- Service Bulletin No. 63.00.08, dated May 27, 2002, which specifies installing a poly-v type drive belt on the driving hydraulic pump; and
- Service Bulletin No. 29.00.04, Revision 1, dated January 27, 2004, which specifies reducing the lubrication interval and installing an O-ring seal in the groove of the hydraulic pump drive shaft in order to prevent early wear of the splines.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type designs registered in the United States. Therefore, the proposed AD would require the following:

- At or before the next 500-hour TIS inspection, replacing the drive belt with an airworthy drive belt that is not included in the applicability of this AD, and
- Within 110 hours TIS or at the next scheduled lubrication interval for the drive shaft splines, and thereafter at intervals not to exceed 110 hours TIS or 6 months, whichever occurs first, lubricating the drive shaft splines.

We estimate that this proposed AD would affect 700 helicopters of U.S. registry. Replacing each drive belt would take approximately 25 work hours and lubricating the drive shaft splines would take approximately 1 work hour. The average labor rate is $80 an hour. Each replacement drive belt would cost about $3,500. Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be $4,130,000, assuming no helicopter has been modified with the new drive shaft belt and the splines are lubricated 5 times in the first year.

Regulatory Findings

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

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

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

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

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

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. FAA–2006–25085; Directorate Identifier 2006–SW–02–AD.

Applicability: Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, and AS350D1 helicopters with a hydraulic drive belt (drive belt), part number (P/N) 704A33–690–004, or a hydraulic pump drive shaft (drive shaft), P/N 704A34–310–006, installed, certificated in any category.

Compliance: Required as indicated.

To prevent loss of hydraulic power to the flight control system and subsequent loss of control of the helicopter, accomplish the following:

(a) At or before the next 500-hour time-in-service (TIS) inspection, unless accomplished previously, replace the drive belt with an airworthy drive belt that is not included in the applicability of this AD.

(b) Within 110 hours TIS or at the next scheduled lubrication interval for the drive shaft splines, and thereafter at intervals not to exceed 110 hours TIS or 6 months, whichever occurs first, lubricate the drive shaft splines.

(c) This action reduces the interval for lubricating the drive shaft splines from 550 hours TIS or 2 years, whichever occurs first, to 110 hours TIS or 6 months, whichever occurs first.

Note: Eurocopter Service Bulletin No. 63.00.08, dated May 27, 2002, and No. 29.00.04, Revision 1, dated January 27, 2004, pertain to the subject of this AD.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Directorate, Regulations and Guidance Group, FAA, ATTN: Gary Roach, Aviation Safety Engineer, Fort Worth, Texas 76193–0111, telephone (817) 222–5130, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

Issued in Fort Worth, Texas, on June 22, 2006.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 06–5880 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 764 and 766

[Docket No 060511128–6128–01]

RIN 0694–AD36

Antiboycott Penalty Guidelines

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule would set forth BIS policy concerning voluntary self disclosures of violations of part 760 (Restrictive Trade Practices or Boycotts) of the Export Administration Regulations (EAR) and violations of part 762 (Recordkeeping) of the EAR that relate to part 760. This proposed rule also would set forth the factors that the Bureau of Industry and Security (BIS) considers when deciding whether to pursue administrative charges or settle allegations of such violations as well as the factors that BIS considers when deciding what level of penalty to seek in administrative cases.

DATES: Comments must be received by August 29, 2006.

ADDRESSES: Comments may be made via the Federal e-Rulemaking portal at, *http://www.regulations.gov*, by e-mail directly to BIS at *publiccomments@bis.doc.gov*, via fax at (202) 482–3355 or to U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, Room 2703, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Please refer to RIN 0694–AD36 in all comments.

FOR FURTHER INFORMATION CONTACT: Edward O. Weant III, Acting Director, Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce, at (202) 482–2381.

SUPPLEMENTARY INFORMATION:

Background

Part 760 of the EAR—Restrictive Trade Practices or Boycotts—prohibits U.S. persons from taking or knowingly agreeing to take certain actions with intent to comply with, further, or support an unsanctioned foreign boycott. Part 760 of the EAR also requires U.S. persons who are recipients of requests ''* * * to take any action which has the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States or against any United States person * * *'' to report receipt of those requests and whether they took the requested action. Part 762 of the EAR—Recordkeeping—requires, *inter alia*, retention of certain documents that contain information related to the prohibitions or reporting requirements of part 760. Collectively these provisions of the EAR are referred to in this notice as the antiboycott provisions. BIS administers and enforces the antiboycott provisions through its Office of Antiboycott Compliance (OAC). This proposed rule would: Set forth specific procedures for voluntary self disclosures of violations to OAC, provide guidance about how OAC responds to violations of the antiboycott provisions, and describe how OAC makes penalty determinations in the settlement of administrative enforcement cases related to the antiboycott provisions.

This rule would not address disclosure provisions or penalty determination factors in any other matters such as criminal prosecutions for violations of the antiboycott provisions or tax penalties that the Department of Treasury may impose for antiboycott violations that arise pursuant to the Ribicoff Amendment to the Tax Reform Act of 1976, as implemented by Section 999 of the Internal Revenue Code. Voluntary self-disclosure provisions and guidance on charging and penalty determinations in settlement of administrative enforcement cases that are not related to the antiboycott provisions are stated elsewhere in the EAR.

Proposed Changes to the EAR in This Rule

This rule would create a new § 764.8 setting forth the procedures for voluntary self-disclosure of violations of the antiboycott provisions. It would also create a new supplement No. 2 to part 764 that would describe how BIS responds to violations of the antiboycott provisions and how BIS makes penalty determinations in the settlement of administrative enforcement cases. The rule would also make technical and conforming changes to part 766.

This rule would provide specific criteria with respect to what constitutes a voluntary self-disclosure and how voluntary self-disclosures relate to other sources of information that OAC may have concerning violations of the antiboycott provisions. The rule would also inform the public of the factors that OAC usually considers to be important when settling antiboycott administrative enforcement cases. BIS believes that publishing this information in the EAR will tend to place all potential respondents and their counsel on a more equal footing because procedures for making voluntary disclosures, information about how OAC responds to violations and how OAC makes penalty determinations in the settlement of administrative enforcement cases will all be matters of public record. BIS also believes such publication will make settlement of administrative cases more efficient, as respondents and OAC will be able to focus on the important factors in administrative enforcement cases and because OAC generally expends fewer resources to obtain information received through voluntary self-disclosure than information obtained by other means.

Creation of § 764.8—Voluntary Self-Disclosure of Boycott Violations

The proposed new § 764.8 would both define what constitutes a voluntary self-disclosure and provide the procedures for making such disclosures. Compliance with the provisions of § 764.8 would be important as a voluntary self-disclosure ''satisfying the requirements of § 764.8'' would be designated as a mitigating factor of ''GREAT WEIGHT'' in the settlement of administrative cases as set forth in the proposed new Supplement No. 2 to part 764. Supplement No. 2 would provide that such factors ''will ordinarily be given considerably more weight than a factor that is not so designated.'' In addition to providing such an incentive for the submission of voluntary self-disclosures, BIS anticipates that proposed § 764.8 will promote more effective use of OAC resources, as the receipt of voluntary self-disclosures will reduce the time that OAC must spend identifying and investigating possible violations. The rule provides the benefit of a mitigating factor to those who self-disclose before OAC has invested resources to investigate violations based on information it might receive from another source.

Proposed § 764.8 requires, among other things, that voluntary self-disclosures be in writing and that they be received by OAC before OAC learns of the same or substantially similar information from ''another source'' and has commenced an investigation or inquiry in connection with that information. The proposed § 764.8 would provide that persons may make an initial written notification followed by submission of a more detailed narrative account and supporting documents. For purposes of determining whether a voluntary self-disclosure was received before OAC learned of the same or substantially similar information from another source, the date of the voluntary self-disclosure will be deemed to be the date that OAC received the initial notification if the person making the disclosure subsequently submits the required narrative account and supporting documentation.

BIS believes that requiring voluntary self-disclosures to be in writing reduces the possibility of confusion as to whether a particular communication was intended to be a voluntary self-disclosure and is likely to produce more complete disclosures than would oral disclosures.

BIS recognizes that two features of its existing regulations and practices may impact the requirement that a voluntary self-disclosure be received before OAC learns of the same or substantially similar information from another source. The first such feature is the set of reporting requirements in § 760.5. The second such feature is OAC's practice of encouraging persons with questions about the regulations to contact OAC by telephone or e-mail for advice.

Section 760.5 of the EAR, requires any ''U.S. person who receives a request to take any action that would have the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States or against any United States person'' to report to OAC both receipt of the request and the action that the person took in response to that request. In some instances, taking the requested action would be a violation of § 760.2. BIS recognizes that, in such instances, the reporting requirements of § 760.5 would have the effect of requiring a person to disclose a violation that it had committed. The proposed rule provides that reports filed pursuant to § 760.2 constitute ''information received from another source.'' Thus, a person who wishes to make a voluntary self-disclosure of a violation that is based on an action that § 760.5 requires that person to report would have to make sure that OAC receives the written initial notification portion of the voluntary self-disclosure before OAC began an investigation or inquiry based on the information received in the required report. The report itself would not serve as the initial notification. However, if OAC received the report and the initial notification simultaneously, it would be deemed to have received the initial notification before it had begun an investigation or inquiry based on the report. That person would then have to comply with the remaining requirements of § 764.8, but once that person complied with those requirements, the voluntary disclosure would be treated as having been received at the time that the initial notification was received.

OAC has, for a number of years, provided advice about the antiboycott provisions to persons requesting such advice via telephone or e-mail. In some instances, the person requesting such advice may disclose that it has committed a violation. OAC's practice has been to encourage such persons to make voluntary self-disclosures. OAC wants to continue to encourage persons with questions about the antiboycott provisions to fully disclose all relevant facts when making telephone or e-mail inquiries for advice concerning the antiboycott provisions. Therefore, OAC will not treat violations revealed in telephone or e-mail requests for advice concerning the antiboycott provisions as information received from another source. However, to meet the requirements of § 764.8, the person wishing to make a voluntary self-disclosure would have to make a written disclosure pursuant to § 764.8. The information provided over the telephone or via e-mail while seeking advice would not constitute a voluntary self-disclosure or even an initial notification of a voluntary self-disclosure. OAC's practice is to inform people who reveal violations in the course of seeking such advice of their opportunity to make a voluntary disclosure.

Proposed § 764.8 also provides that for a firm to be deemed to have made a voluntary self-disclosure under that section, the individual making the disclosure must do so with the ''full knowledge and authorization of the firm's senior management.'' OAC believes that this requirement is needed to make clear that a firm may not claim the benefits of a voluntary self-disclosure when a subordinate employee acting on his or her own initiative disclosed wrongdoing by the firm's management.

Creation of Supplement No. 2 to Part 764

This rule would also create a new supplement to part 764 to set forth publicly BIS's practice with respect to violations of the antiboycott provisions. The proposed supplement describes the ways that BIS responds to violations, the types of administrative sanctions that may be imposed for violations, the factors that BIS considers in determining what sanctions are appropriate, the factors that BIS considers in determining the appropriate scope of the denial or exclusion order sanctions, and the factors BIS considers when deciding whether to suspend a sanction.

Paragraph (a) of the proposed supplement contains introductory material that defines the scope and limitations of the supplement as well as sets forth BIS's policy of encouraging any party in settlement negotiations with BIS to provide all information that the party believes is relevant to the application of the guidance in the supplement as well as information that is relevant to determining whether a violation has, in fact, occurred and whether the party has a defense to any potential charges.

Paragraph (b) of the proposed supplement sets forth the three actions that OAC may take in response to a violation, which are: Issue a warning letter, pursue an administrative case, and refer a case to the Department of Justice for criminal prosecution. This paragraph also lists the factors that often cause OAC to issue a warning letter. It also notes OAC's ability to issue *proposed* administrative charging letters rather than *actual* administrative charging letters. Proposed charging letters are issued informally to provide an opportunity for settlement before initiation of a formal administrative proceeding. As noted in paragraph (b), OAC is not required to issue a proposed charging letter. Finally paragraph (b) notes that OAC may refer a case to the Department of Justice for criminal prosecution in addition to pursuing an administrative enforcement action.

Paragraph (c) of the proposed supplement lists the types of administrative sanctions that may be imposed in administrative cases. Those sanctions are: A monetary penalty, a denial of export privileges and an order excluding the party from practice before BIS.

Paragraph (d) provides information about how OAC determines what sanctions are appropriate in settlement of administrative enforcement cases. The paragraph describes the general factors that BIS believes are important in cases concerning violations of the antiboycott provisions. The paragraph then describes specific mitigating and aggravating factors. OAC generally looks to the presence or absence of these specific factors in determining what sanctions should apply in a given settlement.

Paragraph (d) begins by listing seven general factors to which OAC looks in determining what administrative sanctions are appropriate in each settlement. Those seven general factors are: degree of seriousness, category of violation, whether multiple violations arise from related transactions, whether multiple violations arise from unrelated transactions, the timing of a settlement, whether there are related civil or criminal violations, and the party's familiarity with the antiboycott provisions. The supplement provides general guidance on how OAC applies each of these seven general factors.

Paragraph (d) then addresses the role of eight specific mitigating and nine specific aggravating factors whose presence or absence OAC generally considers when determining what sanctions should apply. The listed factors are not exhaustive and OAC may consider other factors as well in a particular case. However, the listed factors are those that OAC's experience indicates are commonly relevant to penalty determinations in cases that are settled. Factors identified by the phrase "GREAT WEIGHT" will ordinarily be given considerably more weight than other factors.

The eight specific mitigating factors in paragraph (d) are: Voluntary self disclosure, effective compliance program, limited business with or in boycotting countries, history of compliance with the antiboycott provisions, exceptional cooperation with the investigation, (lack of) clarity of request to furnish prohibited information or take prohibited action, violations arising out of a party's "passive" refusal to do business in connection with an agreement, and isolated occurrence or good faith misinterpretation.

The nine specific aggravating factors in paragraph (b) are: concealment or obstruction, serious disregard for compliance responsibilities, history of (lack of) compliance with the antiboycott provisions, familiarity with the type of transaction at issue in the violations, prior history of business with or in boycotted countries or boycotting countries, long duration or high frequency of violations, clarity of request to furnish prohibited information or take prohibited action, violations relating to information concerning a specific individual or entity, and violations relating to "active" conduct concerning an agreement to refuse to do business.

The specific mitigating and aggravating factors are set forth in more detail in the supplement. BIS believes that in most cases evaluating these factors provides a fair basis for determining the penalty that is appropriate when settling an administrative case. However, these mitigating and aggravating factors are not exclusive. BIS may consider other factors that are relevant in a particular case and respondents in settlement negotiations may submit other relevant factors for BIS's consideration.

Paragraph (e) sets forth the factors that OAC considers to be particularly relevant when deciding whether to impose a denial or exclusion order in the settlement of administrative cases. Certain factors in paragraph (d)—the four factors that are given great weight, degree of seriousness, and history of prior violations and their seriousness—are included in paragraph (f). In addition, BIS considers the extent to which a firm's senior management participated in or was aware of the conduct that gave rise to the violation, the likelihood of future violations, and whether a monetary penalty could be expected to have a sufficient deterrent effect to be particularly relevant in determining whether a monetary penalty is appropriate.

Paragraph (f) provides examples of factors that OAC may consider in deciding whether to suspend or defer a monetary penalty, or suspend an order denying export privileges or an order providing an exclusion from practice. With respect to suspension or deferral of monetary penalties OAC may consider whether the party has demonstrated a limited ability to pay a penalty that would be appropriate for such violation, so that suspended or deferred payment can be expected to have sufficient deterrent value, and whether the impact of the penalty would be consistent with the impact of penalties on other parties who commit similar violations. When deciding whether to suspend denial or exclusion orders OAC may consider the adverse economic consequences of the order on the party, its employees, and other persons, as well as on the national interest in the competitiveness of U.S. businesses. However, such orders will be suspended for adverse economic consequences only if future violations are unlikely and if there are adequate measures (usually a substantial civil penalty) to achieve the necessary deterrent effect.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. If adopted as a final rule, this proposed rule would expand the scope of information collected pursuant to Office of Management and Budget Control Number 0694–0058. Such an expansion would be subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requiring Office of Management and Budget authorization before implementation. BIS will prepare documentation for presentation to OMB to obtain authorization for this expansion. Send comments about this collection, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to *David_Rostker@omb.eop.gov*, or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The Chief Counsel for Regulation of the Department of Commerce has certified to the Counsel for Advocacy that this proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Number of Small Entities

As a strictly legal matter, the antiboycott provisions of the Export Administration Regulations apply to any activities in the interstate or foreign commerce of the United States by any individual, or any association or organization, public or private who meets the regulatory definition of ''United States Person.'' Pursuant to this standard, virtually any small entity located in the United States could be subject to these provisions and affected by this proposed rule. However, the rule addresses self-disclosure of *violations* of the antiboycott provisions and OAC's practices in administrative settlements of alleged or self-disclosed violations of those provisions. In practice, conduct that would be a violation of the antiboycott provisions almost always occurs among international banks and among companies that export to or provide services in the Middle East. Violations of the antiboycott provisions generally occur in response to a request to take an action the antiboycott provisions prohibit or require to be reported or both. Such requests usually arise in connection with trade in the Middle East. Entities whose business does not involve transactions originating in the Middle East (or, in the case of banks, a correspondence relationship with another bank that deals with transactions originating in the Middle East) are unlikely to encounter circumstances in which a violation of the antiboycott provisions could occur. OAC has no information as to what percentage of small entities are engaged in such transactions, but expects that it would be only a small fraction of such entities. For example, entities such as local retailers, gas stations, farm labor contractors, or entities engaged in local services such as dry cleaning or trash removal are extremely unlikely to encounter the kind of commercial transactions in which a violation of the antiboycott provisions is possible. Furthermore, the absolute numbers of enforcement cases are small.

OAC opened investigations on 33 entities during the period from October 2, 2004 through May 16, 2006. Based on the criteria in the Small Business Administration Table of Small Business Size Standards effective as of January 5, 2006, OAC believes that 18 of these entities would qualify as small entities and 15 wold not qualify.

Even assuming that the number of small entities impacted by this rule is deemed to be significant, the economic impact of this rule would not impose a significant burden on such entities.

Economic Impact

This proposed rule addresses procedures to be followed in connection with voluntary self-disclosures of violations of the antiboycott provisions of the Export Administration Regulations and describes OAC's practices in settling administrative enforcement cases. The penalties for violations of the antiboycott provisions can include civil monetary penalties, denial of export privileges, exclusion from practice before BIS criminal fine and jail sentences.

Apart from a written initial notification generally describing the violations and a subsequent written narrative describing the violation in more detail, the documents that this rule would require persons making voluntary self disclosures to provide to OAC are documents that the preexisting recordkeeping requirements of the Export Administration Regulations require such persons to keep. These documents are currently collected either by request or pursuant to a subpoena in the course of enforcement investigations. Under the proposed rule, the documents would be submitted by the person or organization making the voluntary self-disclosure as part of that disclosure in advance of a specific request by OAC. Such voluntary self-disclosures benefit the government because investigations initiated through voluntary self-disclosures typically require fewer enforcement staff hours to complete. The rule recognizes this benefit to the government by treating voluntary disclosures made in accordance with the provisions of the rule as one of two possible mitigating factors of ''great weight.'' By the terms of the rule such factors ''will ordinarily be given considerably more weight than a factor that is not so designated.'' Thus, a firm that elected to make a voluntary disclosure under the proposed rule would likely incur a lesser penalty than a firm that commits a similar violation that OAC discovers through other means, although both firms would be likely to incur similar costs in connection with supplying documents to OAC.

OAC estimates that voluntary disclosures can take require as little as one staff hour or as much as fifty staff hours to prepare and submit with the average being about ten staff hours. At an average costs of $40 per hour, the estimated range of costs is from $40 if one hour is required to $2,000 if 50 hours are required. The projected average cost would be $400 per disclosure. However, as noted above, the cost of supplying documents to OAC in course of an investigation likely would be incurred by the firm even without this rule or even if the firm makes no voluntary self-disclosure. Moreover, this rule would reduce uncertainty for entities that become involved in administrative enforcement proceedings with BIS regardless of whether the entity made a voluntary self disclosure because the rule would set forth as a matter of public record the factors that BIS typically considers in settling administrative enforcement cases.

This proposed rule would not alter the elements of the offense with respect to any violation of the EAR, it would not expand scope of the information that OAC collects when it conducts individual enforcement investigations and it would not authorize OAC to collect this information in situations other than individual enforcement investigations. The effect of this proposed rule would be to reduce uncertainty for persons contemplating voluntary self-disclosures and for persons engaged in administrative enforcement settlement negotiations with OAC.

Accordingly, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel of Advocacy that this proposed rule will not have a significant economic impact on a substantial number of small entities.

BIS will consider all comments received on or before August 29, 2006. BIS will consider comments received after that date if possible but cannot assure such consideration. All public comments on this proposed rule must be in writing (including fax or e-mail) and will be a matter of public record, available for public inspection and copying. The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia*. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this web site, please call BIS's Office of Administration at (202) 482–0637 for assistance.

List of Subjects

15 CFR Part 764

Administrative practice and procedure, Exports, Law enforcement, Penalties.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Law enforcement, Penalties.

For the reasons discussed in the preamble, this proposed rule would amend the Export Administration Regulations 15 CFR Parts 764 and 766 as follows:

PART 764—[AMENDED]

1. The authority citation for part 764 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

2. Add a new § 764.8 to read as follows:

§ 764.8 Voluntary self-disclosures for boycott violations.

This section sets forth procedures for disclosing violations of part 760 of the EAR—Restrictive Trade Practices or Boycotts and violations of part 762—Recordkeeping—with respect to records related to part 760. In this section, these provisions are referred to collectively as the antiboycott provisions. This section also describes BIS's policy regarding such disclosures.

(a) *General policy.* BIS strongly encourages disclosure to the Office of Antiboycott Compliance if you believe that you may have violated the antiboycott provisions. Voluntary self-disclosures are a mitigating factor with respect to any enforcement action that OAC might take.

(b) *Limitations.* (1) This section does not apply to disclosures of violations relating provisions of the EAR other than the antiboycott provisions. Section 764.5 of this part describes how to prepare disclosures of violations of the EAR other than the antiboycott provisions.

(2) The provisions of this section apply only when information is provided to OAC for its review in determining whether to take administrative action under part 766 of the EAR for violations of the antiboycott provisions.

(3) *Timing:* The provisions of this section apply only if OAC receives the voluntary self-disclosure as described in paragraph (c)(2) of this section and commences an investigation or inquiry in connection with that information before it receives the same or substantially similar information from another source.

(i) *Mandatory Reports.* For purposes of this section, OAC's receipt of a report required to be filed under § 760.5 of the EAR that discloses that a person took an action prohibited by part 760 of the EAR is receipt of information from another source.

(ii) *Requests for Advice.* For purposes of this section, a violation that is revealed to OAC by a person who is seeking advice, either by telephone or e-mail, about the antiboycott provisions is not receipt of information from another source. Such revelation also is not a voluntary disclosure or initial notification of a voluntary disclosure for purposes of this section.

(4) Although a voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought by OAC, it is a factor that is considered together with all other factors in a case. The weight given to voluntary self-disclosure is solely within the discretion of OAC, and the mitigating effect of voluntary self-disclosure may be outweighed by aggravating factors. Voluntary self-disclosure does not prevent transactions from being referred to the Department of Justice for criminal prosecution. In such a case, OAC would notify the Department of Justice of the voluntary self-disclosure, but the consideration of that factor is within the discretion of the Department of Justice.

(5) A firm will not be deemed to have made a disclosure under this section unless the individual making the disclosure did so with the full knowledge and authorization of the firm's senior management.

(6) The provisions of this section do not, nor should they be relied on to, create, confer, or grant any rights, benefits, privileges, or protection enforceable at law or in equity by any person, business, or entity in any civil, criminal, administrative, or other matter.

(c) *Information to be provided*—(1) *General.* Any person wanting to disclose information that constitutes a voluntary self-disclosure should, in the manner outlined below, initially notify OAC as soon as possible after violations are discovered, and then conduct a thorough review of all transactions where violations of the antiboycott provisions are suspected.

(2) *Initial notification.* The initial notification must be in writing and be sent to the address in § 764.8(c)(7) of this part. The notification should include the name of the person making the disclosure and a brief description of the suspected violations. The notification should describe the general nature and extent of the violations. If the person making the disclosure subsequently completes the narrative account required by § 764.8(c)(3) of this part, the disclosure will be deemed to have been made on the date of the initial notification for purposes of § 764.8(b)(3) of this part.

(3) *Narrative account.* After the initial notification, a thorough review should be conducted of all business transactions where possible antiboycott provision violations are suspected. OAC recommends that the review cover a period of five years prior to the date of the initial notification. If your review goes back less than five years, you risk failing to discover violations that may later become the subject of an investigation. Any violations not voluntarily disclosed do not receive the same mitigation as the violations voluntarily self-disclosed under this section. However, the failure to make such disclosures will not be treated as a separate violation unless some other section of the EAR or other provision of law requires disclosure. Upon completion of the review, OAC should be furnished with a narrative account that sufficiently describes the suspected violations so that their nature and gravity can be assessed. The narrative account should also describe the nature of the review conducted and measures

that may have been taken to minimize the likelihood that violations will occur in the future. The narrative account should include:

(i) The kind of violation involved, for example, the furnishing of a certificate indicating that the goods supplied did not originate in a boycotted country;

(ii) An explanation of when and how the violations occurred, including a description of activities surrounding the violations (*e.g.*, contract negotiations, sale of goods, implementation of letter of credit, bid solicitation);

(iii) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violations; and

(iv) A description of any mitigating factors.

(4) *Supporting documentation.* (i) The narrative account should be accompanied by copies of documents that explain and support it, including:

(A) Copies of boycott certifications and declarations relating to the violation, or copies of documents containing prohibited language or prohibited requests for information;

(B) Other documents relating to the violation, such as letters, facsimiles, telexes and other evidence of written or oral communications, negotiations, internal memoranda, purchase orders, invoices, bid requests, letters of credit and brochures;

(ii) Any relevant documents not attached to the narrative account must be retained by the person making the disclosure until the latest of the following: The documents are supplied to OAC, OAC issues a warning letter for the violation, BIS issues an order that constitutes the final agency action in the matter and all avenues for appeal are exhausted; or the documents are no longer required to be kept under part 762 of the EAR.

(5) *Certification.* A certification must be submitted stating that all of the representations made in connection with the voluntary self-disclosure are true and correct to the best of that person's knowledge and belief. Certifications made by a corporation or other organization should be signed by an official of the corporation or other organization with the authority to do so. Section 764.2(g) of this part relating to false or misleading representations applies in connection with the disclosure of information under this section.

(6) *Oral presentations.* OAC believes that oral presentations are generally not necessary to augment the written narrative account and supporting documentation. If the person making the disclosure believes otherwise, a request for a meeting should be included with the disclosure.

(7) *Where to make voluntary self-disclosures.* The information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure should be submitted to: Office of Antiboycott Compliance, 14th and Pennsylvania Ave., NW., Room 6098, Washington, DC 20230, Tel: (202) 482–2381, Facsimile: (202) 482–0913.

(d) *Action by the Office of Antiboycott Compliance.* After OAC has been provided with the required narrative and supporting documentation, it will acknowledge the disclosure by letter, provide the person making the disclosure with a point of contact, and take whatever additional action, including further investigation, it deems appropriate. As quickly as the facts and circumstances of a given case permit, OAC may take any of the following actions:

(1) Inform the person making the disclosure that, based on the facts disclosed, it plans to take no action;

(2) Issue a warning letter;

(3) Issue a proposed charging letter pursuant to § 766.18 of the EAR and attempt to settle the matter;

(4) Issue a charging letter pursuant to § 766.3 of the EAR if a settlement is not reached; and/or

(5) Refer the matter to the Department of Justice for criminal prosecution.

(e) *Criteria.* Supplement No. 2 to part 766 describes how BIS typically exercises its discretion regarding whether to pursue an administrative enforcement case under part 766 and what administrative sanctions to seek in settling such a case.

(f) *Treatment of unlawful transactions after voluntary self-disclosure.* Any person taking certain actions with knowledge that a violation of the EAA or the EAR has occurred has violated § 764.2(e) of this part. Any person who has made a voluntary self-disclosure knows that a violation may have occurred. Therefore, at the time that a voluntary self-disclosure is made, the person making the disclosure may request permission from BIS to engage in the activities described in § 764.2(e) of this part that would otherwise be prohibited. If the request is granted by Office of Exporter Services in consultation with OAC, future activities with respect to those items that would otherwise violate § 764.2(e) of this part will not constitute violations. However, even if permission is granted, the person making the voluntary self-disclosure is not absolved from liability for any violations disclosed.

3. The authority citation for part 766 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

PART 766—[AMENDED]

4. In § 766.3, paragraph (a) the second sentence is revised to read as follows:

§ 766.3 Institution of administrative enforcement proceedings.

(a) *Charging letters.* * * * Supplements numbers 1 and 2 to this part describe how BIS typically exercises its discretion regarding the issuance of charging letters. * * *

5. In § 766.18 paragraph (f) is revised to read as follows:

§ 766.18 Settlement.

* * * * *

(f) Supplements Numbers 1 and 2 to this part describe how BIS typically exercises its discretion regarding the terms under which it is willing to settle particular cases.

6. Add a Supplement No. 2 to part 766 to read as follows:

Supplement No. 2 to Part 766—Guidance on Charging and Penalty Determinations in Settlement of Administrative Enforcement Cases Involving Antiboycott Matters

(a) *Introduction*—(1) *Scope.* This Supplement describes how the Office of Antiboycott Compliance responds to violations of part 760 of the EAR ''Restrictive Trade Practices or Boycotts'' and to violations of part 762 ''Recordkeeping'' when the recordkeeping requirement pertains to part 760 (together referred to in this supplement as the ''antiboycott provisions''). It also describes how OAC makes penalty determinations in the settlement of administrative enforcement cases brought under parts 764 and 766 of the EAR involving violations of the antiboycott provisions. This supplement does not apply to enforcement cases for violations of other provisions of the EAR.

(2) *Policy Regarding Settlement.* Because many administrative enforcement cases are resolved through settlement, the process of settling such cases is integral to the enforcement program. OAC carefully considers each settlement offer in light of the facts and circumstances of the case, relevant precedent, and OAC's objective to achieve in each case an appropriate level of penalty and deterrent effect. In settlement negotiations, OAC encourages parties to provide, and will give serious consideration to, information and evidence that the parties believe is relevant to the application of this guidance to their cases, to whether a violation has in fact occurred, and to whether they have a defense to potential charges.

(3) *Limitation.* OAC's policy and practice is to treat similarly situated cases similarly, taking into consideration that the facts and

combination of mitigating and aggravating factors are different in each case. However, this guidance does not confer any right or impose any obligation regarding what penalties BIS may seek in litigating a case or what posture OAC may take toward settling a case. Parties do not have a right to a settlement offer, or particular settlement terms, from OAC, regardless of settlement postures OAC has taken in other cases.

(b) *Responding to Violations.* OAC within BIS investigates possible violations of Section 8 of the Export Administration Act of 1979, as amended (''Foreign Boycotts''), the antiboycott provisions of EAR, or any order or authorization related thereto. When OAC has reason to believe that such a violation has occurred, OAC may issue a warning letter or initiate an administrative enforcement proceeding. A violation may also be referred to the Department of Justice for criminal prosecution.

(1) *Issuing a warning letter.* Warning letters represent OAC's belief that a violation has occurred. In the exercise of its discretion, OAC may determine in certain instances that issuing a warning letter, instead of bringing an administrative enforcement proceeding, will fulfill the appropriate enforcement objective. A warning letter will fully explain the violation.

(i) OAC often issues warning letters where:

(A) The investigation commenced as a result of a voluntary self-disclosure satisfying the requirements of § 764.8 of the EAR; or

(B) The party has not previously committed violations of the antiboycott provisions.

(ii) OAC may also consider the category of violation as discussed in paragraph (d)(2) of this supplement in determining whether to issue a warning letter or initiate an enforcement proceeding. A violation covered by Category C (failure to report or late reporting of receipt of boycott requests) might warrant a warning letter rather than initiation of an enforcement proceeding.

(iii) OAC will not issue a warning letter if it concludes, based on available information, that a violation did not occur.

(iv) OAC may reopen its investigation of this matter should it receive additional evidence or if it appears that information previously provided to OAC during the course of its investigation was incorrect.

(2) *Pursuing an administrative enforcement case.* The issuance of a charging letter under § 766.3 of this part initiates an administrative proceeding.

(i) Charging letters may be issued when there is reason to believe that a violation has occurred. Cases may be settled before or after the issuance of a charging letter. *See* § 766.18 of this part.

(ii) Although not required to do so by law, OAC may send a proposed charging letter to a party to inform the party of the violations that BIS has reason to believe occurred and how OAC expects that those violations would be charged. Issuance of the proposed charging letter provides an opportunity for the party and OAC to consider settlement of the case prior to the initiation of formal enforcement proceedings.

(3) *Referring for criminal prosecution.* In appropriate cases, OAC may refer a case to the Department of Justice for criminal prosecution, in addition to pursuing an administrative enforcement action.

(c) *Types of administrative sanctions.* Administrative enforcement cases generally are settled on terms that include one or more of three administrative sanctions:

(1) A monetary penalty may be assessed for each violation. The maximum such penalty is stated in § 764.3(a)(1) of the EAR, and is subject to adjustments under the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. 2461, note (2000)), which are codified at 15 CFR 6.4;

(2) An order denying a party's export privileges may be issued, under § 764.3(a)(2) of the EAR; or

(3) Exclusion from practice under § 764.3(a)(3) of the EAR.

(d) *How BIS determines what sanctions are appropriate in a settlement*—(1) *General Factors.* OAC looks to the following general factors in determining what administrative sanctions are appropriate in each settlement.

(i) *Degree of seriousness.* In order to violate the antiboycott provisions of the EAR, a U.S. person does not need to have actual ''knowledge'' or a reason to know, as that term is defined in § 772.1 of the EAR, of relevant U.S. laws and regulations. Typically, in cases that do not involve knowing violations, OAC will seek a settlement for payment of a civil penalty (unless the matter is resolved with a warning letter). However, in cases involving knowing violations, conscious disregard of the antiboycott provisions, or other such serious violations (*e.g.*, furnishing prohibited information in response to a boycott questionnaire with knowledge that such furnishing is in violation of the EAR), OAC is more likely to seek a denial of export privileges or an exclusion from practice, and/or a greater monetary penalty as OAC considers such violations particularly egregious.

(ii) *Category of violations.* In connection with its activities described in paragraph (a)(1) of this supplement, BIS recognizes three categories of violations under the antiboycott provisions of the EAR. (*See* § 760.2, § 760.4 and § 760.5 of the EAR for examples of each type of violation other than recordkeeping). These categories reflect the relative seriousness of a violation, with Category A violations typically warranting the most stringent penalties, including up to the maximum monetary penalty, and/or a denial order and exclusion order. Through providing these categories in this penalty guidelines notice, BIS hopes to give parties a general sense of how it views the seriousness of various violations. This guidance, however, does not confer any right or impose any obligation as to what penalties BIS may impose based on its review of the specific facts of a case.

(A) The category A violations and the sections of the EAR that set forth their elements are:

(*1*) Discriminating against U.S. persons on the basis of race, religion, sex, or national origin—§ 760.2(b);

(*2*) Refusing to do business or agreeing to refuse to do business—§ 760.2(a);

(*3*) Furnishing information about race, religion, sex, or national origin of U.S. persons including, but not limited to, providing information in connection with a boycott questionnaire about the religion of employees—§ 760.2(c);

(*4*) Evading the provisions of part 760—§ 760.4;

(*5*) Furnishing information about business relationships with boycotted countries or blacklisted persons—§ 760.2(d); and

(*6*) Implementing letters of credit—§ 760.2(f).

(B) The category B violations and the provisions of the EAR that set forth their elements are:

(*1*) Furnishing information about associations with charitable or fraternal organizations which support a boycotted country—§ 760.2(e); and

(*2*) Making recordkeeping violations—part 762.

(C) The category C violation and the section of the EAR that sets forth its elements is—Failing to report timely receipt of boycott requests—§ 760.5.

(iii) *Violations arising out of related transactions.* Frequently, a single transaction can give rise to multiple violations. Depending on the facts and circumstances, OAC may choose to impose a smaller or greater penalty per violation. In exercising its discretion, OAC typically looks to factors such as whether the violations resulted from conscious disregard of the requirements of the antiboycott provisions; whether they stemmed from the same underlying error or omission; and whether they resulted in distinguishable or separate harm. The three scenarios set forth below are illustrative of how OAC might view transactions that lead to multiple violations.

(A) *First scenario.* An exporter enters into a sales agreement with a company in a boycotting country. In the course of the negotiations, the company sends the exporter a request for a signed statement certifying that the goods to be supplied do not originate in a boycotted country. The exporter provides the signed certification. Subsequently, the supplier fails to report the receipt of the request. The supplier has committed two violations of the antiboycott provisions, first, a violation of § 760.2(d) for furnishing information concerning the past or present business relationships with or in a boycotted country, and second, a violation of § 760.5 for failure to report the receipt of a request to engage in a restrictive trade practice or boycott. Although the supplier has committed two violations, OAC may impose a smaller mitigated penalty on a per violation basis than if the violations had stemmed from two separate transactions.

(B) *Second scenario.* An exporter receives a boycott request to provide a statement that the goods at issue in a sales transaction do not contain raw materials from a boycotted country and to include the signed statement along with the invoice. The goods are shipped in ten separate shipments. Each shipment includes a copy of the invoice and a copy of the signed boycott-related statement. Each signed statement is a certification that has been furnished in violation of § 760.2(d)'s bar on the furnishing of prohibited business information. Technically, the exporter has committed ten separate violations of § 760.2(d) and one violation of § 760.5 for failure to report receipt of the boycott request. Given that the violations arose from a single boycott request, however, OAC may treat the violations as related and impose a smaller penalty than it would if the furnishing had stemmed from ten separate requests.

(C) *Third scenario.* An exporter has an ongoing relationship with a company in a boycotting country. The company places three separate orders for goods on different dates with the exporter. In connection with each order, the company requests the exporter to provide a signed statement certifying that the goods to be supplied do not originate in a boycotted country. The exporter provides a signed certification with each order of goods that it ships to the company. OAC has the discretion to penalize the furnishing of each of these three items of information as a separate violation of § 760.2(d) of the EAR for furnishing information concerning past or present business relationships with or in a boycotted country.

(iv) *Multiple violations from unrelated transactions.* In cases involving multiple unrelated violations, OAC is more likely to seek a denial of export privileges, an exclusion from practice, and/or a greater monetary penalty than in cases involving isolated incidents. For example, the repeated furnishing of prohibited boycott-related information about business relationships with or in boycotted countries during a long period of time could warrant a denial order, even if a single instance of furnishing such information might warrant only a monetary penalty. OAC takes this approach because multiple violations may indicate serious compliance problems and a resulting risk of future violations. OAC may consider whether a party has taken effective steps to address compliance concerns in determining whether multiple violations warrant a denial or exclusion order in a particular case.

(v) *Timing of settlement.* Under § 766.18 of this part, settlement can occur before a charging letter is served, while a case is before an administrative law judge, or while a case is before the Under Secretary for Industry and Security under § 766.22 of this part. However, early settlement—for example, before a charging letter has been served—has the benefit of freeing resources for OAC to deploy in other matters. In contrast, for example, the OAC resources saved by settlement on the eve of an adversary hearing under § 766.13 of this part are fewer, insofar as OAC has already expended significant resources on discovery, motions practice, and trial preparation. Given the importance of allocating OAC resources to maximize enforcement of the EAR, OAC has an interest in encouraging early settlement and will take this interest into account in determining settlement terms.

(vi) *Related criminal or civil violations.* Where an administrative enforcement matter under the antiboycott provisions involves conduct giving rise to related criminal charges, OAC may take into account the related violations, and their resolution, in determining what administrative sanctions are appropriate under part 766 of the EAR. A criminal conviction indicates serious, willful misconduct and an accordingly high risk of future violations, absent effective administrative sanctions. However, entry of a guilty plea can be a sign that a party accepts responsibility for complying with the antiboycott provisions and will take greater care to do so in the future. In appropriate cases where a party is receiving substantial criminal penalties, OAC may find that sufficient deterrence may be achieved by lesser administrative sanctions than would be appropriate in the absence of criminal penalties. Conversely, OAC might seek greater administrative sanctions in an otherwise similar case where a party is not subjected to criminal penalties. The presence of a related criminal or civil disposition may distinguish settlements among civil penalty cases that appear to be otherwise similar. As a result, the factors set forth for consideration in civil penalty settlements will often be applied differently in the context of a ''global settlement'' of both civil and criminal cases, or multiple civil cases involving other agencies, and may therefore be of limited utility as precedent for future cases, particularly those not involving a global settlement.

(vii) *Familiarity with the Antiboycott Provisions.* Given the scope and detailed nature of the antiboycott provisions, OAC will consider whether a party is an experienced participant in the international business arena who may possess (or ought to possess) familiarity with the antiboycott laws. In this respect, the size of the party's business, the presence or absence of a legal division or corporate compliance program, and the extent of prior involvement in business with or in boycotted or boycotting countries, may be significant.

(2) *Specific mitigating and aggravating factors.* In addition to the general factors described in paragraph (d)(1) of this supplement, OAC also generally looks to the presence or absence of the specific mitigating and aggravating factors in this paragraph in determining what sanctions should apply in a given settlement. These factors describe circumstances that, in BIS's experience, are commonly relevant to penalty determinations in settled cases. However, this listing of factors is not exhaustive and, in particular cases, OAC may consider other factors that may further indicate the blameworthiness of a party's conduct, the actual or potential harm associated with a violation, the likelihood of future violations, and/or other considerations relevant to determining what sanctions are appropriate. The assignment of mitigating or aggravating factors will depend upon the attendant circumstances of the party's conduct. Thus, for example, one prior violation should be given less weight than a history of multiple violations, and a previous violation reported in a voluntary self-disclosure by a party whose overall compliance efforts are of high quality should be given less weight than previous violation(s) not involving such mitigating factors. Some of the mitigating factors listed in this paragraph are designated as having ''great weight.'' When present, such a factor should ordinarily be given considerably more weight than a factor that is not so designated.

(i) *Mitigating factors*—(A) *Voluntary self-disclosure.* (GREAT WEIGHT) The party has made a voluntary self-disclosure of the violation, satisfying the requirements of § 764.8 of the EAR.

(B) *Effective compliance program* (GREAT WEIGHT)—(*1*) *General policy or program pertaining to Antiboycott Provisions.* In the case of a party that has done previous business with or in boycotted countries or boycotting countries, the party has an effective antiboycott compliance program and its overall antiboycott compliance efforts have been of high quality. The focus is on the party's demonstrated compliance with the antiboycott provisions. Whether a party has an effective export compliance program covering other provisions of the EAR is not relevant as a mitigating factor. OAC may deem it appropriate to review the party's internal business documents relating to antiboycott compliance (*e.g,.* corporate compliance manuals, employee training materials). In this context, OAC will also consider whether a party's antiboycott compliance program uncovered a problem, thereby preventing further violations, and whether the party has taken steps to address compliance concerns raised by the violation, including steps to prevent recurrence of the violation, that are reasonably calculated to be effective.

(*2*) *Compliance with reporting and recordkeeping requirements.* In the case of a party that has received reportable boycott requests in the past, OAC may examine whether the party complied with the reporting and recordkeeping requirements of the antiboycott provisions. With respect to recordkeeping, whether records were destroyed deliberately or intentionally may be an issue.

(C) *Limited business with or in boycotted or boycotting countries.* The party has had little to no previous experience in conducting business with or in boycotted or boycotting countries. Prior to the current enforcement proceeding, the party had not engaged in business with or in such countries, or had only transacted such business on isolated occasions. OAC may examine the volume of business that the party has conducted with or in boycotted or boycotting countries as demonstrated by the size and dollar amount of transactions or the percentage of a party's overall business that such business constitutes.

(D) *History of compliance with the Antiboycott Provisions of the EAR and export-related laws and regulations.*

(*1*) OAC will consider it to be a mitigating factor if:

(*i*) The party has never been convicted of a criminal violation of the antiboycott provisions;

(*ii*) In the past 5 years, the party has never entered into a settlement or been found liable in a boycott-related administrative enforcement case with BIS or another U.S. government agency;

(*iii*) In the past 3 years, the party has not received a warning letter from BIS; or

(*iv*) In the past 5 years, the party has never otherwise violated the antiboycott provisions.

(*2*) Where necessary to ensure effective enforcement, the prior involvement in violations of the antiboycott provisions of a party's owners, directors, officers, partners, or other related persons may be imputed to a party in determining whether these criteria are satisfied.

(*3*) When an acquiring firm takes reasonable steps to *uncover, correct,* and *disclose* to OAC conduct that gave rise to violations that the acquired business committed *before* the acquisition, OAC typically will not take such violations into account in applying this factor in settling other violations by the acquiring firm.

(E) *Exceptional cooperation with the investigation.* The party has provided exceptional cooperation to OAC during the course of the investigation.

(F) *Clarity of request to furnish prohibited information or take prohibited action.* The party responded to a request to furnish information or take action that was ambiguously worded or vague.

(G) *Violations arising out of a party's ''passive'' refusal to do business in connection with an agreement.* The party has acquiesced in or abided by terms or conditions that constitute a prohibited refusal to do business (*e.g.,* responded to a tender document that contains prohibited language by sending a bid). *See* ''active'' agreements to refuse to do business in paragraph (d)(2)(ii)(I) of this supplement.

(H) *Isolated occurrence of violation.* The violation was an isolated occurrence. (Compare to long duration or high frequency of violations as an aggravating factor in paragraph (d)(2)(ii)(F) of this supplement.)

(ii) *Specific Aggravating Factors*—(A) *Concealment or obstruction.* The party made a deliberate effort to hide or conceal the violation. [GREAT WEIGHT]

(B) *Serious disregard for compliance responsibilities.* [GREAT WEIGHT] There is evidence that the party's conduct demonstrated a serious disregard for responsibilities associated with compliance with the antiboycott provisions (*e.g.:* knowing violation of party's own compliance policy or evidence that a party chose to treat potential penalties as a cost of doing business rather than develop a compliance policy).

(C) *History of compliance with the Antiboycott Regulations and export-related laws and regulations.*

(*1*) OAC will consider it to be an aggravating factor if:

(*i*) The party has been convicted of a criminal violation of the antiboycott provisions;

(*ii*) In the past 5 years, the party has entered into a settlement or been found liable in a boycott-related administrative enforcement case with BIS or another U.S. government agency;

(*iii*) In the past 3 years, the party has received a warning letter from OAC; or

(*v*) In the past 5 years, the party has otherwise violated the antiboycott provisions.

(*2*) Where necessary to ensure effective enforcement, the prior involvement in violations of the antiboycott provisions of a party's owners, directors, officers, partners, or other related persons may be imputed to a party in determining whether these criteria are satisfied.

(*3*) When an acquiring firm takes reasonable steps to *uncover, correct,* and *disclose* to OAC conduct that gave rise to violations that the acquired business committed *before* the acquisition, OAC typically will not take such violations into account in applying this factor in settling other violations by the acquiring firm.

(D) *Familiarity with the type of transaction at issue in the violation.* For example, in the case of a violation involving a letter of credit or related financial document, the party routinely pays, negotiates, confirms, or otherwise implements letters of credits or related financial documents in the course of its standard business practices.

(E) *Prior history of business with or in boycotted countries or boycotting countries.* The party has a prior history of conducting business with or in boycotted and boycotting countries. OAC may examine the volume of business that the party has conducted with or in boycotted and boycotting countries as reflected by the size and dollar amount of transactions or the percentage of a party's overall business that such business constitutes.

(F) *Long duration/high frequency of violations.* Violations that occur at frequent intervals or repeated violations occurring over an extended period of time may be treated more seriously than a single isolated violation that is committed within a brief period of time, particularly if the violations are committed by a party with a history of business with or in boycotted and boycotting countries. (Compare to isolated occurrence of violation or good-faith misinterpretation in paragraph (d)(2)(i)(H) of this supplement.)

(G) *Clarity of request to furnish prohibited information or take prohibited action.* The request to furnish information or take other prohibited action (*e.g.,* enter into agreement to refuse to do business with a boycotted country or entity blacklisted by a boycotting country) is facially clear as to its intended purpose.

(H) *Violation relating to specific information concerning an individual entity or individual.* The party has furnished prohibited information about business relationships with specific companies or individuals.

(I) *Violations relating to ''active'' conduct concerning an agreement to refuse to do business.* The party has taken action that involves altering, editing, or enhancing prohibited terms or language in an agreement to refuse to do business, including a letter of credit, or drafting a clause or provision including prohibited terms or language in the course of negotiating an agreement to refuse to do business, including a letter of credit. *See* ''passive'' agreements to refuse to do business in paragraph (d)(2)(ii)(G) of this supplement.

(e) *Determination of Scope of Denial or Exclusion Order.* In deciding whether and what scope of denial or exclusion order is appropriate, the following factors are particularly relevant: The presence of mitigating or aggravating factors of great weight; the degree of seriousness involved; in a business context, the extent to which senior management participated in or was aware of the conduct in question; the number of violations; the existence and seriousness of prior violations; the likelihood of future violations (taking into account relevant efforts to comply with the antiboycott provisions); and whether a monetary penalty can be expected to have a sufficient deterrent effect.

(f) *How OAC Makes Suspension and Deferral Decisions*—(1) *Civil Penalties.* In appropriate cases, payment of a civil monetary penalty may be deferred or suspended. *See* § 764.3(a)(1)(iii) of the EAR. In determining whether suspension or deferral is appropriate, OAC may consider, for example, whether the party has demonstrated a limited ability to pay a penalty that would be appropriate for such violations, so that suspended or deferred payment can be expected to have sufficient deterrent value, and whether, in light of all the circumstances, such suspension or deferral is necessary to make the impact of the penalty consistent with the impact of OAC penalties on other parties who committed similar violations.

(2) *Denial of Export Privileges and Exclusion from Practice.* In deciding whether a denial or exclusion order should be suspended, OAC may consider, for example, the adverse economic consequences of the order on the party, its employees, and other persons, as well as on the national interest in the competitiveness of U.S. businesses. An otherwise appropriate denial or exclusion order will be suspended on the basis of adverse economic consequences only if it is found that future violations of the antiboycott provisions are unlikely and if there are adequate measures (usually a substantial civil penalty) to achieve the necessary deterrent effect.

Dated: June 26, 2006.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 06–5917 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT38

Endangered and Threatened Wildlife and Plants; Designating the Greater Yellowstone Ecosystem Population of Grizzly Bears as a Distinct Population Segment; Removing the Yellowstone Distinct Population Segment of Grizzly Bears From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice seeking to recover public comments.

SUMMARY: On November 17, 2005, the U.S. Fish and Wildlife Service (Service,

or we) proposed to designate the Greater Yellowstone Ecosystem population of grizzly bears as a distinct population segment (DPS) and to then remove this DPS from the Federal List of Endangered and Threatened Wildlife. The public comment period for the proposed rule was open from November 17, 2005, until March 20, 2006. Due to a technological error, we did not receive complete information from a small number of interested parties who provided comments during the comment period for the proposed rule. This notice gives instructions for those commenters concerning how to resubmit their comments to us.

DATES: We will accept the resubmitted e-mail comments for the proposed rule from only those commenters described below until the close of business on July 14, 2006.

ADDRESSES: We encourage eligible commenters to resubmit their comments via e-mail to: *grizzly_delisting@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, 309 University Hall, University of Montana, Missoula, Montana 59812, or telephone (406) 243–4903.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 2005, the Service proposed to designate the Greater Yellowstone Ecosystem population of grizzly bears as a DPS and to then remove this DPS from the Federal List of Endangered and Threatened Wildlife (70 FR 69854). The public comment period for the proposed rule was open from November 17, 2005, until March 20, 2006. During this time, the Service received approximately 215,000 comments, 190,000 of which were submitted via e-mail. Over the course of the comment period, there were 2,220 e-mails that were incorrectly identified as spam by the filter used by the government e-mail system and, therefore, only part of the comment was received. We were able to contact all but 22 commenters. For these 22 commenters, we do not possess complete contact information. We are publishing this **Federal Register** notice in order to contact these 22 individuals. The information that we have for these 22 commenters consists of first and last names and partial e-mail addresses for 15 of the respondents and the first 26 characters of e-mail addresses (and no names) for the remaining 7 respondents. We have placed these partial names and e-mail addresses on a Web site where they can be viewed. By checking the Web site, e-mail respondents will be able to determine if their comment was one of the 22 comments that were incompletely received. Please visit *http://mountain-prairie.fws.gov/grizzly_delisting.html* to see if your e-mail may be one of the 22 comments that we are requesting be resubmitted.

We request that these 22 people resubmit their original comments by the date listed in the **DATES** section above. Comments will only be accepted from e-mail addresses that have identical information to that found on the Web site (*http://mountain-prairie.fws.gov/grizzly_delisting.html*). This is not a reopening of the comment period but rather an attempt to retrieve specific comments that were already submitted during the comment period.

Resubmitting Public Comments

When resubmitting comments by e-mail, please avoid the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that the Service may be required to disclose your name and address under the Freedom of Information Act. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the above address listed under the **FOR FURTHER INFORMATION CONTACT** section.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 22, 2006.

Marshall Jones,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 06–5830 Filed 6–29–06; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 71, No. 126

Friday, June 30, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request an extension for a currently approved information collection for the University Value-Added Research Grant.

DATES: Comments on this notice must be received by August 29, 2006 to be considered.

FOR FURTHER INFORMATION CONTACT: Ms. Tracey L. Kennedy, Acting Program Leader-Funded Programs, Cooperative Programs, Rural Development, USDA, STOP 3252, Room 4210, 1400 Independence Avenue, SW., Washington, DC 20250–3252. Telephone: (202) 690–1428, e-mail: *tracey.kennedy@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: University Value-Added Research Grant.

OMB Number: 0570–0046.

Expiration Date of Approval: December 31, 2006.

Type of Request: Extension of a currently approved information collection.

Abstract: The Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, signed May 13, 2002) authorized the Secretary of the U.S. Department of Agriculture (USDA) to award a grant to support research at a university concerning the effects of projects for value-added agricultural commodities or products on agricultural producers and the commodity markets. The program is administered by Cooperative Programs within USDA's Rural Development. A single grant was awarded, on a competitive basis, to the University of Missouri in 2003. The grant period has been extended to April 1, 2007. This information collection will be retired upon completion of grant deliverables.

Estimate of Burden: Public reporting burden for this collection is estimated to average 2 hours per response.

Respondents: One grantee awarded.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 4.

Estimated Number of Responses: 4.

Estimated Total Annual Burden on Respondents: 8 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of Rural Development, including whether the information will have practical utility; (b) the accuracy of Rural Development's estimate of the burden to collect the required information, including the validity of the strategy used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments on the paperwork burden may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: June 15, 2006.

Jackie J. Gleason,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 06–5914 Filed 6–29–06; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Request for Proposals: Fiscal Year 2006 Funding Opportunity for 1890 Land-Grant Institutions Rural Entrepreneurial Outreach and Development Initiative

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Initial notice of request for proposals.

SUMMARY: Rural Business-Cooperative Service programs are administered through USDA Rural Development. USDA Rural Development announces the availability of approximately $1.5 million in competitive cooperative agreement funds. USDA Rural Development hereby requests proposals from 1890 Land-Grant Universities and Tuskegee University (1890 Institutions) for competitively awarded cooperative agreements for projects that support USDA Rural Development's goals and objectives of providing technical assistance for business creation in economically challenged rural communities, for educational programs to develop and improve upon the professional skills of rural entrepreneurs, and for outreach and promotion of USDA Rural Development's programs in small rural communities with the greatest economic need. Project proposals must be designed to overcome currently identified economic problems and lead to sustainable economic development. Project proposals that address both traditional and nontraditional business enterprises are encouraged. This initiative seeks to create a working partnership between USDA Rural Development and the 1890 Institutions through cooperative agreements. A cooperative agreement requires substantial involvement of the Government agency in carrying out the objectives of the project.

Cooperative agreements will be awarded to the project proposals

receiving the highest scores as determined by a peer review panel of USDA employees knowledgeable of the subject matter. Awards will be made to the extent that funds are available. However, USDA Rural Development is making no commitment to fund any particular project proposal or to make a specific number of awards. Eligible applicants must provide matching funds equal to at least 25 percent of the total project costs.

DATES: Paper copies of applications must be postmarked and mailed, shipped, or sent overnight no later than August 14, 2006, to be eligible for FY 2006 funding. Electronic copies of applications must be received by August 14, 2006, to be eligible for FY 2006 funding. Late applications are not eligible for FY 2006 funding.

ADDRESSES: You may obtain application guides and materials for the 1890 Land-Grant Institutions Rural Entrepreneurial Outreach and Development Initiative (1890 REOD Initiative) at the following Internet Address: *http://www.rurdev.usda.gov/rbs/oa/1890.htm* or by contacting Edgar L. Lewis, Program Manager, USDA Rural Development, Cooperative Programs, Mail Stop 3252, 1400 Independence Avenue, SW., Washington, DC 20250–3252. Telephone: (202) 690–3407, e-mail: *edgar.lewis@wdc.usda.gov.*

Final paper applications for an 1890 REOD Initiative cooperative agreement may be submitted via the U.S. Postal Service to USDA Rural Development, Attention: 1890 REOD Initiative, Mail Stop 3250, 1400 Independence Avenue, SW., Washington, DC 20250, or via UPS, FedEx, or similar delivery service to USDA Rural Development, Attention: 1890 REOD Initiative, Room 4016, 1400 Independence Avenue, SW., Washington, DC 20250. The telephone number that should be used on FedEx or similar packages is (202) 720–7558.

Submit electronic cooperative agreement applications using the Grants.gov Web site at *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Edgar L. Lewis, Program Manager, USDA Rural Development, Cooperative Programs, Mail Stop 3252, Room 4221, 1400 Independence Avenue, SW., Washington, DC 20250–3252. Telephone: (202) 690–3407, TDD Federal Information Relay Service: 1–800–877–8339, e-mail: *edgar.lewis@wdc.usda.gov,* or visit the program Web site at *http://www.rurdev.usda.gov/rbs/oa/1890.htm.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Business-Cooperative Service.

Funding Opportunity Title: 1890 Land-Grant Institutions Rural Entrepreneurial Outreach and Development Initiative (1890 REOD Initiative).

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.856.

Key Dates: Cooperative agreement applications may be submitted on paper or electronically according to the following deadlines.

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than August 14, 2006, to be eligible for FY 2006 funding. Electronic copies must be received by August 14, 2006, to be eligible for FY 2006 funding. Late applications will not be considered for funding.

I. Funding Opportunity Description

This solicitation is issued pursuant to 7 U.S.C. 2204b(b)(4) and Executive Order 13256 (February 12, 2002), ''President's Board of Advisors on Historically Black Colleges and Universities.''

Several other Federal statutes and regulations apply to project proposals considered for review and to cooperative agreements awarded. These include, but are not limited to:

7 CFR part 15, subpart A: Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964,

7 CFR part 15, subpart B: Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Financial Assistance,

7 CFR part 3015: Uniform Federal Assistance Regulations,

7 CFR part 3017: Governmentwide Debarment and Suspension (Nonprocurement),

7 CFR part 3018: New Restrictions on Lobbying,

7 CFR part 3019: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,

7 CFR part 3021: Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),

7 CFR part 3052: Audits of States, Local Governments, and Non-Profit Organizations.

USDA Rural Development was established under the authority of the Department of Agriculture Reorganization Act of 1994. The mission of USDA Rural Development is to enhance the quality of life for rural Americans by providing leadership in building competitive businesses, including sustainable cooperatives that can prosper in the global marketplace. USDA Rural Development meets these goals by investing financial resources and providing technical assistance to cooperatives and other businesses located in rural communities and establishing strategic alliances and partnerships that leverage public, private, and cooperative resources to create jobs and stimulate rural economic activity.

The primary purposes of the 1890 REOD Initiative are to encourage 1890 Institutions to provide technical assistance for business creation in economically challenged rural communities, to conduct educational programs that develop and improve upon the professional skills of rural entrepreneurs, and to provide outreach and promote USDA Rural Development programs in small rural communities with the greatest economic need. Project proposals must be designed to overcome currently identified economic problems and lead to sustainable economic development. Project proposals that address both traditional and nontraditional business enterprises are encouraged.

USDA Rural Development will use cooperative agreements with the 1890 Institutions to strengthen the capacity of these communities to undertake innovative, comprehensive, citizen-led, and long-term strategies for community and economic development. The cooperative agreements will be for an outreach and development effort to promote Rural Development programs in targeted underserved rural communities and shall include, but not be limited to:

(a) Developing a business startup program, including technical assistance, to assist new cooperatives and other businesses with new business development, business planning, franchise startup and consulting, business expansion studies, marketing analysis, cash flow management, and seminars and workshops for cooperatives and small businesses;

(b) Developing management and technical assistance plans for:

(1) Assessing cooperative and small business alternatives to traditional agricultural and other natural resource based industries;

(2) Assisting in the development of business plans or loan packages, marketing, or bookkeeping; and

(3) Assisting and training cooperatives and small businesses in customer

relations, product development, or business planning and development.

(c) Assessing local community weaknesses and strengths, feasible alternatives to agricultural production, and the necessary infrastructure to expand or develop new or existing businesses;

(d) Providing community leaders with advice and recommendations regarding best practices in community economic development stimulus programs for their communities;

(e) Conducting seminars to disseminate information to stimulate business and economic development in selected rural communities; and

(f) Conducting outreach through the use of computer technology and maintaining an Internet Web presence that links community leaders and residents to available economic development information.

II. Award Information

Type of Award: Cooperative Agreements.

Fiscal Year Funds: FY 2006.

Approximate Total Funding: $1,500,000.

Approximate Number of Awards: 13.

Approximate Average Award: $115,000.

Floor of Award Range: None.

Ceiling of Award Range: $115,000.

Anticipated Award Date: September 25, 2006.

Budget Period Length: 12 months.

Project Period Length: 12 months.

Funds may not be used to: (a) Pay costs of preparing the application package, (b) fund political activities, (c) pay costs prior to the effective date of the cooperative agreement, (d) provide for revolving funds, (e) pay for construction, (f) conduct any activities where there is or may appear to be a conflict of interest, or (g) purchase real estate.

If an applicant is to receive an award that is less than the amount requested, the applicant will be required to modify the application to conform to the reduced amount before execution of the cooperative agreement. USDA Rural Development reserves the right to reduce or deobligate any award if acceptable modifications are not submitted by the awardee(s) within 10 working days from the date the application is returned to the applicant. Any modification must be within the scope of the original application.

Throughout the project period, USDA Rural Development's continued commitment to advance funds will be conditioned upon evidence of satisfactory progress by the recipient (as documented in certified acceptable quarterly progress and financial reports) and the determination that continued funding is in the best interest of U.S. Government.

III. Eligibility Requirements

1. Applicant Eligibility

To be eligible for an award under this program, an applicant must:

(a) Be an 1890 Institution which includes: Alabama A&M University, University of Arkansas-Pine Bluff, Delaware State University, Florida A&M University, Fort Valley State University, Kentucky State University, Southern University and A&M College, University of Maryland-Eastern Shore, Alcorn State University, Langston University, North Carolina A&T State University, Lincoln University (Missouri), South Carolina State University, Tennessee State University, Prairie View A&M University, Virginia State University, West Virginia State University, and Tuskegee University. USDA Rural Development will accept only one application per Institution under this program. In the event that more than one application is submitted, the 1890 Institutions' president will determine the official application for consideration;

(b) Demonstrate that the personnel assigned to the project have the expertise and experience necessary to fulfill the tasks set forth in the project proposal. Applicants should demonstrate a previous record of successful implementation of similar projects;

(c) Demonstrate expertise in the use of computer technologies to provide technical assistance and access to Internet Web sites; and

(d) Submit a completed application as set forth in Section IV.3.

An applicant may subcontract with organizations not eligible to apply provided such organizations are necessary for the conduct of the project. However, the subcontracted amount may not exceed one-third of the total Federal award.

2. Project Eligibility

To be eligible for an award under this program, an applicant must:

(a) Establish that the project eligible beneficiaries are located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) with a demonstrated economic need. Eligible beneficiaries must also be located in communities that show significant community support for the proposal,

(b) Provide matching funds equal to at least 25 percent of the total project costs, and

(c) Establish and maintain an Internet Web presence linked to the USDA Rural Development Web site. This Web site should contain links to additional economic development function that will benefit residents and community leaders.

3. Rural Area Definition

Rural underserved targeted counties/communities must be an area other than a city or town that has a population of greater than 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town, as defined by the U.S. Bureau of Census using the latest decennial census of the United States.

4. Matching Funds

Matching funds may be provided by either the applicant or third party in the form of either cash or in-kind contributions and must be from non-Federal funds. Matching funds must be spent in proportion to the spending of funds received from the cooperative agreement. Applications must verify that matching funds are available for the time period of the cooperative agreement.

IV. Application Process

1. Application Packages

If an Institution plans to apply using a paper application, application packages, including the required forms for this funding opportunity, may be obtained from *http://www.rurdev.usda.gov/rbs/oa/1890.htm.* If an Institution is having difficulty accessing the forms online, it may contact USDA Rural Development at (202) 690–3407, FAX: (202) 690–2723, or TDD Federal Information Relay Service: 1–800–877–8339. The application forms and instructions may also be requested via e-mail by sending a message with the contact person's name, mailing address, and telephone number to *edgar.lewis@wdc.usda.gov.* The application forms and instructions will be mailed as quickly as possible. When calling or e-mailing USDA Rural Development, please indicate that you are requesting application forms and instructions for the FY 2006 1890 REOD Initiative.

If an Institution plans to apply electronically, the forms must be obtained from *http://www.grants.gov.*

2. Application Submission

Paper applications must be postmarked and mailed, shipped, or sent overnight not later than August 14, 2006. Electronic copies must be received by August 14, 2006. Late applications will not be considered for funding. The applicant assumes the risk of any delay in proposal delivery. Applicants are strongly encouraged to submit completed applications electronically or via overnight mail or delivery service to ensure timely receipt by USDA Rural Development. Receipt of all applications will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide accurate e-mail addresses. If the applicant does not receive an acknowledgment within 7 workdays of the submission deadline, please contact the program manager. If USDA Rural Development receives your application after the deadline due to: (a) Carrier error, when the carrier accepted the package with guarantee for delivery by the closing date and time, or (b) significant weather delays or natural disaster, you will be given the opportunity to document these problems. USDA Rural Development will consider the application as having been received by the deadline if your documentation meets these requirements and verifies the delay was beyond your control. Applications submitted via facsimile will not be accepted.

An Institution may submit its application in paper or in an electronic format. If a paper application is submitted, a signed original and two copies of the completed application must be submitted. The original and two copies must include all required forms, certifications, assurances, project proposal document, and appendices; be signed by an authorized representative of the Institution; contain original signatures; and be submitted unbound.

A paper application submitted via the Postal Service must be addressed to USDA Rural Development, Attention: 1890 REOD Initiative, Mail Stop 3250, 1400 Independence Avenue, SW., Washington, DC 20250. A paper application submitted via a commercial carrier such as UPS, FedEx, or similar delivery service must be addressed to USDA Rural Development, Attention: 1890 Initiative, Room 4016, 1400 Independence Avenue, SW., Washington, DC 20250. The telephone number to be used on FedEx or similar packages is (202) 720–7558.

If an application is submitted electronically, the application must be submitted at *http://www.grants.gov*. Applicants are advised to visit the site well in advance of the application deadline if they plan to apply electronically to ensure that they have obtained the proper authentication and have sufficient computer resources to complete the application.

All Federal grant applicants must provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants and cooperative agreements. The DUNS number is required whether an applicant is submitting a paper application or using the governmentwide electronic portal Grants.gov. A DUNS number is required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement, and block grant programs, submitted on or after October 1, 2003. Please ensure that your institution has a DUNS number. An Institution may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or online at *http://www.dnd.com*.

If an Institution's application does not contain a DUNS number field, please write the DUNS number at the top of the first page of the application and/or include the DUNS number in the application cover letter.

3. Completed Application

To be eligible for funding, an application must contain all of the following elements. Applications that are missing any element or contain an incomplete element will not be considered for funding.

(a) Completed forms.

(1) Form SF–424, ''Application for Federal Assistance:'' In order for this form to be considered complete, it must contain the legal name of the applicant, the applicant's DUNS number, the applicant's complete mailing address, the name and telephone number of a contact person, the employer identification number (EIN), the start and end dates of the project, the Federal funds requested, other funds that will be used as matching funds, an answer to the question, ''Is applicant delinquent on any Federal debt?'', the name and signature of an authorized representative, the telephone number of the authorized representative, and the date the form was signed. Other information requested on the form may be applicable, but the above-listed information is required for an application to be considered complete.

(2) Form SF–424A, ''Budget Information—Non-Construction Programs:'' In order for this form to be considered complete, the applicant must fill out Sections A, B, C, and D. The applicant must include both Federal and matching funds.

(3) Form SF–424B, ''Assurances—Non-Construction Programs:'' In order for this form to be considered complete, the form must be signed by an authorized official and include the title, name of applicant, and date.

(4) Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

(5) Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

(b) Letters of support.

(c) *Table of Contents:* For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the required forms. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents. Provide page numbers in the Table of Contents where each evaluation criterion is addressed.

(d) *Project Executive Summary:* A summary of the Project Proposal, not to exceed one page, must briefly describe the project, including goals, tasks to be completed, and other relevant information that provides a general overview of the project.

(e) *Eligibility Discussion:* A detailed discussion, not to exceed four pages, will describe how the applicant meets the eligibility requirements. In the event that more than four pages are submitted, only the first four pages will be considered. The eligibility discussion must address the following:

(1) *Applicant Eligibility:* The applicant must first describe how it meets the definition of an 1890 Institution. It must demonstrate that the personnel assigned to the project have the expertise and experience necessary to fulfill the tasks set forth in the project proposal, including the use of computer technologies and technical assistance.

(2) *Project Eligibility:* The applicant must describe how the project's eligible beneficiaries are located in a rural area as defined in 7 U.S.C. 1991(a)(13)(A) with a demonstrated economic need and how eligible beneficiaries are also to be located in communities that show significant community support for the proposal. The applicant must show how it is to provide matching funds equal to at least 25 percent of the total project costs. The applicant must provide the address of the Internet Web presence linked to the USDA Rural Development Web site or demonstrate how such a link will be developed.

(f) *Project Proposal:* The application must contain a narrative statement describing the nature of the proposed project. Each of the proposal evaluation criteria referenced in this funding announcement must be addressed, specifically and individually, in narrative form. The proposal must include at least the following:

(1) *Project Title Page:* The Title Page must include the title of the project, names of principal investigators, and applicant organization.

(2) *Introduction:* A concisely worded justification or rationale for the proposal must be presented. Summarize the social and economical statistical data (income, population, employment rate, poverty rate, education attainment, etc.) for the project area that substantiates the need for the initiative. Specify whether the target area includes a Federally designated Empowerment Zone/ Enterprise Community, Champion Community, Federally-recognized Indian Reservation, or other Federally declared economic disaster area. An applicant must address the ''Economic Need of Community'' evaluation criterion as described in Section VII(1)(c).

(3) *Workplan:* Discuss the approach (strategy) to be used in carrying out the proposed project outreach and achieving the proposed objectives. Address the ''Statement of Work'' evaluation criterion as described in Section VII.1.(e). A description of any subcontracting arrangements to be used in carrying out the proposed project must be included. The workplan also must include:

(i) *Overview:* Identify and discuss the specific goals and objectives of the proposed project and its impact on the proposed beneficiaries;

(ii) *Timeframes:* Develop a tentative timeline for completing the major tasks outlined in the project proposal;

(iii) *Project Goals:* Describe and quantify the expected outcomes of the proposed project, including the businesses created, professionals trained, jobs created or assisted, conferences and seminars to be conducted, and the expected number of participants, loans packaged, etc.;

(iv) *Recipient Involvement:* Identify the person(s) responsible for performing the project tasks; and

(v) *USDA Rural Development Involvement:* Identify USDA Rural Development responsibilities for assisting and monitoring project tasks;

(4) *Estimated Budget:* Provide a detailed budget justification, showing both Federal and applicant's matching funds, including in-kind contributions. Provide a budget to support the workplan, showing all sources and uses of funds during the project period. Detail and document both cash and in-kind funding by sources. Note that only goods and services for which no expenditure is made can be considered in-kind. If the applicant is paying for the goods and services as part of the matching funds contribution, the expenditure is considered a cash match and should be verified as such.

(5) *Certification of Matching Funds:* Certify that matching funds will be available at the same time Federal funds are anticipated to be spent and that matching funds will be spent on a pro rata basis with Federal funds. Please note that this certification is a separate requirement from the verification of Matching Funds requirement.

(6) *Leveraging Funds:* Discuss in narrative form how the Institution will use Federal, State, private, and other sources of funds and resources to leverage the proposed project.

(7) *Coordination and Management Plan:* Describe how the project will be coordinated among the various participants, the nature of the collaborations and benefits to participants, communities, applicants, and Rural Development. Describe plans for the management of the project to ensure its proper and efficient administration. Describe the scope of Rural Development's involvement in the project.

(8) *Technology Outreach:* The project proposal must address the applicant's ability to deliver computer technology to the targeted rural communities and maintain computer Internet Web sites linking community leaders and residents to available economic development information. Address the ''Digital Technology Outreach'' evaluation criterion as described in Section VII(1)(f).

(9) *Key Personnel Support:* Provide the curriculum vitae for the key personnel used to carry out the goals and objectives of the proposal.

(10) *Facilities or Equipment:* Identify where the project will be located (housed) and what additional equipment is needed or already available to carry out the specific objectives of the project.

(11) *Previous Accomplishments:* Summarize the Institution's previous outreach and development accomplishments for projects funded by USDA Rural Development or similar outreach or development experiences. This is especially important for first-time applicants. Address the ''Previous Accomplishments'' evaluation criterion as described in Section VII.(1)(d).

(12) *Local and USDA Rural Development State Office Support:* Provide letters of support from the local community, such as businesses, educational institutions, local governments, community-based organizations, etc. Letters of support should demonstrate commitments for tangible resources and/or assistance. Include any letter from the appropriate USDA Rural Development State Office, evidencing its opportunity for input into the proposal and its involvement. Identify and discuss tangible support contained in the letters.

(13) *Additional information:* Provide any additional information that demonstrates commitment for tangible resources and/or that supports the proposal. Additionally, the applicant is encouraged to provide any strategic plan that has been developed to assist cooperative and business development or entrepreneurship for the targeted communities.

V. Intergovernmental Review of Applications

Executive Order (EO) 12372 does not apply to this program.

VI. Funding Restrictions

Public Law 109–97, Sec. 708, states ''No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total cost of the agreement when the purpose of such cooperative arrangement is to carry out programs of mutual interest between the two parties.'' Indirect costs in excess of 10 percent of the direct cost, therefore, will be ineligible for funding. Other funding restrictions are identified in Section III.

VII. Application Review

1. Criteria

Project proposals will be evaluated using the following seven criteria. Each criterion is given the weight value shown with total points equal to 100. The points assigned provide an indication of the relative importance of each section and will be used by the reviewers in evaluating the proposals. Points do not have to be awarded for each criterion. After all proposals have been evaluated, the Administrator may award an additional 10 discretionary points to any proposal to obtain the broadest geographic distribution of the funds, ensure a broad diversity of project proposals, or ensure a broad diversity in the size of the awards.

(a) *Support of Local Community (Up to 10 points):* This criterion evaluates the support of local government, educational, community, and business groups. Higher points will be awarded for proposals demonstrating broad support from all components of the communities served, particularly cooperative groups. Broad support is demonstrated by tangible contributions, such as providing volunteers, computers, and transportation or co-sponsoring workshops and conferences. Points will be awarded based on the level of tangible contribution in comparison to the size of the award. Tangible support must be stated in letters from supporting entities.

(b) *Matching Funds/Leveraging (Up to 10 points):* This criterion evaluates the extent to which the Institution has the capacity to support the project with matching funds and leveraging additional funds and resources from State, private, public, and nonprofit sources to carry out this outreach and development initiative.

A maximum of 10 points will be awarded based upon the amount the proposal exceeds the minimum 25 percent matching requirement. Applicants will be required to provide matching funds or equivalent in-kind funding in support of this project. Evidence of matching funds availability must be provided. Funds or equivalent in-kind funding must be available at the time at which the cooperative agreement is entered. Matching funds points will be awarded as listed below:

>25 percent to 35 percent match—2 points.

>36 percent to 50 percent match—5 points.

>51 percent to 75 percent match—7 points.

>75 percent match—10 points.

(c) *Economic Need of Community (Up to 15 points):* This criterion evaluates the economic need of the targeted communities.

Five points will automatically be awarded to project proposals with at least one of the beneficiary communities located in a targeted community(s): Federally designated Empowerment Zones, Enterprise Communities, Champion Communities, Federally-recognized Indian Reservations, and other Federally declared economically depressed or disaster areas. The application must state the name(s) and location(s) of the economically depressed community(s) and the type(s) of targeted community designation (i.e., Empowerment Zone).

Up to a maximum of 10 additional points may be awarded based upon the applicant's ability to identify and demonstrate other economic factors that would cause these communities to be targeted for special economic and community development, such as, but not limited to, unemployment rates, poverty rates, education levels, and job availability. These and other factors will be evaluated and compared to the respective State rates. An applicant must provide sufficient information for the panel to properly evaluate and rate this criterion.

(d) *Previous Accomplishments (Up to 10 points):* This criterion evaluates the applicant's previous accomplishments with this initiative and/or its demonstrative capacity to conduct similar projects.

One point will be awarded to an Institution for each year it has been awarded a cooperative agreement under this program up to a total of 5 years. An applicant must provide evidence of satisfactorily completing the cooperative agreement for each year for which credit is claimed. Applicants with less than 5 recent years of awards in this program may receive up to the maximum 5 points by highlighting the applicant's previous performance in each of the past 5 years on other projects with cooperative and business development and outreach objectives. The applicant should discuss the potential impact of the project upon the targeted underserved rural communities, as well as describing previous similar outreach and development work.

Up to a maximum of 5 additional points may be awarded based upon an applicant's ability to document the positive impact of its project upon the targeted underserved rural communities. Positive entrepreneurial developments should be emphasized. Points will be awarded to applicants who demonstrate that the project's technical assistance resulted in the creation of a business(s) in an economically challenged community or that its educational programs developed or improved upon the professional skills of rural entrepreneurs. The applicant must provide specific information as to the specific businesses created and/or professional educational programs offered.

(e) *Statement of Work (Up to 40 points):* This criterion evaluates the degree to which the proposed project addresses the major purposes for the 1890 REOD Initiative. Points will be awarded according to the degree to which the Statement of Work reflects innovative strategies for providing technical assistance for business creation in economically challenged rural communities, for educational programs to develop and improve upon the professional skills of rural entrepreneurs, and for outreach and promotion of USDA Rural Development.

Up to a maximum of 15 points will be awarded to proposed projects that have a clearly and concisely stated workplan detailing goals and objectives, timetables, expected results, and measurable outcomes for providing technical assistance for business creation in economically challenged rural communities. The greatest number of points will be awarded to those proposed projects that demonstrate innovative and creative ways to accomplish these goals.

Up to a maximum of 15 additional points will be awarded to proposed projects that have a clearly and concisely stated workplan detailing goals and objectives, timetables, expected results, and measurable outcomes for educational programs to develop and improve upon the professional skills of rural entrepreneurs (i.e., sustainable agricultural practices, real estate sales, real estate appraising, accounting for small entrepreneurs, etc.). The greatest number of points will be awarded to those proposed projects that demonstrate innovative and creative ways to accomplish these goals.

Up to a maximum of 10 additional points will be awarded to proposed projects for outreach and promotion of USDA Rural Development's programs in small rural communities with the greatest economic need. The greatest number of points will be awarded to those proposed projects that demonstrate innovative and creative ways to accomplish these goals.

All proposals must integrate substantial USDA Rural Development involvement.

(f) *Digital Technology Outreach (Up to 10 points):* This criterion evaluates the applicant's experience and capacity to provide outreach and assistance to targeted underserved rural communities through use of computer technologies.

A maximum of 10 points will be awarded based upon the applicant's demonstrated capacity to promote innovations and improvements in the delivery of computer technology benefits, including a Web presence to underserved rural communities whose share in these benefits is disproportionably low. The Web site should be operational with a link to the USDA Rural Development Web site and populated with success stories and economic development information.

(g) *Coordination and Management of the Project (Up to 5 points):* This criterion evaluates the applicant's demonstrated capacity to coordinate and manage the proposed project among the various stakeholders.

Up to a maximum of 5 points will be awarded based upon the applicant's ability to demonstrate a broad and collaborative involvement with the respective USDA Rural Development State Office on the proposed project. This involvement and collaboration should include, but not be limited to: (1) Evidence of any USDA Rural

Development State Office input in and review of the applicant's proposal, (2) a detailed plan for USDA Rural Development State Office continued participation in the proposed project that includes specific participatory tasks, and (3) a detailed plan as to how Rural Development programs can be integrated into the proposed project.

2. Selection Process

Each application will be evaluated in a two-part process. First, each application will be reviewed to ensure that both the applicant and project meet the eligibility requirements as set forth in Section III. All applicants deemed to be eligible will be scored based upon the criteria set forth in Section VII(1). Each eligible application will be scored by at least three expert reviewers. The individual scores for each application will be tallied, and applications receiving the highest scores will be recommended to the Administrator or Acting Administrator, Rural Business-Cooperative Service, for award. The Administrator or Acting Administrator has the final authority to award discretionary points in accordance with Section VII(1) and determine the applications to be funded. If a tie score results after the proposals have been rated and ranked, the tie will be resolved by the proposal with the largest matching funds as a percent of the Federal amount of the selected award.

VIII. Award Administration

1. Award Notification

Upon completion of the review process, successful applicants will be notified, in writing, by the USDA Rural Development National Office of its award. Each successful applicant will receive a cooperative agreement for signature by the Institutions' president or designee. The document will become binding upon execution by the appropriate USDA official.

Unsuccessful applicants will be notified, in writing, of the results of the review.

2. Advance of Funds Requirements

Requests for advance of funds must be submitted to the National Office on a quarterly basis on a completed Form SF–270, ''Request for Advance or Reimbursement.'' A completed Form SF–269 (Long Form), ''Financial Status Report,'' must be submitted with each advance of funds request.

3. Project Reviews

USDA Rural Development State Office representatives will conduct semiannual onsite reviews of award recipients, as well as any additional reviews deemed necessary by the National Office.

4. Reporting Requirements

During the term of the cooperative agreement, each award recipient must submit quarterly progress reports and a final report detailing the tasks performed and results accomplished to the National and appropriate State Offices. The report should also include a summary at the end of the report with the following elements to assist in documenting the annual performance measures of the 1890 program:

(a) Number of businesses/cooperatives started/expanded in the targeted areas.

(b) Number of currently active businesses/cooperatives in the targeted areas that were assisted.

(c) Number of individuals/businesses/cooperatives/organizations assisted (training, technical assistance, feasibility studies, etc.).

(d) Number of individuals/businesses/cooperatives/organizations assisted with USDA Rural Development loan or grant programs or other similar programs.

Quarterly reports must be submitted on or prior to January 31, April 30, July 31, and October 31, 2007. A final report must be submitted within 90 days of the date of the project's completion. Reports may be submitted in hard copy original or an electronic copy that includes all required signatures. Failure to submit satisfactory, timely reports may result in suspension or termination of award.

Upon the request of USDA Rural Development, the award recipient will submit manuscripts, videotapes, software, or other media as were identified in project proposals. USDA Rural Development retains those rights delineated in 7 CFR 3019.36.

5. Administrative Requirements

Award recipients are responsible for:

(a) Completing the objectives as defined in the proposed workplan.

(b) Maintaining up-to-date project records during the term of the agreement.

(c) Maintaining an accounting of Federal and matching fund expenditures, including in-kind contributions. Award recipients must submit to the National Office a completed Form SF–269 (Long Form) with each advance of funds request and within 90 days of the project's completion.

(d) Immediately refunding to USDA Rural Development, at the end of the agreement, any balance of unobligated funds received from USDA Rural Development.

(e) Providing matching funds or equivalent in-kind contribution in support of the project, at least to the level agreed to in the accepted proposal.

(f) Participating in the annual or biannual USDA Rural Development Entrepreneurship and Information conferences/workshops when planned.

(g) Developing a program of cooperative and business startup and technical assistance, in cooperation with local businesses, that will assist with new company development, business planning, new enterprise, franchise startup and consulting, business expansion studies, marketing analysis, cash flow management, and seminars and workshops for cooperatives and small businesses.

(h) Providing office space, equipment, and supplies for all personnel assigned to the project.

(i) Developing management and technical assistance plans in cooperation with the USDA Rural Development State Office that will:

(1) Assess cooperative and small business alternatives to agriculture and other natural resources-based industries;

(2) Assist in the development of business plans and loan packages, marketing, bookkeeping assistance, and organizational sustainability; and

(3) Provide technical assistance and training, in cooperation with the USDA Rural Development State Office, for customer relations, product development, and business planning and development.

(j) Assess local community needs, weaknesses and strengths, feasible alternatives to agriculture production, and the needed infrastructure to expand or develop new or existing businesses. The plans for any such studies must be submitted to the USDA Rural Development National Office for approval prior to the study being conducted.

(k) Provide community leaders with advice and recommendations, in cooperation with the USDA Rural Development State Office, regarding best practices in community economic development stimulus programs for their communities.

(l) Develop digital technology outreach and establish and maintain an Internet Web site to link community leaders and residents to available economic development information.

(m) Assure and certify that it is in compliance with, and will comply in the course of the agreement with, all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those set out in 7 CFR parts 3015 and 3019.

(n) Use Federal funds only to pay meeting-related travel expenses when employees are performing a service of direct benefit to the Government and in direct furtherance of the objectives of the proposed agreement. Federal funds cannot be used to pay non-Federal employees to attend meetings.

(o) Not commingle or use program funds for administrative expenses to operate an intermediary relending program (IRP).

(p) Submit to USDA Rural Development National Office, in writing, any request for revising the project work plan, budget, or requesting a no-cost extension amending the cooperative agreement.

(q) Assist the USDA Rural Development State Office in conducting a semiannual on-site review of the recipient's project.

(r) Collaborate, as needed, with the USDA Rural Development National and State Offices in performing the tasks in the agreement and providing the Rural Development National Office with the information necessary for the Agency to fulfill its responsibilities in the agreement.

(s) Sign an Agency approved Cooperative Agreement.

USDA Rural Development is responsible for:

(a) Monitoring the program as it is being implemented and operated, including monitoring of financial information, to ensure that there is no commingling or use of program funds for administrative expenses to operate an IRP or other unapproved items.

(b) Terminating activity, after written notice, if tasks are not met.

(c) Reviewing and approving changes to key personnel.

(d) Providing technical assistance as needed.

(e) Approving the final plans for any community business workshops; cooperative, business, and economic development sessions; and training workshops to be conducted by the recipient.

(f) Providing reference assistance, as needed, to the recipient for technical assistance given on a one-on-one basis to entrepreneurs and startup businesses.

(g) Reviewing and commenting on strategic plans developed by recipients for targeted areas.

(h) Reviewing economic assessments made by the recipient for targeted counties, enabling USDA Rural Development to determine the extent to which its programs are beneficial.

(i) Carefully screening projects to prevent First Amendment violations.

(j) Monitoring the program to ensure that a Web site link to USDA Rural Development is established and maintained.

(k) Ensuring that USDA Rural Development State Offices conduct semiannual on-site reviews and submit written reports to the National Office.

(l) Participating in 1890 outreach and development program workshops, seminars, and conferences as needed.

(m) Providing any other work agreed to by USDA Rural Development in the Cooperative Agreement.

IX. Agency Contact

For Further Information Contact: Edgar L. Lewis, Program Manager, Rural Development, Cooperative Programs, USDA, Stop 3252, Room 4221, 1400 Independence Avenue SW., Washington, DC 20250–3252. Telephone: (202) 690–3407, e-mail: *edgar.lewis@wdc.usda.gov*.

X. Paperwork Reduction Act

The paperwork burden associated with this initiative has been cleared by the Office of Management and Budget under OMB Control Number 0570–0041.

Dated: June 23, 2006.

Jackie J. Gleason,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 06–5916 Filed 6–29–06; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Deployment and Implementation of the Preservation Information Exchange (PIX) Application

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; Announcement of PIX System.

SUMMARY: The Rural Housing Service (RHS) announces the deployment and implementation of the PIX System. PIX is a web-based automated system that will allow interested non-profit organizations and public bodies to register to receive e-mail notification of all relevant prepayment requests and potential sales to non-profits or public bodies of Section 515 Rural Rental Housing (RRH) properties.

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Cynthia Reese-Foxworth, Senior Loan Officer, Office of Rental Housing Preservation, RHS, USDA, Stop 0782, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 720–1940 (voice) (This is not a toll free number.) or Anita Kapoor, Program Analyst, Program Support Staff, RHS, USDA, Stop 0782, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 690–1337 (voice) (This is not a toll free number.) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Catalog of Federal Domestic Assistance numbers for the programs impacted by this action are: 10.415, Rural Rental Housing Loans and 10427, Rural Rental Assistance Payments.

Discussion of Announcement

Authority

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) provides RHS with the authority to provide written notice of the offer of a sale or a request to prepay an RHS loan to interested non-profit organizations and to any appropriate State and local agencies.

Accessing the PIX Web Site

State and Servicing Offices will refer all interested non-profit organizations and public bodies to register for participation in preserving low-income housing by accessing *https://pix.sc.egov.usda.gov.* Once interested non-profit organizations and public bodies register, Office of Rental Housing Preservation (ORHP) will activate their registration by sending an e-mail with their user ID and password. A link that provides instructions for navigating PIX can be found on the Web site listed above.

External Users

Access to the Web site is restricted to non-profit organizations and public bodies. The purpose of PIX purpose is to replace paper listings of interested non-profit organizations and public bodies formerly maintained by Agency staff. PIX will also eliminate the need for program borrowers to notify non-profit organizations and public bodies of the potential sale of their property. Non-profit organizations and public bodies of each prepayment request received by RHS and of the potential sale of RRH properties. Instead non-profit organizations and public bodies can access PIX at anytime in order to identify prepayment requests and potential sales. The ORHP will use PIX to establish a database of interested non-profit organizations and public bodies to assist in the preservation of valuable low-income housing stock in rural America.

Dated: June 26, 2006.

David J. Villano,

Acting Administrator, Rural Housing Service.

[FR Doc. 06–5915 Filed 6–29–06; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List products and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* July 30, 2006.

ADDRESSES: Committee for Purchase From People Who are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: On May 5, 2006, the Committee for Purchase From People Who are Blind or Severely Disabled published notice (71 FR 26451) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and a service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and a service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and a service to the Government.

2. The action will result in authorizing small entities to furnish the products and a service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and a service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and a service are added to the Procurement List:

Products

Product/NSN: Enhanced Suspender Assembly.
8465–01–522–6487—Shoulder Straps, Frame, Desert Pattern.
8465–01–522–6490—Shoulder Strap, Frame, Woodland Pattern.
8465–01–524–7240—Shoulder Straps, Frame, Universal Camouflage Pattern.
NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, NC.
8465–01–524–7240—Shoulder Straps, Frame, Universal Camouflage Pattern.
8465–01–522–6490—Shoulder Strap, Frame, Woodland Pattern.
8465–01–522–6487—Shoulder Straps, Frame, Desert Pattern.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.
Product/NSN: Hydration System.
8465–01–519–2383—Bite Valve.
8465–01–519–2385—Drink Tube.
8465–01–519–2304—Replacement bladder w/100 ML reservoir with drink tube and bite valve.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Service

Service Type/Location: Custodial & Grounds Maintenance, Immigration and Customs Enforcement, Calle Gonzalez Clemente #30, Mayaguez, Puerto Rico.
Immigration and Customs Enforcement, Louis Munoz Marin International Airport, 3rd Floor, Carolena, Puerto Rico.
Immigration and Customs Enforcement, Penthouse Floor and Parking Floor, 800 Ponce de Leon Avenue, San Juan, Puerto Rico.
NPA: The Corporate Source, Inc., New York, NY.
Contracting Activity: Department of Homeland Security, San Juan, Puerto Rico.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. E6–10288 Filed 6–29–06; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must be Received on or Before: July 30, 2006.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and a service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and a service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and service are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSNs: Coat, Airman's Battle Uniform, Men's (ABU)
8415–01–536–4578—Size 42 X-Short
8415–01–536–4224—Size 36 Regular
8415–01–536–4188—Size 34 Regular
8415–01–536–4182—Size 34 X-Short
8415–01–536–4193—Size 36 X-Short
8415–01–536–4192—Size 34 X-Long
8415–00–NIB–0493—Size 48 X-Long
8415–01–536–4227—Size 36 Long
8415–01–536–4585—Size 42 X-Long
8415–01–536–4583—Size 42 Regular
8415–00–NIB–0492—Size 48 X-Short
8415–00–NIB–0490—Size 44 X-Short
8415–01–536–4577—Size 40 X-Long
8415–01–536–4640—Size 48 Regular
8415–01–536–4682—Size 50 Regular
8415–01–536–4241—Size 38 Short
8415–01–536–4239—Size 38 X-Short
8415–01–536–4593—Size 46 Short
8415–01–536–4592—Size 44 X-Long
8415–01–536–4588—Size 50 X-Short
8415–01–536–4586—Size 44 Short
8415–01–536–4584—Size 42 Long
8415–01–536–4574—Size 40 Regular
8415–01–535–4170—Size 32 Short
8415–01–536–4712—Size 50 Long
8415–01–536–4639—Size 48 Short
8415–00–NIB–0494—Size 50 X-Long
8415–01–536–4651—Size 48 Long
8415–01–536–4367—Size 38 Regular
8415–01–536–4369—Size 38 Long
8415–01–536–4674—Size 50 Short
8415–01–536–4576—Size 40 Long
8415–01–536–4606—Size 46 X-Long
8415–00–NIB–0489—Size 32 X-Long
8415–01–536–4596—Size 46 Regular
8415–01–536–4600—Size 46 Long
8415–01–536–4197—Size 36 Short
8415–01–536–4573—Size 40 Short
8415–01–536–4581—Size 42 Short
8415–01–536–4178—Size 32 Regular
8415–01–536–4237—Size 36 X-Long
8415–01–536–4591—Size 44 Long
8415–01–536–4590—Size 44 Regular
8415–01–536–4180—Size 32 Long
8415–01–536–4189—Size 34 Long
8415–01–536–4134—Size 32 X-Short
8415–01–536–4184—Size 34 Short
8415–00–NIB–0491—Size 46 X-Short
8415–01–536–4572—Size 40 X-Short
8415–01–536–4571—Size 38 X-Long.

NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC at its facility in Mayaguez, PR.

NPA: Blind Industries and Services of Maryland, Baltimore, MD at its facility in Salisbury, MD.

Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Product/NSNs: Coat, Airman's Battle Uniform, Women's, (ABU)
8410–01–536–3760—Size 6 Short
8410–01–536–3000—Size 6 X-Short
8410–01–536–2994—Size 4 Regular
8410–01–536–3763—Size 6 Regular
8410–01–536–2980—Size 4 X-Short
8410–01–536–2977—Size 2 Regular
8410–01–536–2974—Size 2 Short
8410–00–NIB–0005—Size 20 X-Short
8410–00–NIB–0003—Size 4 Long
8410–01–536–2982—Size 4 Short
8410–00–NIB–0002—Size 2 Long
8410–00–NIB–0004—Size 18 X-Short
8410–00–NIB–0006—Size 20 Short
8410–01–NIB–0007—Size 20 Long
8410–01–536–3825—Size 20 Regular
8410–01–536–3819—Size 18 Regular
8410–01–536–3822—Size 18 Long
8410–01–536–3816—Size 18 Short
8410–01–536–3814—Size 16 Long
8410–01–536–3812—Size 16 Regular
8410–01–536–3808—Size 16 Short
8410–01–536–3807—Size 16 X-Short
8410–01–536–3805—Size 14 Long
8410–01–536–3804—Size 14 Regular
8410–01–536–3803—Size 14 Short
8410–01–536–3800—Size 14 X-Short
8410–01–536–3799—Size 12 Long
8410–01–536–3797—Size 12 Regular
8410–01–536–3795—Size 12 Short
8410–01–536–3793—Size 12 X-Short
8410–01–536–3792—Size 10 Long
8410–01–536–3789—Size 10 Regular
8410–01–536–3787—Size 10 Short
8410–01–536–3784—Size 10 X-Short
8410–01–536–3782—Size 8 Long
8410–01–536–3779—Size 6 Long
8410–01–536–3776—Size 8 Regular
8410–01–536–3772—Size 8 Short
8410–01–536–3769—Size 8 X-Short.

NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC at its facility in Mayaguez, PR.

NPA: Blind Industries and Services of Maryland, Baltimore, MD at its facility in Salisbury, MD.

Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Coverage: The requirement being proposed for addition to the Procurement List is a quantity of no more than 400,000 units of any combination of the above NSNs for Coat, Airman's Battle Uniform, Men's or Coat, Airman's Battle Uniform, Women's.

Product/NSNs: Trousers, Airman's Battle Uniform, Men's (ABU)
8415–01–536–4121—Size 46 Long
8415–01–536–4111—Size 46 Regular
8415–01–536–4103—Size 44 Short
8415–01–536–4102—Size 44 Regular
8415–01–536–4088—Size 42 Long
8415–01–536–4077—Size 42 Short
8415–01–536–4075—Size 40 X-Long
8415–01–536–4073—Size 40 Long
8415–01–536–4067—Size 40 Short
8415–01–536–4027—Size 38 X-Long
8415–01–536–3935—Size 38 Long
8415–01–536–3920—Size 38 Short
8415–01–536–3916—Size 38 X-Short
8415–01–536–3912—Size 36 X-Long
8415–01–536–3905—Size 36 Long
8415–01–536–3903—Size 36 Regular
8415–01–536–3893—Size 36 Short
8415–01–536–3890—Size 40 X-Short
8415–01–536–3874—Size 34 X-Long
8415–01–536–3869—Size 34 Long
8415–01–536–3855—Size 34 Regular
8415–01–536–3849—Size 34 Short
8415–01–536–3846—Size 34 X-Short
8415–01–536–3844—Size 32 X-Long
8415–01–536–3836—Size 32 Long
8415–01–536–3833—Size 32 Regular
8415–01–536–3830—Size 32 Short
8415–01–536–3880—Size 36 X-Short
8415–01–536–3826—Size 32 X-Short
8415–01–536–3823—Size 30 X-Long
8415–01–536–3821—Size 30 Long
8415–01–536–3817—Size 30 Regular
8415–01–536–3809—Size 30 X-Short
8415–01–536–3794—Size 30 Short
8415–01–536–3791—Size 28 X-Long
8415–01–536–3927—Size 38 Regular
8415–01–536–3777—Size 28 Long
8415–01–536–3774—Size 28 Regular
8415–01–536–3759—Size 28 Short
8415–01–536–4071—Size 40 Regular
8415–01–536–3758—Size 28 X-Short
8415–00–NIB–0502—Size 44 X-Long
8415–00–NIB–0501—Size 46 X-Long
8415–01–536–4081—Size 42 Regular
8415–00–NIB–0500—Size 46 Short
8415–00–NIB–0499—Size 46 X-Short
8415–00–NIB–0498—Size 44 Long
8415–00–NIB–0497—Size 44 X-Short
8415–00–NIB–0496—Size 42 X-Long
8415–00–NIB–0495—Size 42 X-Short.

NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, NC.

NPA: LC Industries, Inc., Durham, NC at its facility in Louisville, KY.

Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Product/NSNs: Trousers, Airman's Battle Uniform, Women's, (ABU)
8410–01–536–2748—Size 12 Short
8410–01–536–2746—Size 12 X-Short
8410–01–536–2744—Size 10 Long
8410–01–536–2740—Size 10 Short
8410–01–536–2739—Size 10 X-Short
8410–01–536–2736—Size 8 Long
8410–01–536–2725—Size 8 Short
8410–01–536–2723—Size 8 X-Short
8410–01–536–2721—Size 6 Long
8410–01–536–2720—Size 6 Regular
8410–01–536–2719—Size 6 Short
8410–01–536–2718—Size 6 X-Short
8410–01–536–2715—Size 4 Regular
8410–01–536–2714—Size 4 X-Short
8410–01–536–2711—Size 2 Regular
8410–01–536–2709—Size 2 Short
8410–00–NIB–0017—Size 22 Short
8410–01–536–2734—Size 8 Regular
8410–00–NIB–0016—Size 22 X-Short
8410–00–NIB–0015—Size 4 Long
8410–00–NIB–0012—Size 20 Short
8410–01–536–2742—Size 10 Regular
8410–00–NIB–0011—Size 20 X-Short
8410–00–NIB–0010—Size 18 X-Short
8410–00–NIB–0009—Size 2 Long
8410–01–536–2749—Size 12 Regular
8410–00–NIB–0008—Size 2 X-Short
8410–01–NIB–0014—Size 22 Long
8410–01–536–2785—Size 22 Regular
8410–01–536–2783—Size 20 Long
8410–01–536–2780—Size 20 Regular
8410–01–536–2778—Size 18 Long
8410–01–536–2774—Size 18 Regular
8410–01–536–2773—Size 18 Short
8410–01–536–2771—Size 16 Long
8410–01–536–2770—Size 16 Regular
8410–01–536–2766—Size 16 Short
8410–01–536–2765—Size 16 X-Short
8410–01–536–2761—Size 14 Long
8410–01–536–2760—Size 14 Regular
8410–01–536–2756—Size 14 Short
8410–01–536–2801—Size 4 Short
8410–01–536–2754—Size 14 X-Short
8410–01–536–2752—Size 12 Long.

NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, NC.
NPA: LC Industries, Inc., Durham, NC at its facility in Louisville, KY.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.
Coverage: The requirement being proposed for addition to the Procurement List is a quantity of no more than 325,000 units of any combination of the above NSNs for Trousers, Airman's Battle Uniform, Men's or Trousers, Airman's Battle Uniform, Women's.

Service

Service Type/Location: Administrative Support,
USDA Forest Service,
4931 Broad River Road,
Columbia, South Carolina.
NPA: Goodworks Service Corporation, Greenville, South Carolina.
Contracting Activity: USDA, Forest Service, Region 8, Columbia, South Carolina.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Product/NSN: Inking Pad,
7510–01–431–6516.
NPA: Cattaraugus County Chapter, NYSARC, Olean, NY.
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.
Product/NSN: Plate, Marking, Blank,
9905–00–473–6336.
NPA: UNKNOWN.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas.
Product/NSN: Apron, Food Handler's,
8415–00–255–8577.
NPA: Arizona Industries for the Blind, Phoenix, Arizona.
NPA: Alabama Industries for the Blind, Talladega, Alabama.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas.
Product/NSNs: Binder, Note Pad,
7510–00–NIB–0196,
7510–00–NIB–0197.
NPA: New York City Industries for the Blind, Inc., Brooklyn, NY.
NPA: ForSight Vision, York, Pennsylvania.
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.
Product/NSNs: File, Combination Desk,
7520–01–452–1565—File, Horizontal Desk.
NPA: Occupational Development Center, Inc., Thief River Falls, MN.
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.
Product/NSNs: Folder, File, Military Personnel Records Jacket,
7530–DA Form 201.
NPA: L.C. Industries for the Blind, Inc., Durham, North Carolina.
Contracting Activity: TAGCEN, Washington, Department of the Army, Washington, DC.
Product/NSNs: Igniter Assembly, Empty,
1330–01–M00–0103.
NPA: None Authorized.
Contracting Activity: Pine Bluff Arsenal, Pine Bluff, Arkansas.
Product/NSNs: Mattress Rehab, Grade C Reg Bed
7699 27 X 73 C
7699 38 X 75 C
7699 33 X 75 C
7699 26 X 76 C
7699 30 X 76 C
7699 34 X 76 C
7699 31 X 78 C
7699 36 X 78 C
7699 26 X 72½ C.
NPA: Georgia Industries for the Blind, Bainbridge, Georgia.
NPA: Mississippi Industries for the Blind, Jackson, Mississippi.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
NPA: Virginia Industries for the Blind, Charlottesville, VA.
NPA: L.C. Industries for the Blind, Inc., Durham, North Carolina.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, TX.
Product/NSNs: Mattress, Plastic Coated Innerspring
7210–00–995–1093
7210–00–682–7146
7210–00–529–3709
7210–01–138–8177
NPA: Georgia Industries for the Blind, Bainbridge, Georgia.
NPA: Mississippi Industries for the Blind, Jackson, Mississippi.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.
NPA: Virginia Industries for the Blind, Charlottesville, Virginia.
NPA: Lions Volunteer Blind Industries, Inc., Morristown, Tennessee.
Contracting Activity: Veteran's Affairs National Acquisition Center, Hines, IL.
Product/NSNs: Sponge, Surgical
6510–00–988–3838
6510–00–559–3219
6510–00–119–9314
NPA: None Authorized.
Contracting Activity: Department of Veterans Affairs, Washington, DC.
Product/NSN: Trap, Animal,
3740–00–531–3905.
NPA: ACT CORP., Daytona Beach, Florida.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E6–10289 Filed 6–29–06; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Notice of Intent to Rescind and Partial Rescission of the 11th Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 2005, the Department published a notice of initiation of an administrative review of fresh garlic from the People's Republic of China (''PRC''), covering the period November 1, 2004, through October 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 76024 (December 22, 2005).

On January 17, 2006, Weifang Shennong Foodstuff Company Ltd. (''WSFC'') notified the Department that it had no shipments of subject merchandise to the United States during the POR. On January 27, 2006, Jinan Yipin Corporation Ltd. (''Jinan Yipin'') notified the Department that it had no shipments of subject merchandise to the United States during the period of review (''POR'').

On March 20, 2006, the Fresh Garlic Producers Association (the ''Petitioner'') withdrew its request for an administrative review on four companies: Shandong Chengshun Farm Produce Trading Company Ltd. (''Chengshun''), Shanghai LJ International Trading Company Ltd. (''Shanghai LJ''), Jinxiang Tianshan Foodstuff Company Ltd. (''Tianshan'') and Xi'an XiongLi Foodstuff Company Ltd. (''XiongLi''). On May 20, 2006, the

Petitioner withdrew its request for an administrative review on fifteen additional companies: Anqiu Friend Food Company Ltd. (''Anqiu Friend''), Clipper Manufacturing Ltd. (''Clipper''), H&T Trading Company (''H&T''), Huaiyang Huamei Foodstuff Company Ltd. (''Huaiyang Huamei''), Jining Yun Feng Agricultural Products Company Ltd. (''Yun Feng''), Jinxiang Hongyu Freezing and Storage Company Ltd. (''Hongyu''), Linyi Sanshan Import & Export Trading Company Ltd. (''Linyi Sanshan''), Qingdao Saturn International Trade Company Ltd. (''Qingdao Saturn''), Qufu Dongbao Import & Export Trade Company Ltd. (''Qufu Dongbao''), Shandong Dongyue Produce Company Ltd. (''Dongyue''), Shandong Jining Jinshan Textile Company Ltd. (''Jinshan''), Shenzhen Fanhui Import & Export Company Ltd. (''Fanhui''), Tancheng County Dexing Foods Company Ltd. (''Dexing Foods''), Xiangcheng Yisheng Foodstuffs Company (''Xiangcheng Yisheng'') and Zhengzhou Harmoni Spice Company Ltd. (''Harmoni''). On May 30, 2006, Harmoni withdrew its own request for an administrative review.

Intent to Rescind in Part

Section 351.213(d)(3) of the Department's regulations provides that the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. On January 17, 2006, WSFC, and on January 20, 2006, Jinan Yipin, informed the Department that they did not sell subject merchandise to the United States during the POR. The Department reviewed data on entries under the order during the period of review from U.S. Customs and Border Protection (''CBP''), and found no entries or sales of subject merchandise by WSFC or Jinan Yipin into the United States during the POR. *See* Memo to the File, CBP Packages, dated June 20, 2006. Therefore, absent the submission of any evidence that WSFC or Jinan Yipin had U.S. entries or sales of subject merchandise during the POR, the Department intends to rescind the administrative review with respect to these companies. *See* 19 CFR 351.213(d)(3).

In accordance with section 351.309(c)(ii) of the Department's regulations, interested parties may submit case briefs no later than 30 days after the date of publication of this preliminary notice. Additionally, in accordance with section 351.309(d) of the Department's regulations, rebuttal briefs, limited to issues raised in such briefs, may be filed no later than five days after the time limit for filing the case brief. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue; (2) a brief summary of the argument; and, (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette.

Partial Rescission

Pursuant to section 351.213(d)(1) of the Department's regulations, the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within ninety days of the date of publication of notice of initiation of the requested review.

Therefore, because the Petitioner's requests were timely, in accordance with section 351.213(d)(1) of the Department's regulations, we are rescinding this review with respect to Chengshun, Shanghai LJ, Tianshan, XiongLi, Anqiu Friend, Clipper, H&T, Huaiyang Huamei, Yun Feng, Hongyu, Linyi Sanshan, Qingdao Saturn, Qufu Dongbao, Dongyue, Jinshan, Fanhui, Dexing Foods and Xiangcheng Yisheng. In addition, because the Petitioner's and Harmoni's requests were timely, in accordance with section 351.213(d)(1) of the Department's regulations, we are rescinding this review with respect to Harmoni.

Assessment Rates

The Department will instruct CBP to assess antidumping duties on all appropriate entries. For those companies for which this review has been rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers for whom this review is being rescinded, as of the publication date of this notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: June 20, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–10292 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Certain Softwood Lumber Products from Canada: Notice of Initiation of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 30, 2006.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct a new shipper review of the antidumping duty (AD) order on certain softwood lumber from Canada. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d) (2005), we are initiating an AD new shipper review for Terrace Lumber Company (Terrace).

FOR FURTHER INFORMATION CONTACT: Constance Handley or David Layton at (202) 482–0631 and (202) 482–0371, respectively; Office 1, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 2006, the Department received a timely request from Terrace, in accordance with 19 CFR 351.214, for a new shipper review of the AD order on certain softwood lumber products from Canada, which has a May anniversary month.[1] Terrace was incorporated in Canada on April 7, 2005. Terrace made its first sale shipped to the United States in September 2005. Terrace states that it sells 100 percent of its products to exporter/importer International Forest Products Corporation (IFP). Terrace is the first party in the chain of distribution with knowledge that the merchandise is destined for the United States.

As required by 19 CFR 351.214 (b)(2)(i) and 19 CFR 351.214 (b)(2)(iii)(A), Terrace certified that it did not export certain softwood lumber to the United States during the period of investigation (POI), and that it has never been affiliated with any exporter or producer which exported certain softwood lumber during the POI.[2] In addition, IFP, as the exporter for Terrace, certified that it also did not export certain softwood lumber to the United States during the POI, and that it has never been affiliated with any exporter or producer which exported certain softwood lumber during the POI.[3] Furthermore, pursuant to 19 CFR 351.214(b)(2)(iv), the company submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the date of entry of that first shipment, the volume of that and subsequent shipments, and the date of the first sale to an unaffiliated customer in the United States.

Initiation of Review

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), and based on information on the record, we are initiating an AD new shipper review for Terrace. We intend to issue the preliminary results of this new shipper review not later than 180 days after initiation of this review. We intend to issue final results of this review no later than 90 days after the date on which the preliminary results are issued. *See* 19 CFR 351.214(i).

New shipper review proceeding	Period to be reviewed
Terrace Lumber Company	05/01/05–4/30/06

We will instruct U.S. Customs and Border Protection to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from the above-listed company in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e).

Interested parties that need access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214(d) and 19 CFR 351.221(c)(1)(i).

Dated: June 28, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–10364 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–DS–P

[1] See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products From Canada, 67 FR 36068, 36070 (May 22, 2002).

[2] See Submission from Terrace to the Department regarding Request for New Shipper Review, dated May 23, 2006.

[3] See id.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From The People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 7, 2006, the Department of Commerce (''the Department'') initiated the first administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China (''PRC'') covering the period June 24, 2004, through December 31, 2005. *See Notice of Initiation of Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China,* 71 FR 11394 (March 7, 2006) (''*Initiation Notice*''). Between March 7, 2006, and June 5, 2006, several parties withdrew their requests for review. Therefore, the Department is rescinding the administrative review of sales of wooden bedroom furniture with respect to the entities for whom all review requests have been withdrawn.

DATES: *Effective Date:* June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Bolling, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3434.

SUPPLEMENTARY INFORMATION: On January 4, 2005, the Department published in the **Federal Register** the antidumping duty order on wooden bedroom furniture from the PRC. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China,* 70 FR 329 (January 4, 2005). On January 3, 2006, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on wooden bedroom furniture from the PRC for the period June 24, 2004 through December 31, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review,* 71 FR 89 (January 3, 2006).

The Department received multiple timely requests for review and on March 7, 2006, in accordance with section 751(a) of Tariff Act of 1930, as amended (''the Act''), published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of wooden bedroom furniture from the PRC for the 2004–2005 period of review. *See Initiation Notice.*

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. Because all requesting parties withdrew their respective requests for review of the following entities, the Department is rescinding this review with respect to these entities, in accordance with 19 CFR 351.213(d)(1):

- Art Heritage International Ltd., Super Art Furniture Co. Ltd., Artwork Metal & Plastic Co., Ltd., Jibson Industries, Always Loyal International.
- Dalian Guangming Furniture Co., Ltd.
- Dalian Huafeng Furniture Co., Ltd.
- Dongguan Cambridge Furniture Co., Ltd., Glory Oceanic Co., Ltd.
- Dongguan Lung Dong Furniture Co., Ltd., Dongguan Dong He Furniture Co., Ltd., Engmost Investment Ltd.
- Dongguan Sunrise Furniture Co., Taicang Sunrise Wood Industry Co., Ltd, Shanghai Sunrise Furniture Co., Ltd., Fairmont Designs
- Dream Rooms Furniture (Shanghai) Co., Ltd.
- Ever Spring Furniture Co., Ltd., S.Y.C. Family.
- Gaomi Yatai Wooden Ware Co., Ltd., Team Prospect International Ltd.
- Jiangmen Kinwai Furniture Decoration Co., Ltd., Jiangmen Kinwai International Furniture Co., Ltd.
- Lacquer Craft Mfg. Co., Ltd., Samson Holding Ltd., Samson International Enterprises, Legacy Classic Furniture, Universal Furniture International Inc.
- Langfang TianCheng Furniture, Huari Furniture.
- Leefu Wood (Dongguan) Co., Ltd., King Rich International, Ltd.
- Locke Furniture Factory, Kai Chan Furniture Co. Ltd., Kai Chan (Hong Kong) Enterprise Ltd., Taiwan Kai Chan.
- Nathan International Ltd., Nathan Rattan Factory, Nathan China Group.
- Ningbo Furniture Industries Ltd., Ningbo Fubang Furniture Industries Limited, Techniwood Industries Limited, Techniwood (Macao Commercial Offshore) Limited, Ningbo Techniwood Furniture Industries Limited.
- RiZhao SanMu Woodworking Co., Ltd., RiZhao SanMu Woodworking Group.
- Rui Feng Woodwork (Dongguan) Co., Rui Feng Lumber Development (Shenzhen) Co., Ltd.
- Sunforce Furniture (Hui-Yang) Co., Ltd., SunFung Wooden Factory, Sun Fung Co., Shin Feng Furniture Co. Ltd., Stupendous International Co. Ltd.
- Tianjin Sande Fairwood Furniture Co., Ltd.
- Tradewinds Furniture Ltd., Fortune Glory Industrial Ltd. (HK Ltd.) Nanhai Jiantai Woodwork Co., Ltd.
- Wanhengton Nueevder (Furniture) Manufacture Co., Ltd., Dongguan Wanhengton Industry Co., Ltd.
- Yihua Timber Industries Co., Ltd., New Classic Home Furnishings, Inc.
- Zhongshan Golden King Furniture Industrial Co., Ltd., King Group Furniture.

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries for the above-named entities. For those companies for which this review has been rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice in the **Federal Register**.

In addition, the Department is rescinding this review with respect to the following entities which did not receive a separate rate in the prior segment (the less-than-fair-value investigation) of this proceeding. For purposes of initiation of this administrative review, the Department accepted requests for review of these entities based upon the premise that such entities would seek to demonstrate in this review that they were, in law and in fact, separate from the PRC-wide entity, and therefore, entitled to a rate separate from the rate established for the PRC-wide entity. However, as the requests for review of these entities have been withdrawn, these entities may be subject to this review as part of the single PRC-wide entity.[1] Therefore, the Department will provide assessment instructions to CBP for these entities after the final results of this administrative review.

- Birchfield Design Group, Inc., Birchfield Design (Asia), Ltd., Dongguan Birchfield Gifts Co., Ltd., Donnguan Longreen Birchfield Arts & Craft Co., Ltd.
- Chiu's Faithful Furniture (Shenzhen) Company Limited, Faithful International Trading (Hong Kong) Company Limited.
- Dawn Smart Furniture Co., Ltd.
- Fujian Senda Foreign Trade Co., Ltd.
- Honest Furniture Company Ltd.
- Maestro Wood Product Factory.
- Million Kind Co., Ltd.
- Million Kind Furniture Co., Ltd. Million Kind Co., Ltd.
- Placetech Co., Ltd.
- Protrend Metal & Plastics (Shenzhen) Co., Ltd.
- Senyuan Furniture Group.
- Trendex Industries Ltd., Trendex Industries Ltd., (BVI), Dongguan Chunsan Wood Products Co., Ltd., Kunshan Junsen Furniture Co., Ltd.
- Triple J Furniture (Shenzhen) Co., Ltd.
- WBE Industries (Hui-Yang) Co., Ltd.
- Yixinglong Furniture Co., Ltd.
- Zhongshan Fine Furniture.
- Zhongshan Winly Furniture Ltd.

The review will continue with respect to all other entities identified in the *Initiation Notice.*

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders (''APOs'')

This notice also serves as a reminder to parties subject to APOs of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4) of the Department's regulations.

[1] If one of the above-named companies does not qualify for a separate rate, all other exporters of wooden bedroom furniture from the PRC that have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporter is a part.

Dated: June 22, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–10291 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Initiation of Countervailing Duty Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a March 22, 2006, request by Hyundai Steel Company (Hyundai), claiming to be the successor-in-interest to INI Steel Company (INI), the Department of Commerce (the Department) is initiating a changed circumstances review of the countervailing duty (CVD) order on stainless steel sheet and strip in coils (SSSSC) from the Republic of Korea (Korea). Hyundai claims that INI changed its corporate name to Hyundai effective March 10, 2006. Therefore, Hyundai maintains it is entitled to INI's cash deposit rate for the CVD order on SSSSC from Korea. Interested parties are invited to comment on this notice of initiation.

EFFECTIVE DATE: June 30, 2006.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2849 or (202) 482–0395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1999, the Department published in the **Federal Register** the CVD order on SSSSC from Korea. *See Amendment to Final Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils From France, Italy, and the Republic of South Korea,* 64 FR 42923 (August 6, 1999). The Department has completed three administrative reviews of this CVD order [1] and is currently conducting a fourth review.[2] In September 2001 and June 2002, respectively, the Department initiated and issued the preliminary results of a changed circumstances review to determine whether INI was entitled to Inchon's cash deposit rate.[3] In the *Second Review* the Department determined to assign Inchon's cash deposit rate to INI, thereby eliminating the need to complete the changed circumstances review.[4] The Department has also published notice of continuation of this order upon completion of the first five-year (sunset) review.[5]

On March 22, 2006, Hyundai requested that the Department confirm that Hyundai is entitled to INI's cash deposit rate for the CVD order. Simultaneously, Hyundai requested a changed circumstances review of the antidumping duty (AD) order on SSSSC from Korea for the purpose of determining whether Hyundai is the successor-in-interest to INI and is entitled to INI's exclusion from the AD order. On April 11, 20, and 27, 2006, Hyundai submitted additional information in response to three requests from the Department for additional information. In response to Hyundai's request regarding the AD order, on May 12, 2006, the Department initiated a changed circumstances review and preliminarily determined that Hyundai is the successor-in-interest to INI and merchandise from Hyundai should be excluded from the AD order.[6]

Scope of the Order

The products covered by this order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81[7], 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and customs purposes, the

---

[1] *See Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 67 FR 1964 (January 15, 2002), as amended, *Stainless Steel Sheet and Strip in Coils from Korea: Amended Final Results of Countervailing Duty Administrative Review*, 67 FR 8229 (February 22 2002); *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 68 FR 13267 (March 19, 2003), and accompanying Issues and Decision Memorandum (*Second Review*); and *Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 69 FR 2113 (January 14, 2004), as amended, *Amended Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Korea*, 69 FR 7419 (February 17, 2004).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005) (initiation of review of Dai Yang Metal Co., Ltd.).

[3] *See Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Notice of Initiation of Changed Circumstances Countervailing Duty Administrative Review*, 66 FR 49639 (September 28, 2001), and *Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Notice of Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review*, 67 FR 38257 (June 3, 2002).

[4] *See Second Review* Decision Memorandum at section ''C: Name Changes.''

[5] *See Continuation of Antidumping Duty Orders on Stainless Steel Sheet and Strip in Coils from Germany, Italy, Japan, the Republic of Korea, Mexico, and Taiwan, and Countervailing Duty Orders on Stainless Steel Sheet and Strip in Coils from Italy and the Republic of Korea*, 70 FR 44886 (August 4, 2005).

[6] *See Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 71 FR 27680 (May 12, 2006) (*AD Changed Circumstances Preliminary Results*).

[7] Due to changes to the HTSUS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

Department's written description of the merchandise subject to this order is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain additional specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is excluded from the scope of this order. Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[8]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[9]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[10]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[11] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer

[8] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[9] ''Gilphy 36'' is a trademark of Imphy, S.A.

[10] ''Durphynox 17'' is a trademark of Imphy, S.A.

[11] This list of uses is illustrative and provided for descriptive purposes only.

processing, and is supplied as, for example, ''GIN6''.

Initiation of Changed Circumstances Reviews

Section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), requires a changed circumstances review to be conducted upon receipt of a request containing information concerning changed circumstances sufficient to warrant a review. The Department has recognized that a corporate name change constitutes changed circumstances sufficient to warrant a review. *See AD Changed Circumstances Preliminary Results*.

In the context of changed circumstances reviews of an AD order based on a name change or a change in the company's ownership or structure, the Department relies on its ''successor-in-interest'' analysis to determine whether the successor remains essentially the same entity as the predecessor so that it is appropriate to impose the existing AD cash deposit rate of the predecessor on the successor. However, the successor-in-interest test for AD purposes may not fully address whether it is appropriate to apply the CVD cash deposit rate of a previously examined company to its claimed successor. As a result, the Department's preliminary results in the AD changed circumstances review that Hyundai is the successor-in-interest to INI may not be instructive with respect to the CVD order.

However, as noted above, the Department has recognized that INI's corporate name change to Hyundai constitutes changed circumstances sufficient to warrant a review. We also note that there is no concurrent administrative review of INI in which this name change could be examined. Therefore, in accordance with section 751(b) of the Act and 19 CFR 351.216 and 351.221, based on information concerning changed circumstances sufficient to warrant a review, as described above, we are initiating this changed circumstances administrative review of the CVD order.

Public Comment

Interested parties are invited to comment on the initiation of this changed circumstances review. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. All written comments may be submitted by interested parties not later than 14 days after the date of publication of this notice in accordance with 19 CFR 351.303.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances review, in accordance with 19 CFR 351.221(c)(3), which will set forth the factual and legal conclusions upon which our preliminary results are based, and a description of any action proposed based on those results.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221.

Dated: June 15, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–10379 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Meetings

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Commerce Department's International Trade Administration (ITA) and its U.S. Commercial Service posts in India will host a U.S. delegation to the India Business Summit to be led by Under Secretary for International Trade Franklin L. Lavin, November 29–30, 2006, followed by spin-off missions in six Indian cities, December 4–5, 2006. Leaders of U.S. business, industry, education, and state and local government are among those encouraged to take part in the Summit, where strategic breakout sessions will provide access to India's high-level business, industry, and government representatives and insights into the country's trade and investment climate. Following the Summit, the U.S. Commercial Service posts in India will concurrently host spin-off missions for U.S. exporters in Bangalore, Calcutta, Chennai, Hyderabad, Mumbai, and New Delhi. The spin-off missions will be open to qualified U.S. business representatives in a wide range of sectors and will include market briefings, networking receptions, and one-on-one business appointments with prospective agents, distributors, partners, and end-users.

FOR FURTHER INFORMATION CONTACT: Nancy Hesser at the Department of Commerce in Washington, DC. Telephone: (202) 482–4663. Fax: (202) 482–2718.

Nancy Hesser,

Manager, Commercial Service Trade Missions Program.

[FR Doc. E6–10318 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

International Trade Administration

The President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council will hold a meeting to discuss topics related to export expansion. The meeting will include discussion of trade priorities and initiatives, PEC subcommittee activity and proposed letters of recommendation to the President. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 13316.

DATES: July 19, 2006.

Time: TBD.

Location: TBD, Washington, DC. This program will be physically accessible to people with disabilities. Seating is limited and will be on a first come, first served basis. Requests for sign language interpretation, other auxiliary aids, or pre-registration, should be submitted no later than July 10, 2006, to J. Marc Chittum, President's Export Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–1124, or e-mail *Marc.Chittum@mail.doc.gov.*

FOR FURTHER INFORMATION CONTACT: The President's Export Council Executive Secretariat, Room 4043, Washington, DC 20230, phone (202) 482–1124, or visit 1the PEC Web site, *http://www.ita.doc.gov/td/pec.*

Dated: June 26, 2006.

J. Marc Chittum,

Executive Secretary and Staff Director, President's Export Council.

[FR Doc. 06–5931 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062606B]

Marine Mammals; File No. 978–1567

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Paul Nachtigall, Ph.D., University of Hawaii at Manoa, Hawaii Institute of Marine Biology, P.O. Box 1346, Kaneohe, Hawaii 96744, has been issued an amendment to scientific research Permit No. 978–1567–01.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941.

FOR FURTHER INFORMATION CONTACT: Andrew Wright or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

This amendment (Permit No. 978–1567–02) extends the expiration date of the permit from June 30, 2006 to June 30, 2007.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: June 26, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–10327 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020806B]

Endangered Species; Permits No. 1489, 1505, and 1516

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

ACTION: Notice; Issuance of permits.

SUMMARY: Notice is hereby given that the following individuals have been issued scientific research permits to take shortnose sturgeon (*Acipenser brevirostrum*): Dr. James P. Kirk (Permit Holder and Principal Investigator), United States Army Engineer Research and Development Center, Environmental Lab (ATTN: EE-A), 3909 Halls Ferry Road, Vicksburg, MS 39180 (Permit No. 1489); Mr. Douglas W. Cooke (Permit Holder and Principal Investigator), South Carolina Department of Natural Resources, Freshwater Fisheries Section, P.O. Drawer 190 - 305 Black Oak Road, Bonneau, SC 29431 (Permit No. 1505); and Mr. Thomas F. Savoy (Permit Holder and Principal Investigator), Connecticut Department of Environmental Protection, Marine Fisheries Division, P.O. Box 719, Old Lyme, CT 06371 (Permit No. 1516).

ADDRESSES: The permits and related documents are available for review upon written request or by appointment in the following offices:

All documents: Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521;

For File Nos. 1489 and 1505: Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309; and

For File No. 1516: Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9328; fax (978)281–9394.

FOR FURTHER INFORMATION CONTACT: Shane Guan, (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested permits have been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Issuance of these permits, as required by the ESA, was based on a finding that such permits (1) were applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 26, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–10315 Filed 6–29–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date: Monday, July 17, 2006.

Place of Meeting: Superintendent's Conference Room, Taylor Hall, 2nd Floor, Bldg. 600, West Point, NY.

Start Time of Meeting: Approximately 9 a.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Shaun T. Wurzbach, United States Military Academy, West Pint, NY 10996–5000, (845) 938–4200.

SUPPLEMENTARY INFORMATION:

Proposed Agenda: Summer Meeting of the Board of Visitors. Review of the Academic, Military and Physical Programs at the USMA. Sub Committee meetings on Academics, Military/Physical and Quality of Life to be held prior to the Summer meeting. Board Members will observe Cadet Summer Training. All proceedings are open.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 06–5920 Filed 6–29–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability of a Supplement to the Draft Environmental Impact Statement for the Proposed Construction of a Dredged Material Containment Facility in the Patapsco River, at Masonville, Baltimore City, MD

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with requirements of the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE), Baltimore District, has prepared a Draft Environmental Impact Statement (DEIS) for the proposed construction of a dredged material containment facility (DMCF) by the Maryland Port Administration (MPA). This DEIS was prepared as part of the submission of MPA's application for a Department of the Army permit to construct the facility in the Patapsco River, Baltimore City, MD. This application will be evaluated pursuant to Section 10 or the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

The preferred alternative is for the construction of a stone, sand, and cofferdam structure that would impact approximately 131 acres of waters of the United States, including jurisdictional wetlands. The structure would be initially constructed to 10 feet above the mean lowe low water (MLLW) elevation, with a future temporary elevation to 42 feet above MLLW, and an ultimate elevation of 36 feet above MLLW. The project would also include mechanical dredging of approximately 1.7 million cubic yards of overburden material within the footprint of the proposed disposal site, and the placement of this material at the Hart Miller Island disposal site, Baltimore County, MD. On-site and off-site borrow material would be used for the construction of the containment facility. This proposal was advertised in the **Federal Register** on May 19, 2006 (71 FR 29128). The need to prepare a Supplement is due to the applicant's proposal to change the source of borrow material for the proposed construction of the preferred alternative. The applicant wishes to use suitable material dredged from the channel at the Seagirt Marine Terminal for the construction of a portion of the containment structure. Approximately 0.5 to 0.8 million cubic yards of sand and gravel obtained from dredging to a maximum of 54 feet below mean low water at Seagirt Marine Terminal would be used at the proposed Masonville DMCF. Detailed description of the proposed modifications and effects to the human environment are discussed in the supplement to the DEIS for the Masonville DMCF.

DATES: The Baltimore District must receive comments on or before August 14, 2006 to ensure consideration in the final action. A public hearing on the DEIS has been scheduled for 7 p.m. on Monday July 31, 2006 at the St. John Lutheran Church, 226 Washburn Ave., Baltimore, MD 21225. Displays will be available and representatives of the project team will be present at 6 p.m.

ADDRESSES: Please send written comments concerning this proposed project to U.S. Army Corps of Engineers, Baltimore District, Attn: Mr. Jon Romeo, CENAB–OP–RMN, P.O. Box 1715, Baltimore, MD 21203–1715. You may submit electronic comments to *jon.romeo@usace.army.mil.* Your comments must be contained in the body of your message; please do not send attached files. Please include your name and address in your message.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Romeo, (410) 962–6079.

SUPPLEMENTARY INFORMATION: The EIS and Supplement to the EIS integrate analyses and consultation required by the National Environmental Policy Act (NEPA), Section 10 of the Rivers and Harbors Act of 1899, Section 401 and Section 404 of the Clean Water Act, Section 7 of the Endangered Species Act, the Clean Air Act, the U.S. Fish and Wildlife Coordination Act, Section 106 of the National Historic Preservation Act, and the Magnuson-Stevens Fishery Conservation and Management Act. All appropriate documentation (*i.e.,* Section 7 and Section 106 coordination letters and public and agency comments) will be obtained and included as part of the EIS. The decision on whether or not to issue a Department of the Army permit for this project will reflect the national concern for the protection and utilization of important resources. The benefits which may reasonably be expected to accrue from the proposal will be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered. Among these are wetlands, fish and wildlife resources, cultural resources, land use, water and air quality, hazardous, toxic and radioactive substances, threatened and endangered species, regional geology, aesthetics, environmental justice, navigation, cumulative impacts, and the general needs and welfare of the public.

Vance G. Hobbs,

Chief, Maryland Section Northern.

[FR Doc. 06–5918 Filed 6–29–06; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement for the Brooklyn Navy Yard, Brooklyn, Kings County, NY

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), New York District, is preparing a Draft Environmental Impact Statement (DEIS) to ascertain compliance with and to lead to the production of a National Environmental Policy Act (NEPA) document in accordance with the President's Council of Environmental Quality (CEQ) Rules and Regulations, as defined and amended in 40 Code of Federal Regulations (CFR), Parts 1500–1508, Corps principals and guidelines as defined in Engineering Regulations (ER) 1105–2–100, other applicable Federal and State environmental laws for the proposed Brooklyn Navy Yard Project. The study area consists of the portion of the Navy Yard commonly known as ''Admiral's Row'' and ''Officer Quarters''. The Navy Yard is located in the Greenpoint section of Brooklyn, Kings County, NY. This parcel, located within the former Brooklyn Navy Yard, would be transferred to the City of New York. The EIS process will determine if there are any environmental and cultural concerns that will affect the sale of the land. The land would be developed in accordance with the mission of the Brooklyn Navy Yard Development Corporation and the City of New York.

ADDRESSES: U.S. Army Corps of Engineers, New York District, Planning Division, Environmental Branch, 26 Federal Plaza, Room 2151, New York, NY 10278–0090.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Ricciardi, Project Archaeologist, at (917) 790–8630 or at *christopher.g.ricciardi@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. A DEIS is due for completion by the end of July 2006.

2. A public information meeting will be held during the DEIS process and comments and issues will be incorporated into the document.

3. Individuals interested in obtaining a copy of the DEIS for review should send their contract information to Dr. Christopher Ricciardi (see **ADDRESSES**).

4. Federal agencies interested in participating as a Cooperating Agency are requested to submit a letter of intent to COL Richard J. Polo, District Engineer (see **ADDRESSES**).

Leonard Houston,

Acting Chief, Planning Division.

[FR Doc. 06–5921 Filed 6–29–06; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Programmatic Environmental Impact Statement for the Beneficial Use of Dredged Material Program Study as Introduced in the 2004 Louisiana Coastal Area, Louisiana Ecosystem Restoration Study, Programmatic Environmental Impact Statement

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, New Orleans District, is initiating this study under the authority provided by the resolutions adopted by the Committees on Public Works of the U.S. Senate and House of Representatives, dated April 19, 1967 and October 19, 1967, respectively, an expansion of the authority created under section 3 of the River and Harbor Act approved June 13, 1902. The Louisiana Coastal Area (LCA) Beneficial Use of Dredged Material Program will optimize the use of dredged material resulting from the maintenance of federally maintained navigational channels to (1) restore formerly existing coastal wetlands; (2) reduce, halt or reverse the loss of existing coastal wetlands; (3) create coastal wetlands where none existed previously; or (4) provide protection to any of the above wetland situations or other coastal landscape features within the study placement area. The LCA Beneficial Use of Dredged Material Program costs are those costs incurred above and beyond the ordinary costs incurred with USACE Operations and Maintenance dredging and disposal operations in accordance with their established base plan for maintenance dredging activities. The base plan is determined by applying the Federal Standard which requires maintenance dredging and disposal activities to be conducted in the most cost effective, environmentally acceptable manner. The study area is Louisiana's coastal area from Mississippi to Texas. Louisiana parishes included in the study area include Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermilion. The following seven navigation channels represent an initial list of areas with the most significant opportunities

(1) Calcasieu River and Pass;
(2) Houma Navigation Canal;
(3) Atchafalaya River and Bayous Chene, Boeuf, and Black;
(4) Bayou Lafourche;
(5) Mississippi River and Tributaries Project, Head of Passes and Southwest Pass;
(6) Barataria Bay Waterway; and
(7) Mississippi River Gulf Outlet (although this channel is not currently funded for O&M dredging).

FOR FURTHER INFORMATION CONTACT: Questions concerning the Programmatic Environmental Impact Statement (EIS) should be addressed to Ms. Elizabeth McCasland at U.S. Army Corps of Engineers, PM–RS, P.O. Box 60267, New Orleans, LA 70160–0267, phone (504) 862–2021, fax number (504) 862–2088 or by E-mail at *Elizabeth.L.McCasland@mvn02.usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Alternatives.* Alternatives recommended for consideration presently include the No Action plan, to use dredged materials only within the current federal standard which is not necessarily for beneficial use. Within each channel alternative marsh creation or nourishment sites would be examined to maximize the environmental benefits, environmental need, and the engineering required to get the material to the site. Also, unlike Section 204, Beneficial Uses of Dredged Material, of the Continuing Authorities Program, the LCA Beneficial Use of Dredged Material Program would allow site preparation (such as construction of retention dikes) in anticipation of a future (i.e., 1–3 years out) dredging cycle.

2. *Non-Federal local sponsor.* The State of Louisiana, acting through the Louisiana Department of Natural Resources, is the non-Federal local sponsor. The study cost share ratio is 50% Federal and 50% non-Federal.

3. *Scoping.* Scoping is the process for determining the scope of alternatives and significant issues to be addressed in the Programmatic EIS. For this analysis, a letter will be sent to all parties believed to have an interest in the analysis, requesting their input on alternatives and issues to be evaluated. The letter will also notify interested parties of public scoping meetings that will be held in the local area. Notices will also be sent to local news media. All interested parties are invited to comment at this time, and anyone interested in this study should request to be included in the study mailing list.

Public scoping meetings will be held mid-July 2006 in multiple cities across the southern portion of Louisiana. Additional meetings could be held, depending upon interest and if it is determined that further public coordination is warranted.

4. *Significant Issues.* The tentative list of resources and issues to be evaluated in the Programmatic EIS includes wetlands (marshes and swamps), aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, water quality, air quality, threatened and endangered species, recreation resources, and cultural resources. Socioeconomic items to be evaluated in the Programmatic EIS include navigation, flood protection, business and industrial activity, employment, land use, property values, public/community facilities and services, tax revenues, population, community and regional growth, transportation, housing, community cohesion, and noise.

5. *Environmental Consultation and Review.* The U.S. Fish and Wildlife Service (USFWS) will be assisting in the documentation of existing conditions and assessment of effects of project alternatives through Fish and Wildlife Coordination Act consultation procedures. The USFWS will provide a Fish and Wildlife Coordination Act report. Consultation will be accomplished with the USFWS and the National Marine Fisheries Service (NMFS) concerning threatened and endangered species and their critical habitat. The NMFS will be consulted on the effects of this proposed action on Essential Fish Habitat. The Programmatic draft EIS (DEIS) or a notice of its availability will be distributed to all interested agencies, organizations, and individuals.

6. *Estimated Date of Availability.* The Programmatic DEIS is expected to be available in the summer of 2007.

Dated: June 19, 2006.

Richard P. Wagenaar,

Colonel, U.S. Army, District Commander.

[FR Doc. E6–10273 Filed 6–29–06; 8:45 am]

BILLING CODE 3710–84–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Solicitation for Estuary Habitat Restoration Program

AGENCY: Department of the Army, Army Corps of Engineers, DoD.

ACTION: Notice of solicitation for project applications.

SUMMARY: Congress has appropriated limited funds to the U.S. Army Corps of Engineers (Corps) to implement the Estuary Habitat Restoration Program as authorized in Section 104 of the Estuary Restoration Act of 2000, Title I of the Estuaries and Clean Waters Act of 2000 (Pub. L. 106–457) (accessible at *http://era.noaa.gov/pdfs/act_s835.pdf*). On behalf of the Estuary Habitat Restoration Council (Council), the Corps is soliciting proposals for estuary habitat restoration projects. This document describes project criteria and evaluation criteria the Council will use to determine which projects to recommend. Recommended projects must provide ecosystem benefits, have scientific merit, be technically feasible, and be cost-effective. Proposals selected for Estuary Habitat Restoration Program funding will be implemented in accordance with a cost-share agreement with the Corps. This is not a grants program.

DATES: Proposals must be received on or before August 14, 2006.

ADDRESSES: proposal forms may be accessed at *http://www.usace.army.mil/civilworks/cecwp/estuary_act/* or by contacting the individuals listed in the following section. Project proposals may be submitted electronically, by mail, or by courier. Electronic submissions are preferred and will facilitate processing. Please follow the detailed instructions provided in section X. of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Cummings, headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000, (202) 761–4750, e-mail: *Ellen.M.Cummings@usace.army,mil*; or, Mr. Chip Smith, Office of the Assistant Secretary of the Army (Civil Works), Washington, DC (703) 693–3655, e-mail: *Chip.Smith@HQDA.Army.Mil.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Estuary Habitat Restoration Program, the U.S. Army Corps of Engineers (corps) is authorized to carry out estuary habitat restoration projects. However, the Estuary Habitat Restoration Council (Council) is responsible for soliciting, reviewing and evaluating project proposals. The Corps may only fund projects on the prioritized list provided by the Council. The Estuary Habitat Restoration Strategy prepared by the Council contains introductory information about the program and provides the context in which projects will be evaluated and the program will be conducted. The Strategy was published in the **Federal Register**, 67 FR 71942, December 3, 2002. It is also accessible at *http://www.usace.army.mil/civilworks/cecwp/estuary_act/* in PDF format.

An emphasis will be placed on achieving cost-effective restoration of ecosystems while promoting increased partnerships among agencies and between public and private sectors. Projects funded under this program will contribute to the Estuary Habitat Restoration Strategy goal of restoring 1,000,000 acres of estuary habitat.

For purposes of this program, *estuary* is defined as ''a part of a river or stream or other body of water that has an unimpaired connection with the open sea and where the sea water is measurably diluted with fresh water from land drainage.'' Estuary also includes the ''* * * near coastal waters and wetlands of the Great Lakes that are similar in form and function to estuaries * * *.'' For this program, estuary is considered to extend from the head of tide to the boundary with the open sea (to downstream terminus features or structures such as barrier islands, reefs, sand bars, mud flats, or headlands in close proximity to the connection with the open sea). In the Great Lakes, riparian and nearshore areas will be considered to be estuaries. Estuary habitat includes the estuary and its associated ecosystems, such as: Salt, brackish, and fresh water coastal marshes; coastal forested wetlands and other coastal wetlands; maritime forests; coastal grasslands; tidal flats; natural shoreline areas; shellfish beds; sea grass meadows; kelp beds; river deltas; and river and stream corridors under tidal influence.

II. Eligible Restoration Activities

Section 103 of the Estuary Restoration Act of 2000 (the Act) defines the term *estuary habitat restoration activity* to mean ''an activity that results in improving degraded estuaries or estuary habitat or creating estuary habitat (including both physical and functional restoration), with the goal of attaining a self-sustaining system integrated into the surrounding landscape.'' Projects funded under this program will be consistent with this definition.

Eligible habitat restoration activities include re-establishment of chemical, physical, hydrologic, and biological features and components associated with an estuary. Restoration may include, but is not limited to, improvement of estuarine wetland tidal exchange or reestablishment of historic hydrology; dam or berm removal; improvement or reestablishment of fish passage; appropriate reef/substrate/habitat creation; planting of native estuarine wetland and submerged aquatic vegetation; reintroduction of native species; control of invasive species; and establishment of riparian buffer zones in the estuary. Cleanup of pollution for the benefit of estuary habitat may be considered, as long as it does not meet the definition of excluded activities under the Act (see section III, Excluded Activities, below).

In general, proposed projects should clearly demonstrate anticipated benefits to habitats such as those habitats listed in the Introduction. Although the Council recognizes that water quality and land use issues may impact habitat restoration efforts and must be considered in project planning, the Estuary Habitat Restoration Program is intended to fund physical habitat restoration projects, not measures such as storm water detention ponds, wastewater treatment plant upgrades or combined sewer outfall improvements.

III. Excluded Activities

Estuary Habitat Restoration Program funds will not be used for any activity that constitutes mitigation required under any Federal or State law for the adverse effects of an activity regulated or otherwise governed by Federal or State law, or that constitutes restoration for natural resource damages required under any Federal or State law. Estuary Habitat Restoration Program funds will not be used for remediation of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601–9675). Additionally, Estuary Habitat Restoration Program funds will not be used to carry out projects on Federal lands.

IV. Project Sponsor and Cost Sharing

The Non-Federal Sponsor may be a State, a political subdivision of a State, a Tribe, or a regional or interstate agency. A nongovernmental organization may serve as a Non-Federal Sponsor as determined by the Secretary of the Army (Secretary) in consultation with appropriate State and local governmental agencies and Tribes. For purposes of this act the term non-governmental organization does not include for profit enterprises. The Non-Federal Sponsor must be able to provide the real estate interests necessary for implementation, operation, maintenance, repair, rehabilitation and replacement of the project. In most cases this means the Non-Federal Sponsor must have fee title to the lands necessary for the project although in some cases an easement may be sufficient.

The Federal share of the cost of an estuary habitat restoration project shall not exceed 65 percent except that the Federal share shall be 85 percent of the incremental additional cost of pilot testing or demonstration of an innovative technology having the potential for improved cost-effectiveness. Innovative technology is defined as novel processes, techniques and/or materials to restore habitat, or the use of existing processes, techniques, and/or materials in a new restoration application.

Prior to initiation of a project, the Non-Federal Sponsor must enter into a written agreement with the Corps in which the Non-Federal Sponsor agrees to provide its share of the project cost. The Non-Federal Sponsor shall provide necessary lands, easements, rights, and relocations. The value of the required real estate interests will be credited towards the Non-Federal Sponsor's share of the project cost. The Non-Federal Sponsor may also provide services and in-kind contributions or credit toward its share of the project costs. Credit for the value of in-kind contributions is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including but not limited to the Davis-Bacon Act (40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*, and the Copeland Anti-Kickback Act (40 U.S.C. 276c). Credit may be afforded for the value of required work undertaken by volunteers, using the hourly value in common usage for grants program but not to exceed the Federal estimate of the cost of activity. The Non-Federal Sponsor shall also be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating these projects as well as for the required post-construction monitoring. The cost of these activities will not be included in the total project cost and will not count toward the Non-Federal Sponsor's minimum 35 percent share of the project cost.

Other Federal funds, *i.e.* funds appropriated to agencies other than the Corps, may not be used by the Non-Federal Sponsor to meet its share of the project cost unless the other Federal agency verifies in writing that expenditure of funds for such purpose is expressly authorized by statute. Otherwise, other Federal funds may be used for the proposed project if consistent with the other agency's authorities and will count as part of the Federal share of the project cost. Any non-Federal funds or contributions used as a match for these other Federal funds or any other Federal program may be used toward the project but will not be considered in determining the non-Federal share in relation to the Corps' costs.

Credit will be provided only for work necessary for the specific project being funded with Estuary Habitat Restoration Program funds. For example, a non-Federal entity is engaged in the removal of ten dams, has removed six dams, and now seeks assistance for the removal of the remaining four dams as an Estuary Habitat Restoration Program project. None of the costs associated with the removal of the six dams is creditable as part of the non-Federal share of the project for removal of four dams.

This is not a grants program. The Corps will not transfer funds to the Non-Federal Sponsor. The Corps will implement (construct) some portion of the proposed project. To the extent possible the Corps will use the planning, evaluation, and design products provided by the applicant. However, the Corps will be responsible for assuring compliance with Federal environmental statutes, assuring the project is designed to avoid adverse impacts on other properties and that the project can reasonably be expected to provide the desired benefits, and managing construction activities not performed by the Non-Federal Sponsor as in-kind contribution. These Corps activities will be part of the Federal cost of the project, and the Non-Federal Sponsor should consider these costs in developing the project cost estimate.

V. Funding Availability

Limited funds have been appropriated for implementation of projects under the Estuary Habitat Restoration Program. The Council will not accept proposals that indicate an estimated Federal cost of less than $100,000 or more than $1,000,000. There is no guarantee that sufficient funds will be available to fund all eligible proposals. The number of proposals funded as a result of this notice will depend on the number of eligible proposals received, the estimated amount of funds required for each selected project, and the merit and ranking of the proposals. The exact amount of the Federal and non-Federal cost share for each selected project will be specified in the written agreement discussed in Project Cost Sharing, Section IV above. Projects selected for funding must be capable of producing the ecosystem benefits described in the proposal in the absence of Federal funding beyond that established in the cost-share agreement.

VI. Proposal Review Process

Proposals will be screened as discussed in section VII.A. below to determine eligibility. The staff of the agencies represented on the Council will conduct a technical review of the eligible proposals in accordance with the criteria described in section VII.B. below. Agency scientists involved in estuarine research or the development and application of innovative methods for restoring estuary habitats will also review proposals that indicate the use of innovative technologies. Each agency will score and rank the proposals; the staff of the five agencies will use these rankings as the basis for a consolidated recommendation. The Council will consider the staff recommendation, the items discussed in sections VII.C. and D. below, and possibly other factors when preparing its prioritized list of recommended projects for the Secretary's use.

VII. Proposal Review Criteria

This section describes the criteria that will be used to review and select projects to be recommended to the Secretary for funding under the Act. It will benefit applicants to ensure that project proposals clearly address the criteria set forth under the following four subsections: Initial Screening of Project Proposals; Evaluation of Project Proposals; Priority Elements; and Other Factors.

A. Initial Screening of Project Proposals

Proposals will be screened according to the requirements listed in sections 104(b) and 104(c)(2) of the Act as described below. In addition, proposed projects must not include excluded activities as discussed in Section III above. Proposals that do not meet all of these finial screening criteria will not be evaluated further. To be accepted the proposal must:

(1) Originate from a non-Federal Sponsor (section 104(b));

(2) Address restoration needs identified in an estuary habitat restoration plan (section 104(c)(2)(A)). The Act defines ''estuary habitat restoration plan'' as any Federal or State plan for restoration of degraded estuary habitat that was developed with substantial participation of the public. (section 103(6));

(3) Be consistent with the Estuary Habitat Restoration Strategy (section 104(c)(2)(B)) by:

(a) Including eligible restoration activities that provide ecosystem benefits;

(b) Addressing estuary habitat trends (including historic losses) in the project region, and indicating how these were considered in developing the project proposal;

(c) Involving a partnership approach, and

(d) Clearly describing the benefits expected to be realized by the proposed project;

(4) Include a monitoring plan that is consistent with standards developed by NOAA under section 104(c)(2)(C)) (available at: *http://ear.noaa.gov/htmls/ear/ear_monitoring.html,* or from the contacts listed in the **FOR FURTHER INFORMATION CONTACT** section above.). Minimum monitoring requirements include monitoring over a period of five years and tracking of at least one structural and one functional element. Examples of structural and functional elements are contained in the monitoring document cited above, and;

(5) Include satisfactory assurances that the non-Federal Sponsor has adequate authority and resources to carry out items of local cooperation and properly maintain the project (section 104(c)(2)(D)).

B. Evaluation of Project Proposals

Proposals that meet the initial screening criteria in A. above will be eligible for further review using the criteria listed below.The following criteria are listed in order of relative importance with the most important criteria first. The first four criteria are the most important. If the reviewers find that a response to any of the first four criteria is completely inadequate, the proposal will be rejected. For each of the listed criteria the focus will be on the factors mentioned below but other factors may also be considered.

(1) Ecosystem Benefits

Proposal will be evaluated based on the extent of proposed habitat restoration activities and the type(s) of habitiat(s) that will be restored. Following are specific factors that reviewers will consider as part of this criterion:

(a) Prevention or reversal of estuary habitat loss or degradation in the project area and the nature and extent of the proposed project's potential contribution to the long-term conservation of estuary habitat function,

(b) Benefits for Federal listed endangered or threatened species, species proposed for Federal listing, recently delisted species or designated or proposed critical habitat in the project area,

(c) Extent to which the project will provide, restore, or improve habitat important for estuary-dependent fish and/or migratory birds (*e.g.* breeding, spawning, nursery, foraging, or staging habitat),

(d) Prevention or reduction of nonpoint source pollution or other contaminants to estuary habitats or restoration of estuary habitats that are already contaminated, and

(e) Benefits to nearby existing habitat areas, or contribution to the creation of wildlife/ecological corridors connecting existing habitat areas.

Examples of activities that would not qualify would be restoration of an oyster bed open to commercial harvest or a fish hatchery. Educational facilities such as classrooms, botanical gardens, or recreational facilities such as trails or boat ramps would also not qualify for cost sharing under this program although they may be included in the project if they do not conflict with the environmental benefits expected from project implementation.

(2) Cost-Effectiveness

Reviewers will evaluate the relationship between estimated project costs, including the cost of remaining planning, design, construction, required lands, and annual operation, maintenance, repair, rehabilitation and replacement and monitoring cost, to the monetary and non-monetary benefits described in the proposal. Clear quantitative and qualitative descriptions of the proposed outputs will facilitate this evaluation. Examples of units of measure include: acres restored, flood damage reduction levels, changes in water quality parameters, increases in the productivity of various species, and presence and absence of certain species. The estimated persistence of the proposed project outputs will be considered. For example, will the area be maintained as a wetland, or allowed to erode or become upland? Will the proposed project produce additional benefits due to synergy between the proposed project and other ongoing or proposed projects? Reviewers will consider if the proposed project is a cost-effective way to achieve the proposed benefits. In some instances the costs and benefits of proposed projects may be compared to the costs and benefits of other similar projects in the area. The significance of the proposed outputs is also a factor to be considered as part of cost-effectiveness. The significance of restoration outputs should be recognized in terms of institutional (such as laws, adopted plans, or policy statements), public (such as support for the project), or technical (such as addresses scarcity, increases limiting habitat, or improves or increases biodiversity) importance.

(3) Technical Feasibility

Reviewers will evaluate the extent to which, given current and projected environmental conditions of the restoration site—*e.g.*, soils, flood regime, presence of invasive species, surrounding land use—the proposed project is likely to be successfully implemented. Consideration will also be given to:

(a) Potential success of restoration techniques, based on history of successful implementation in field or pilot projects,

(b) Implementation schedule,

(c) Expected length of time before success can be demonstrated,

(d) Proposed corrective actions using monitoring information,

(e) Project management plants, and

(f) Experience and qualifications of project personnel.

(4) Scientific Merit

Reviewers will evaluate the extent to which the project deign is based on sound ecological principles and is likely to meet project goals. This may be indicated by the following factors:

(a) Goals of the project are reasonable considering the existing and former habitat types present at the site and other local influences,

(b) The proposed restoration methodology demonstrates an understanding of habitat function, and

(c) Specific methods proposed (if successfully implemented—see criteria on technical feasibility) have a good chance of meeting project goals and achieving long-term sustainability.

(5) Agency Coordination

Reviewers will evaluate the degree to which the project will encourage increased coordination and cooperation among Federal, State, and local government agencies. Some of the indicators used to evaluate coordination area:

(a) The State, Federal, and local agencies involved in developing the project and their expected roles in implementation.

(b) The nature of agency coordination, *e.g.,* joint funding, periodic multi-agency review of the project, collaboration on adaptive management decisions, joint monitoring, opportunities for future collaboration, etc., and

(c) Whether a formal agreement, such as a Memorandum of Understanding (MOU), exists between/among agencies as part of the project.

(6) Public/Private Partnerships

One of the focuses of the Act is the encouragement of new public/private partnerships. Reviewers will evaluate the degree to which the project will foster public/private partnerships and uses Federal resources to encourage increased private sector involvement. Indicators of the success at meeting this criterion follow. How will the project promote collaboration or create partnerships among public and private entities, including potential for future new or expanded public/private partnerships? What mechanisms are being used to establish the partnership, *e.g.,* joint funding, shared monitoring, joint decision-making on adaptive management strategies? Is there a formal agreement, such as an MOU, between/among the partners as part of the project? Also important is the extent to which the project creates an opportunity for long-term partnerships among public and private entities.

(7) Level of Contribution

Reviewers will consider the level and type (cash or in-kind) of non-Federal contribution. Providing more than the minimum 35-percent share will be rated favorably. It must be clear how much of the total project cost the Estuary Habitat Restoration Program is expected to provide, how much is coming from other Federal sources, how much is coming directly from the sponsor, and how much is available or expected to be provided by other sources (either cash or in-kind).

(8) Monitoring Plan

Revivers will consider the following factors in evaluating the quality of the monitoring plan:

(a) Linkage between the monitoring methods and the project goals, including success criteria.

(b) How results will be evaluated (statistical comparison to baseline or reference condition, trend analysis, or other quantitative or qualitative approach).

(c) How baseline conditions will be established for the parameters to be measured,

(d) If applicable, the use and selection of reference sites, where they are located, how they were chosen, and whether they represent target conditions for the habitat or conditions at the site without restoration,

(e) The appropriateness of the nature, frequency, and timing of measurements and which areas will be sampled;

(f) Provisions for adaptive management, and data reporting, and

(g) Whether the length of the proposed monitoring plan is appropriate for the project goals. The minimum required monitoring period is five years.

(9) Multiple Benefits

In addition to the ecosystem benefits discussed in criterion (1) above, restored estuary habitats may provide additional benefits. Among these the reviewers will consider are: flood damage reduction, protection from storm surge, water quality and/or quantity for human uses, recreational opportunities, and benefits to commercial fisheries.

(10) Dedicated Funding Source

Reviewers will consider if the State in which the proposed project will be located has a dedicated source of funding to acquire or restore estuary habitat, natural areas, and open spaces for the benefit of estuary habitat restoration or protection.

(11) Supports Regional Restoration Goals

Reviewers will evaluate the extent to which the proposed project contributes to meeting and/or strengthening the needs, goals, objectives and restoration priorities contained in regional restoration plans, and the means that will be used to measure such progress.

(12) Supports Federal Plan

If the proposed project supports a Federal plan (examples of Federal plans are listed in section 103(6)(B) of the Act), reviewers will consider the extent to which the project would contribute to meeting and/or strengthening the plan's needs, goals, objectives and restoration priorities, and the means that will be used to measure such progress.

C. Priority Elements

Section 104(c)(4) of the Act directs the Secretary to give priority consideration to a project that merits selection based on the above criteria if it:

(1) Occurs within a watershed where there is a program being implemented that addresses sources of pollution and other activities that otherwise would adversely affect the restored habitat; or

(2) Includes pilot testing or demonstration of an innovative technology having the potential to achieve better restoration results than other technologies in current practice, or comparable results at lower cost in terms of energy, economics, or environmental impacts.

The Council will also consider these priority elements in ranking proposals.

D. Other Factors

In addition to considering the composite ratings developed in the evaluation process and the priority elements listed in C. above, the Council will consider other factors when preparing its prioritized list for the Secretary's use. These factors include (but may not be limited to) the following:

(1) Readiness of the project for implementation. Among the factors to be considered when evaluating readiness are the steps that must be taken prior to project implementation, potential delays to project implementation, and the status of real estate acquisition.

(2) Balance between large and small projects, as defined in the Estuary Habitat Restoration Strategy.

(3) Geographic distribution of the projects.

VIII. Project Selection and Notification

The Secretary will select projects for funding from the Council's prioritized list of recommended projects after considering the criteria contained in section 104(c) of the Act, availability of funds and any reasonable factors. It is expected that the Secretary will select proposals for implementation approximately 100 days after the close of this solicitation or 30 days after receiving the list from the Council, whichever is later. The Non-Federal Sponsor of each proposal will be notified of its status at the conclusion of the selection process. Staff from the appropriate Corps District will work with the Non-Federal Sponsor of each selected project to develop the cost-sharing agreements and schedules for project implementation.

IX. Project Application Form Clarifications

Most of the entries are relatively self-explanatory, however, based on experience some clarifying comments were provided to facilitate completion of the form.

A. Project name should be short but unique and descriptive.

B. Organization Point of Contact. The individual listed should be the person that can answer project specific questions and will be the day-to-day contact for the project. This may be a different individual signing the Non-Federal certification.

C. Item 8. Funding and Partners. Post-construction costs including monitoring do not count as a cost share for projects funded under the Estuary Restoration Act and should not be included in the estimated total project cost. In the table, list the amount of funds being sought from the Estuary Habitat Restoration Program as from the Corps, as in-kind and with the entire amount originating from a Federal funding source.

D. Include the name of the organization as well as the title of the individual signing the Non-Federal Sponsor certification.

E. If submitting a proposal electronically, a hard copy of the Letter of Assurance and Certification may be submitted if its is post-marked by the closing date for this announcement and the electronic submission has the text of the Letter of Assurance and Certification with an indication of the date signed and name/title organization of the individual signing these documents. The Letter of Assurance should be addressed to ''Chairman, Estuary Habitat Restoration Council'' and sent to the address in Section X for hard copy submittals.

F. In the project description section of the project application form the phrase ''Estimated life cycle of the project'' refers to the functional life of the project. As an example a wetland may fill with sediment over time and its functionality diminished. The ''life-cycle'' would be the number of years until the project no longer provided the original benefits.

G. The proposed project should only be described as innovative if the Non-Federal Sponsor is requesting the special cost sharing for the incremental costs of including testing of or a demonstration of an innovative technology as defined in the application form.

X. Application Process

Proposal application forms are available at *http://www/usace/army/mil/civilworks/cecwp/estuary_act/* or by contacting Ms. Ellen Cummings, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000, (202) 761–4750, e-mail: *Ellen.M.Cummings@usace.army.mil;* or Chip Smith, Office of the Assistant Secretary of the Army (Civil Works), Washington, DC (703) 693–3655, e-mail: *Chip.Smith@HODA.Army.Mil.* The application form has been approved by OMB in compliance with the Paper Work Reduction Act and is OMB No. 0710–0014 with an expiration date of 4/30/2008. Electronic submissions are preferred and should be sent to *estuary.restoration@usace.army.mil* Multiple e-mail messages may be required to ensure successful receipt of the files exceed 4MB is size. Questions may also be sent to the same e-mail address. Hard copy submissions may be sent or delivered to HQUSACE, ATTN; CECW–PC, 7701 Telegraph Road #3D72, Alexandria, VA 22315–3860. The part of the nomination prepared to address the ''proposal elements'' portion of the application should be no more than twelve double-spaced pages, using a 10 or 12-point font. Paper copies should be printed on one side only of an 8.5 in. x 11 in. page and not bound. Only one hard copy is required. A PC-compatible floppy risk or CD–ROM in either Microsoft Word or WordPerfect format may accompany the paper copy. Nominations for multiple projects submitted by the same applicant must be submitted in separate e-mail messages and/or envelopes.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 06–5927 Filed 6–29–06; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Chief of Engineers Environmental Advisory Board (EAB).

Date of Meeting: July 19, 2006.

Place: U.S. Army Engineer Research and Development Center, Coastal and Hydraulics Laboratory, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

Time: 8:30 a.m. to 3 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Rennie Sherman, Executive Secretary, *rennie.h.sherman@usace.army.mil* 202–761–7771. Notice of intent to attend the meeting must be provided by July 17, 2006.

SUPPLEMENTARY INFORMATION: The Board advises the Chief of Engineers by providing expert and independent advice on environmental issues facing the Corps of Engineers.

Proposed Agenda: On Wednesday, July 19, a joint meeting with the Coastal Engineering Research Board will be held. Presentations concerning Coastal Restoration Challenges are expected to include the following topics, ''Interagency Performance Evaluation Taskforce,'' ''Louisiana Coastal Protection and Restoration Project,'' ''Mississippi Coastal Improvement Project,'' and ''Louisiana Coastal Area.''

The entire meeting is open to the public; and public comment is tentatively scheduled for 2 p.m. Since the meeting will be held in a government facility and seating capacity of the meeting is limited, advance notice of attendance is required. All attendees must stop at the guard gate and give their name and destination to the attending guard. A list of attendees will be provided to security. Oral participation by public attendees is encouraged during the time scheduled on the agenda. Each speaker will be limited to 3 minutes in order to accommodate as many people as possible during the limited time. Written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 06–5922 Filed 6–29–06; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Coastal Engineering Research Board (CERB)

AGENCY: Department of the Army, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB).

Date of Meeting: July 17–19, 2006.

Place: U.S. Army Engineer Research and Development Center, Coastal and Hydraulics Laboratory, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

Time: 10 a.m. to 4:30 p.m. (July 17, 2006). 8 a.m. to 5:30 p.m. (July 18, 2006). 8:30 a.m. to 4:30 p.m. (July 19, 2006).

For Further Information Contact: Inquiries and notice of intent to attend the meeting may be addressed to Colonel James R. Rowan, Executive Secretary, Commander, U.S. Army Engineer Research and

Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

Supplementary Information: The Board provides broad policy guidance and review of plans and fund requirements for the conduct of research and development of research projects in consonance with the needs of the coastal engineering field and the objectives of the Chief of Engineers.

Proposed Agenda: For Board members, July 17th is devoted to tours and briefings on Planning Centers for Expertise (Environmental and Coastal Storm Damage Reduction). Tuesday, July 18th, is devoted to Board Executive Session discussing ongoing initiatives and actions. Wednesday, July 19th, is a joint meeting with the Environmental Advisory Board with presentations concerning Coastal Restoration Challenges. These presentations are entitled ''Interagency Performance Evaluation Taskforce,'' ''Louisiana Coastal Protection and Restoration Project,'' ''Mississippi Coastal Improvement Project,'' and ''Louisiana Coastal Area.'' During the afternoon, the members of the Board will again meet in Executive Session.

These meetings are open to the public; participation by the public is scheduled for 2:30 p.m. on July 19, 2006.

The entire meeting is open to the public, but since the meeting will be held in a government facility and seating capacity of the meeting is limited, advance notice of attendance is required. All attendees must stop at the guard gate and give your name and destination to the attending guard. A list of attendees will be provided to security. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 06–5919 Filed 6–29–06; 8:45 am]

BILLING CODE 3710–61–M

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.031A, 84.031T, 84.031N, and 84.031W]

Strengthening Institutions, American Indian Tribally Controlled Colleges and Universities and Alaska Native and Native Hawaiian-Serving Institutions Programs

ACTION: Correction.

SUPPLEMENTARY INFORMATION: On May 19, 2006, we published a notice in the **Federal Register** (71 FR 29130) inviting applications for new awards for fiscal year (FY) 2006 for the Strengthening Institutions, American Indian Tribally Controlled Colleges and Universities and Alaska Native and Native Hawaiian-Serving Institutions programs. On page 29131 of that notice, we included charts listing the maximum award amounts, the estimated number of awards and the estimated average size of awards for the FY 2006 competitions for these programs. The charts incorrectly identified the Catalog of Federal Domestic Assistance (CFDA) number for the Strengthening Institutions program as ''83.031A.'' This notice corrects that error.

The CFDA number listed for the Strengthening Institutions program in the charts on page 29131 is corrected to read ''84.031A.''

FOR FURTHER INFORMATION CONTACT: Dr. Maria E. Carrington, or Karen W. Johnson, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8513. Telephone: (202) 502–7777 or by e-mail: *maria.Carrington@ed.gov* or *karen.Johnson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document

You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 27, 2006.

James F. Manning,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 06–5901 Filed 6–29–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, July 18, 2006, 8 a.m.–5 p.m.; Wednesday, July 19, 2006, 8 a.m.–12 p.m.

Opportunities for public participation will be held Tuesday, July 18, from 1 to 1:15 p.m. and 4 to 4:15 p.m.; and Wednesday, July 19, from 11:45 to 12 p.m. Additional time may be made available for public comment during the presentations.

These times are subject to change as the meeting progresses, depending on the extent of comment offered.

ADDRESSES: Ameritel Inn, 645 Lindsay Boulevard, Idaho Falls, ID 83402.

FOR FURTHER INFORMATION CONTACT: Shannon A. Brennan, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1216, Idaho Falls, ID 83415. Phone (208) 526–3993; Fax (208) 526–1926 or e-mail: *Shannon.Brennan@nuclear.energy.gov* or visit the Board's Internet home page at: *http://www.inelemcab.org.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Shannon A. Brennan for the most current agenda):

- Test Area North (TAN)–607A Engineering Evaluation/Cost Analysis.
- Operable Unit 3–14 Tank Farm Soils Cleanup Alternatives.
- Mid-Year Environmental Management Lifecycle Baseline Review.
- Radioactive Waste Management Complex (RWMC) Remedial Investigation Baseline Risk Assessment.
- Calcine Overview.
- Overview of Environmental Regulations and Permitting.
- Sodium-Bearing Waste Determination Update.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Shannon A. Brennan at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Shannon A. Brennan, Federal Coordinator, at the address and phone number listed above.

Issued at Washington, DC, on June 26, 2006.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 06–5908 Filed 6–29–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, July 24, 2006, 1 p.m.–6:30 p.m.; Tuesday, July 25, 2006, 8:30 a.m.–4 p.m.

ADDRESSES: North Augusta Community Center, 101 Brookside Avenue, North Augusta, SC 29841.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Closure Project Office, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, July 24, 2006

1 p.m.—Combined Committee Session.
5:15 p.m.—Adjourn.
5:30 p.m.—Executive Committee Meeting.
6:30 p.m.—Adjourn.

Tuesday, July 25, 2006

8:30 a.m.—Approval of Minutes, Agency Updates.
9:15 a.m.—Public Comment Session.
9:30 a.m.—Chair and Facilitator Update.
10 a.m.—Nuclear Materials Committee Report—Defense Nuclear Facilities Safety Board.
11:15 a.m.—Waste Management Committee Report.
11:45 a.m.—Public Comment Session.
12 p.m.—Lunch Break.
1 p.m.—Strategic and Legacy Management Committee Report—Savannah River Ecology Laboratory.
2:30 p.m.—Public Comment Session.
2:45 p.m.—Administrative Committee Report—Bylaws Amendment Proposal.
3:15 p.m.—Facility Disposition and Site Remediation Committee Report.
4 p.m.—Adjourn.

If needed, time will be allotted after public comments for items added to the agenda and administrative details. A final agenda will be available at the meeting Monday, July 24, 2006.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, or by calling her at (803) 952–7886.

Issued at Washington, DC, on June 27, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 06–5909 Filed 6–29–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, July 26, 2006, 2 p.m.–8:30 p.m.

ADDRESSES: Jemez Complex, Santa Fe Community College, 6401 Richards Avenue, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or E-mail: *msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

2 p.m. Call to Order by Deputy Designated Federal Officer (DDFO), Christina Houston
 Establishment of a Quorum
 Welcome and Introductions by Chair, J. D. Campbell
 Approval of Agenda
 Approval of Minutes of May 20, 2006 Board Meeting
2:15 p.m. Board Business / Reports
 A. Old Business, Chair, J. D. Campbell
 B. Report from Chair, J. D. Campbell
 C. Report from Department of Energy (DOE), Christina Houston

D. Report from Executive Director, Menice Santistevan
E. Other Issues, Board Members
New Business
2:45 p.m. Committee Business / Reports
A. Environmental Monitoring, Surveillance and Remediation Committee, Chris Timm
B. Waste Management Committee, Donald Jordan
C. Ad Hoc Committee on Bylaws and Administrative Procedures, Donald Jordan
D. Reports from Liaison Members
U.S. Environmental Protection Agency (EPA)—Rich Mayer
DOE—Gene Rodriguez
University of California/Los Alamos National Laboratory (UC/LANL)—Andy Phelps
New Mexico Environment Department (NMED)—James Bearzi
3:45 p.m. Break
4 p.m. DOE Los Alamos Site Office (DOE/LASO) and UC/LANL Business, Ed Wilmot
5 p.m. Dinner Break
6 p.m. Public Comment
6:15 p.m. Consideration and Action on Recommendations
6:30 p.m. DOE/LASO and UC/LANL Presentation
7:30 p.m. Comments from Liaison Members—DOE/LASO, LANL, EPA, NMED 8 p.m. Comments from Board Members
8:15 p.m. Recap of Meeting: Issuance of Press Releases, Editorials, etc., J. D. Campbell
8:30 p.m. Adjourn, Christina Houston

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Santistevan at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC, on June 27, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 06–5910 Filed 6–29–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1807–019, ER01–2020–016]

Carolina Power & Light Company, Florida Power Corporation; Notice of Filing

June 23, 2006.

Take notice that on November 29, 2005, Carolina Power & Light Company, doing business as Progress Energy Carolinas, Inc., filed refund reports pursuant to the Commission's May 21, 2003 Order, in Docket Nos. ER01–1807–005, *et al.*

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10295 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–758–000, ER06–758–001]

Chambers Cogeneration, Limited Partnership; Notice of Issuance of Order

June 23, 2006.

Chambers Cogeneration Limited Partnership (Chambers Cogen) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. Chambers Cogen also requested waivers of various Commission regulations. In particular, Chambers Cogen requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Chambers Cogen.

On June 21, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by Chambers Cogen should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 21, 2006.

Absent a request to be heard in opposition by the deadline above, Chambers Cogen is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Chambers Cogen, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Chamber Cogen's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10297 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–397–000]

Colorado Interstate Gas Company; Notice of Petition to Amend Filing Requirement and for Approval of Settlement Agreement

June 23, 2006.

Take notice that on June 20, 2006, Colorado Interstate Gas Company (CIG) tendered for filing a ''Petition to Amend Filing Requirement and for Approval of Stipulation and Agreement.'' CIG seeks approval of the filed Stipulation and Agreement and associated pro forma tariff sheets. CIG also seeks to amend the settlement previously approved in Docket No. RP01–350–000 to allow the Commission time to consider the filed settlement.

CIG states that copies of the filing have been served upon all of its customers of CIG and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time June 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10309 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2602–007—North Carolina, Dillsboro Hydroelectric Project]

Duke Power Company LLC; Notice of Revised Restricted Service List for a Memorandum of Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

June 23, 2006.

On May 12, 2006, the Federal Energy Regulatory Commission (Commission) issued notice of a proposed restricted service list for the preparation of a memorandum of agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Dillsboro Hydroelectric Project No. 2602. Rule 2010(d)(1) of the Commission's Rules of Practice and Procedure, 18 CFR 2010(d)(1) (2005), provides for the establishment of such a list for a particular phase or issue in a proceeding to eliminate unnecessary expense or improve administrative efficiency. Under Rule 2010(d)(4), persons on the official service list are to be given notice of any proposal to establish a restricted service list and an opportunity to show why they should also be included on the restricted service list or why a restricted service list should not be established.

On May 30, 2006, Jackson County, North Carolina; Macon County, North Carolina; the Town of Franklin, North Carolina; the Friends of Lake Glenville Association, Inc.; and the Dillsboro Inn and TJ Walker (jointly) filed a joint response to the notice, requesting that: (1) They be included in the development of the memorandum of agreement; (2) the Commission not establish a restricted service list; and (3) the Commission establish a protocol to protect cultural resource information during the development of the memorandum of agreement.

Under Rule 2010(d)(2), any restricted service list will contain the names of each person on the official service list, or the person's representative, who, in the judgment of the decisional authority establishing the list, is an active participant with respect to the phase or issue in the proceeding for which the list is established. The joint filers have identified an interest in issues relating to the management of historic properties at the Dillsboro Project. Therefore, they and their representatives will be added to the restrictive service list.

The joint filers assert that they have a direct interest in ensuring that the decision-making process is open for public review. Apart from this, they have not identified a reason why a restrictive service list should not be established. A restricted service list facilitates consultation under section 106 of the National Historic Preservation Act by ensuring that only those parties who are actively participating in this phase of the proceeding are included, thus improving administrative efficiency and eliminating unnecessary expense. However, the establishment of a restricted service list does not restrict public access to information concerning the consultation. All filings and correspondence leading to the development of a memorandum of agreement, as well as the agreement itself, will be placed in the docket for this proceeding and, thus, will be publicly available. In addition, Commission regulations provide procedures for protecting sensitive cultural resource information, such as the location of historic properties, and parties to the restricted service list must follow these procedures. Therefore, there is no need to establish protocols for the protection of this information. See 18 CFR 388.112.

Accordingly, the restricted service list issued on May 12, 2006, for the Dillsboro Project No. 2602 is revised to add the following persons:

Thomas J. Walker, Dillsboro Inn, 146 North River Road, P.O. Box 270, Dillsboro, NC 28725.

Joe Collins, Mayor, Town of Franklin, 188 W Main St, Franklin, NC 28734–2949.

Philip M. Marston, Marston Law, 218 N. Lee Street, Suite 300, Alexandria, VA 22314.

Carol Adams, President, Friends of Lake Glenville, P.O. Box 493, Glenville, NC 28736–0493.

Paul V. Nolan, 5515 17th Street North, Arlington, VA 22205–2722.

Kenneth L. Westmoreland, Manager, Jackson County Government, 401 Grindstaff Cove Rd, Sylva, NC 28779–3250.

Sam Greenwood, Manager, Macon County, County Manager Office, 5 West Main Street, Franklin, NC 28734–3005.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10301 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2686–032 and 2601–007–North Carolina]

Duke Power Company LLC; West Fork and Bryson Hydroelectric Projects; Notice of Revised Restricted Service List for the Programmtic Agreements for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

June 23, 2006.

On May 12, 2006, the Federal Energy Regulatory Commission (Commission) issued notice of a proposed restricted service list for the preparation of two programmatic agreements for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the West Fork Hydroelectric Project No. 2686 and at the Bryson Hydroelectric Project No. 2601. Rule 2010(d)(1) of the Commission's Rules of Practice and Procedure, 18 CFR 2010(d)(1) (2005), provides for the establishment of such a list for a particular phase or issue in a proceeding to eliminate unnecessary expense or improve administrative efficiency. Under Rule 2010(d)(4), persons on the official service list are to be given notice of any proposal to establish a restricted service list and an opportunity to show why they should also be included on the restricted service list or why a restricted service list should not be established.

On May 30, 2006, Jackson County, North Carolina; Macon County, North Carolina; the Town of Franklin, North Carolina; the Friends of Lake Glenville Association, Inc.; and the Dillsboro Inn and TJ Walker (jointly) filed a joint response to the notice, requesting that: (1) They be included in the development of the two programmatic agreements; (2) the Commission not establish a restricted service list; and (3) the Commission establish a protocol to protect cultural resource information during the development of the two programmatic agreements.

Under Rule 2010(d)(2), any restricted service list will contain the names of each person on the official service list, or the person's representative, who, in the judgment of the decisional authority establishing the list, is an active participant with respect to the phase or issue in the proceeding for which the list is established. The joint filers have identified an interest in issues relating to the management of historic properties at the West Fork and Bryson Projects. Therefore, they and their representatives will be added to the restrictive service list.

The joint filers assert that they have a direct interest in ensuring that the decision-making process is open for public review. Apart from this, they have not identified a reason why a restrictive service list should not be established. A restricted service list facilitates consultation under section 106 of the National Historic Preservation Act by ensuring that only those parties who are actively participating in this phase of the proceeding are included, thus improving administrative efficiency and eliminating unnecessary expense. However, the establishment of a restricted service list does not restrict public access to information concerning the consultation. All filings and correspondence leading to the development of two programmatic agreements, as well as the agreements themselves, will be placed in the appropriate dockets for these proceedings and, thus, will be publicly available. In addition, Commission regulations provide procedures for protecting sensitive cultural resource information, such as the location of historic properties, and parties to the restricted service list must follow these procedures. Therefore, there is no need to establish protocols for the protection of this information. See 18 CFR 388.112.

Accordingly, the restricted service list issued on May 12, 2006, for the West Fork Project No. 2686 and the Bryson Project No. 2601 is revised to add the following persons:

Thomas J. Walker, Dillsboro Inn, 146 North River Road, P.O. Box 270, Dillsboro, NC 28725.

Joe Collins, Mayor, Town of Franklin, 188 W Main St, Franklin, NC 28734–2949.

Philip M. Marston, Marston Law, 218 N. Lee Street, Suite 300, Alexandria, VA 22314.

Carol Adams, President, Friends of Lake Glenville, P.O. Box 493, Glenville, NC 28736–0493.

Paul V. Nolan, 5515 17th Street North, Arlington, VA 22205–2722.

Kenneth L. Westmoreland, Manager, Jackson County Government, 401 Grindstaff Cove Rd, Sylva, NC 28779–3250.

Sam Greenwood, Manager, Macon County, County Manager Office, 5 West Main Street, Franklin, NC 28734–3005.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10302 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–400–000]

Eastern Shore Natural Gas Company; Notice of Tariff Filing

June 23, 2006.

Take notice that on June 22, 2006, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 10, with an effective date of July 23, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6–10311 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–396–000]

Egan Hub Storage, LLC; Notice of Proposed Changes in FERC Gas Tariff

June 23, 2006.

Take notice that on June 21, 2006, Egan Hub Storage, LLC (Egan Hub) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix B to the filing, to become effective July 22, 2006.

Egan Hub states that the purpose of this filing is to make miscellaneous, non-substantive changes to various sections of the Egan Hub Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.

[FR Doc. E6–10308 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–796–000, ER06–796–001]

Emera Energy U.S. Subsidiary No. 2, Inc.; Notice of Issuance of Order

June 23, 2006.

Emera Energy U.S. Subsidiary No. 2, Inc. (Emera Energy No. 2) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy and capacity at market-based rates. Emera Energy No. 2 also requested waivers of various Commission regulations. In particular, Emera Energy No. 2 requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Emera Energy No. 2.

On June 20, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by Emera Energy No. 2 should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 20, 2006.

Absent a request to be heard in opposition by the deadline above, Emera Energy No. 2 is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Emera Energy No. 2, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Emera Energy No. 2's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10299 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–287–001]

Exelon Corporation; Notice of Filing

June 23, 2006.

Take notice that on July 29, 2005, Exelon Corporation (Exelon), on behalf its subsidiary of PECO Energy Company (PECO), filed a compliance filing in response to the Commission's June 30, 2005 Order, confirming that Exelon will classify PECO's Vice President-Gas as performing Energy Affiliate activities and will structure his role so he does not receive non public transmission information, does not take part in portions of any meeting where non public transmission information is discussed, and does not perform transmission functions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10293 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–286–001]

Exelon Corporation; Notice of Filing

June 23, 2006.

Take notice that on July 29, 2005, Exelon Corporation (Exelon), on behalf its subsidiary of PECO Energy Company (PECO), filed a compliance filing providing additional information for two Exelon business units, pursuant to the Commission's June 30, 2005 Order. Exelon also requests a clarification or partial waiver from the Standards of Conduct.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10312 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–355–001]

[Gulf South Pipeline Company, LP; Notice of Compliance Filing]

June 23, 2006.

Take notice that on June 21, 2006 Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective June 9, 2006:

Substitute First Revised Sheet No. 3701.
Substitute Fourth Revised Sheet No. 3702.
Original Sheet No. 3702A.
Substitute Third Revised Sheet No. 3705.

Gulf South states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10305 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–395–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

June 23, 2006.

Take notice that on June 20, 2006, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing the following revised sheet to its FERC Gas Tariff, First Revised Volume No. 1, to be effective on July 20, 2006:

Second Revised Sheet No. 35
Fourth Revised Sheet No. 36
First Revised Sheet No. 49A
Third Revised Sheet No. 59A
Second Revised Sheet No. 80
Third Revised Sheet No. 174

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10307 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–396–000]

Kaiser Francis Oil Company; Notice of Petition

June 23, 2006.

Take notice that on June 20, 2006 Kaiser Francis Oil Company (KFOC), 6733 S. York Avenue, Tulsa, Oklahoma 74136, filed a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(5), and section 7(c)(1)(B) of the Natural Gas Act, 15 U.S.C. 717(c)(1)(B), seeking approval of an exemption from certificate requirements to perform temporary activities related to drilling a test well and performing other activities to assess the feasibility of developing an underground natural gas storage facility in Cameron Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the petition should be directed to Mr. John Boone, Kaiser Francis Oil Company, 6733 S. York Avenue, Tulsa, OK 74136, and Phone: (918) 494–0000; Fax (918) 491–4694.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 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.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to 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. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. 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.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: 5 p.m. Eastern Time July 14, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10294 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–792–000; ER06–792–001]

Norge Power Marketing Corporation; Notice of Issuance of Order

June 23, 2006.

Norge Power Marketing Corporation (Norge) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity. Norge also requested waivers of various Commission regulations. In particular, Norge requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Norge.

On June 21, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by Norge should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 21, 2006.

Absent a request to be heard in opposition by the deadline above, Norge is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Norge, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Norge's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10298 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–394–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 23, 2006.

Take notice that on June 16, 2006, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective July 16, 2006:

Ninth Revised Sheet No. 19–A.
Third Revised Sheet No. 302–C.
Third Revised Sheet No. 302–D.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10306 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–395–000]

Questar Pipeline Company & Questar Overthrust Pipeline Company; Notice of Application

June 23, 2006.

On June 16, 2006, Questar Pipeline Company (QPC) and Questar Overthrust Pipeline Company (Overthrust), pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as amended, and section 157 of the Federal Energy Regulatory Commission's (Commission) regulations jointly requested authorization for QPC to abandon by sale Tie Line (TL) 90 and Jurisdictional Lateral (JL) 99. TL 90 consists of 20.3 miles of 20-inch diameter pipeline and a metering & regulation station located in Uinta and Lincoln Counties, Wyoming, and JR 99 consists of 0.22 miles of 10.75-inch diameter pipeline, a delivery and receipt point and associated facilities located in Lincoln County, Wyoming. In addition, a certificate of public convenience and necessity is requested for Overthrust to acquire and operate the facilities abandoned by QPC.

Questions concerning the application should be directed to: Lenard G. Wright, Manager, Federal Regulatory Affairs at Questar Pipeline Company, 180 East 100 South, P.O. Box 45360, Salt Lake City, Utah 84145–0360. He also may be contacted at (801) 324–2459, (801) 324–5834 fax, or *lenard.wright@questar.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, 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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link at *http://www.ferc.gov.* The Commission strongly encourages intervenors to file electronically. 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 July 14, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10313 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–740–000, ER06–740–001 and ER06–740–002]

Indeck Energy Services of Silver Springs, Inc.; Notice of Issuance of Order

June 23, 2006.

Indeck Energy Services of Silver Springs, Inc. (Silver Springs) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Silver Springs also requested waivers of various Commission regulations. In particular, Silver Springs requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Silver Springs.

On June 21, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by Silver Springs should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 21, 2006.

Absent a request to be heard in opposition by the deadline above, Silver Springs is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Silver Springs, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Silver Springs' issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10296 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

June 23, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–134–000.
Applicants: Merrill Lynch Credit Products, LLC; Lake Road Holding Company, LLC; Lake Road Generating Company, L.P.
Description: Lake Road Holding Company, LLC, *et al.*, submit a joint application for order authorizing disposition of jurisdictional facilities and request for waivers and expedited action.
Filed Date: 6/19/2006.
Accession Number: 20060621–0071.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–1551–017; ER01–615–013.
Applicants: Public Service Company of New Mexico.
Description: Public Service Co of New Mexico submits its proposed tariff sheets to reflect cost-based mitigation measures for the El Paso Electric control area.
Filed Date: 6/20/2006.
Accession Number: 20060622–0076.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Docket Numbers: ER00–2186–002.
Applicants: PPL Maine, LLC.
Description: PPL Maine LLC submits its second triennial market power update report.
Filed Date: 6/19/2006.
Accession Number: 20060621–0074.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER05–524–001.
Applicants: Lincoln Generating Facility, LLC.
Description: Lincoln Generating Facility LLC submits an updated generation market power study and amended First Revised Volume No. 1 tariff.
Filed Date: 6/19/2006.
Accession Number: 20060621–0075.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER05–1475–005.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to Attachment X, Large Generator Interconnection Procedures and Large Generator Interconnection Agreement.
Filed Date: 6/20/2006.
Accession Number: 20060621–0149.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Docket Numbers: ER06–738–002; ER06–739–002.
Applicants: Cogen Technologies Linden Venture, L.P.; East Coast Power Linden Holding, LLC.
Description: Cogen Technologies Linden Venture LP et al supplement their petition requesting acceptance for filing their respective market-based rate schedules, waiver of certain FERC regulations.
Filed Date: 6/20/2006.
Accession Number: 20060622–0097.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Docket Numbers: ER06–1039–001.
Applicants: Freedom Partners, LLC.
Description: Freedom Partners, LLC dba Freedom Energy Partners submits an application for Order Accepting Initial Market Base Rate Tariff and Granting Certain Waivers and Blanket Approvals.
Filed Date: 6/19/2006.
Accession Number: 20060621–0080.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER06–1096–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Co submits an Notice of Termination of the Revised Control Area and Transmission Service Agreement with Dynegy Power Services, Inc.
Filed Date: 6/2/2006.
Accession Number: 20060608–0618.
Comment Date: 5 p.m. Eastern Time on Friday, June 30, 2006.

Docket Numbers: ER06–1142–000.
Applicants: Pacific Gas & Electric Company.
Description: Pacific Gas and Electric Co submits an executed Agreement dated, 5/4/06 with the State of California Department of Water Resources.
Filed Date: 6/19/2006.
Accession Number: 20060620–0314.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER06–1146–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits its Interconnection Service Agreement with Brookfield Power Piney & Deep Creek LLC and Pennsylvania Elec. Power Co.
Filed Date: 6/16/2006.
Accession Number: 20060620–0315.
Comment Date: 5 p.m. Eastern Time on Friday, July 7, 2006.

Docket Numbers: ER06–1147–000.
Applicants: Liberty Power Maine LLC.
Description: Liberty Power Maine LLC submits a Petition for acceptance of the Initial Rate Schedule, Waivers and Blanket Authority.
Filed Date: 6/19/2006.
Accession Number: 20060620–0184.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1148–000.
Applicants: Liberty Power New Jersey LLC.
Description: Liberty Power New Jersey, LLC submits a Petition for acceptance of the Initial Rate Schedule, Waivers and Blanket Authority.
Filed Date: 6/19/2006.
Accession Number: 20060620–0185.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1149–000.
Applicants: Liberty Power Rhode Island LLC.
Description: Liberty Power Rhode Island LLC submits a petition for acceptance of the initial rate schedule, waivers and blanket authority.
Filed Date: 6/19/2006.
Accession Number: 20060620–0186.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1150–000.
Applicants: Liberty Power Massachusetts LLC.
Description: Liberty Power Massachusetts, LLC submits a petition for acceptance of initial rate schedule (FERC Electric Rate Schedule 1), waivers and blanket authority.

Filed Date: 6/19/2006.
Accession Number: 20060620–0187.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1151–000.
Applicants: Liberty Power Illinois LLC.
Description: Liberty Power Illinois LLC submits a Petition for acceptance of the Initial Rate Schedule, Waivers and Blanket Authority.
Filed Date: 6/19/2006.
Accession Number: 20060620–0188.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1152–000.
Applicants: Celeren Corporation.
Description: Celeren Corp submits a petition for acceptance of initial tariff (FERC Electric Tariff, Original Volume 1), waivers and blanket authority.
Filed Date: 6/19/2006.
Accession Number: 20060620–0189.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER06–1153–000.
Applicants: Indiana Michigan Power Company.
Description: Indiana Michigan Power Co submits a Cost-Based Formula Rate Agreement for Full Requirements Electric Service and the City of Paw Paw, Michigan.
Filed Date: 6/19/2006.
Accession Number: 20060621–0072.
Comment Date: 5 p.m. Eastern Time on Monday, July 10, 2006.

Docket Numbers: ER06–1155–000.
Applicants: Liberty Power Montana LLC.
Description: Liberty Power Montana LLC submits a petition of acceptance of the Initial Rate Schedule, Waivers, and Blanket Authority.
Filed Date: 6/20/2006.
Accession Number: 20060621–0084.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1156–000.
Applicants: Liberty Power Delaware LLC.
Description: Liberty Power Delaware LLC submits a Petition of acceptance of the Initial Rate Schedule, Waivers, and Blanket Authority.
Filed Date: 6/20/2006.
Accession Number: 20060621–0083.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1157–000.
Applicants: Liberty Power Michigan LLC.
Description: Liberty Power Michigan LLC submits a Petition of acceptance of the Initial Rate Schedule, Waivers, and Blanket Authority.
Filed Date: 6/20/2006.
Accession Number: 20060621–0082.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1158–000.
Applicants: Liberty Power Virginia LLC.
Description: Liberty Power Virginia LLC submits a Petition of acceptance of the Initial Rate Schedule, Waivers, and Blanket Authority.
Filed Date: 6/20/2006.
Accession Number: 20060621–0081.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1159–000.
Applicants: Liberty Power Arizona LLC.
Description: Liberty Power Arizona, LLC submits a petition for acceptance of the initial rate schedule, waivers and blanket authority.
Filed Date: 6/20/2006.
Accession Number: 20060621–0148.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1160–000.
Applicants: UBS AG.
Description: UBS AG submits amendments to its market-based rate tariff, FERC Electric Rate Schedule 1, effective 6/21/06.
Filed Date: 6/20/2006.
Accession Number: 20060621–0147.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Docket Numbers: ER06–1161–000.
Applicants: Liberty Power Oregon LLC.
Description: Liberty Power Oregon LLC submits a Petition for acceptance of Initial Rate Schedule, Waivers and Blanket Authority under ER06–1161.
Filed Date: 6/20/2006.
Accession Number: 20060621–0150.
Comment Date: 5 p.m. Eastern Time on Thursday, June 29, 2006.

Docket Numbers: ER06–1162–000.
Applicants: Select Energy New York, Inc.
Description: Select Energy New York, Inc submits a Notice of Succession to advise the Commission of a transfer of operational control following its acquisition by Hess Corporation.
Filed Date: 6/20/2006.
Accession Number: 20060621–0151.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 11, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport*@ferc.gov. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.
[FR Doc. E6–10314 Filed 6–29–06; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF06–25–000; Docket No. PF06–26–000]

Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, L.P.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Jordan Cove LNG and Pacific Connector Gas Pipeline Projects, Request for Comments on Environmental Issues and Notice of a Joint Public Meeting

June 23, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) and the U.S. Department of Homeland Security, Coast Guard (Coast Guard) are in the process of evaluating the Jordon Cove Liquefied Natural Gas (LNG) Project planned by Jordan Cove Energy Project, L.P. (Jordan Cove), and the associated natural gas sendout pipeline planned by Pacific Connector Gas Pipeline, L.P. (PCGP). The project would consist of an onshore LNG import and storage terminal located on the bay side of the north spit of Coos Bay, Coos County, Oregon, and an approximately 223-mile-long, 36-inch-diameter natural gas pipeline extending from the Jordon Cove LNG terminal southeastward across Douglas, Jackson, and Klamath Counties, Oregon, to an interconnection with the existing Pacific Gas and Electric Company's (PG&E) pipeline system in Modoc County, California.

As a part of this evaluation, the FERC staff will prepare an environmental impact statement (EIS) that will address the environmental impacts of the project and the Coast Guard will assess the maritime safety and security of the project. The FERC will produce a single comprehensive EIS to cover both the LNG terminal and sendout pipeline combined. As described below, the FERC and the Coast Guard will hold a joint public meeting in Coos Bay to allow the public to provide input to these assessments. The FERC will host additional public meetings along the pipeline route to provide input to the assessment of the pipeline component of the project.

The Commission will use the EIS in its decision-making process to determine whether or not to authorize the project. This Notice of Intent (NOI) explains the scoping process we [1] will use to gather information on the project from the public and interested agencies and summarizes the process that the Coast Guard will use. Your input will help identify the issues that need to be evaluated in the EIS and in the Coast Guard's maritime safety and security assessment. Please note that scoping comments are requested by July 24, 2006.

Comments on the project may be submitted in written form or verbally. Further details on how to submit written comments are provided in the Public Participation section of this NOI. In lieu of sending written comments, we invite you to attend any of the following public scoping meetings scheduled as follows:

Monday, July 10, 2006, 6:30 p.m.: Umpqua Community College, Campus Center Dining Room/Timber Room, 1140 Umpqua College Rd., Roseburg, OR 97470. 541–440–4600.

Tuesday, July 11, 2006, 6 p.m.: Southwestern Oregon Community College, Hales Performing Arts Center, 1988 Newmark Ave., Coos Bay, OR 97420. 541–888–2525.

Wednesday, July 12, 2006, 7 p.m.: Red Lion Inn, Rogue River Ballroom, 200 N. Riverside Ave., Medford, OR 97501. 541–779–5811.

Thursday, July 13, 2006, 6:30 p.m.: Oregon Institute of Technology, Auditorium, College Union, 3201 Campus Dr., Klamath Falls, OR 97601. 41–885–1030.

The second public scoping meeting listed above (Coos Bay) will be combined with the Coast Guard's public meeting regarding the maritime safety and security of the project. At the meeting, the Coast Guard will discuss: (1) The waterway suitability assessment that the applicant will conduct to determine whether or not the waterway can safely accommodate the LNG carrier traffic and operation of the planned LNG marine terminal; and (2) the facility security assessment that the applicant will conduct in accordance with the regulations of the Maritime Transportation Security Act to assist with the preparation of a Facility Security Plan. The Coast Guard will be issuing a separate meeting notice in the **Federal Register** for the maritime safety and security aspects of the project under Coast Guard District 13 docket number CGD13–06–028.

The Coast Guard is responsible for matters related to navigation safety, vessel engineering and safety standards, and all matters pertaining to the safety of facilities or equipment located in or adjacent to navigable waters up to the last valve immediately before the receiving tanks. The Coast Guard also has authority for LNG facility security plan review, approval, and compliance verification as provided in Title 33 Code of Federal Regulations (CFR) Part 105, and recommendation for siting as it pertains to the management of vessel traffic in and around the LNG facility.

Upon receipt of a letter of intent from an owner or operator intending to build a new LNG facility, the Coast Guard Captain of the Port conducts an analysis that results in a letter of recommendation issued to the owner or operator and to the state and local governments having jurisdiction, addressing the suitability of the waterway to accommodate LNG vessels. Specifically the letter of recommendation addresses the suitability of the waterway based on:

- The physical location and layout of the facility and its berthing and mooring arrangements.
- The LNG vessels' characteristics and the frequency of LNG shipments to the facility.
- Commercial, industrial, environmentally sensitive, and residential areas in and adjacent to the waterway used by the LNG vessels en route to the facility.
- Density and character of the marine traffic on the waterway.
- Bridges or other manmade obstructions in the waterway.
- Depth of water.
- Tidal range.
- Natural hazards, including rocks and sandbars.
- Underwater pipelines and cables.
- Distance of berthed LNG vessels from the channel, and the width of the channel.

In addition, the Coast Guard will review and approve the facility's operations manual and emergency response plan (33 CFR 127.019), as well as the facility's security plan (33 CFR 105.410). The Coast Guard will also provide input to other Federal, state, and local government agencies reviewing the project.

In order to complete a thorough analysis and fulfill the regulatory mandates cited above, the applicant will be conducting a Waterway Suitability Assessment (WSA), a formal risk assessment evaluating the various safety and security aspects associated with the Jordan Cove LNG proposed project. This risk assessment will be accomplished through a series of workshops focusing on the areas of waterways safety, port security, and consequence management, with involvement from a broad cross-section of government and port stakeholders with expertise in each of the respective areas. The workshops

[1] "We," "us," and "our" refer to the environmental staff of the FERC's Office of Energy Projects.

will be by invitation only. However, comments received during the public comment period will be considered as input in the risk assessment process. The results of the WSA will be submitted to the Coast Guard to be used in determining whether the waterway is suitable for LNG traffic.

This NOI is being sent to Federal, state, and local government agencies; elected officials; affected landowners; environmental and public interest groups; Indian tribes and regional Native American organizations; commentors and other interested parties; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

Summary of the Proposed Project

The proposed project would consist of a 1.0 billion standard cubic feet per day (bscfd) capacity LNG import/storage terminal facility and a 223-mile-long, 36-inch-diameter sendout pipeline. A map depicting the general location of the Jordan Cove LNG import terminal and PCGP's proposed pipeline route is attached to this NOI as Appendix 1.[2] Jordan Cove and PCGP indicated they intend to file their formal applications with the FERC on January 31, 2007.

Jordan Cove LNG Import Terminal

The proposed Jordon Cove LNG import terminal would include the following elements:

• Dredged 1,700-foot-diameter turning basin/ship maneuvering area located within Coos Bay;
• A single LNG ship unloading slip/berth, dredged from an upland adjacent to Coos Bay;
• LNG unloading system at the berth, consisting of three 16-inch-diameter unloading arms and one 16-inch-diameter vapor return arm, with a unloading capacity rate of 12,000 cubic meters per hour (m^3/hr);
• LNG transfer system from the berth to the storage tanks, consisting of one 2,600-foot-long, 36-inch-diameter cryogenic unloading line;
• LNG storage system, consisting of two full-containment LNG storage tanks, each with a capacity 160,000 m^3 (or 1,006,000 barrels). Each tank would be equipped with two can-type fully submerged LNG in-tank pumps with an individual capacity rate of 5,300 gallons per minute (gpm);
• Boil-off gas (BOG) recovery system, consisting of three cryogenic centrifugal BOG compressors, each with a rated capacity of 2,300 cubic feet per minute (ft^3/min), and two non-cryogenic reciprocating BOG pipeline compressors with an individual capacity rated at 2,500 ft^3/min;
• LNG transfer system from the storage tanks to the vaporizers, consisting of six pot-mounted LNG booster pumps each sized for 2,200 gpm;
• LNG vaporizer system, consisting of six submerged combustion vaporizers each sized for 200 million standard cubic feet per day;
• A natural gas liquids (NGL) extraction facility, with the NGL to be sold to an entity other than Jordan Cove and transported from the terminal using existing railroad lines;
• A 30 megawatt, natural gas-fired, simple cycle combustion turbine power plant to provide a supplemental source of electric power for the LNG terminal;
• Waste heat recovery system;
• Emergency vent system, LNG spill containment system, fire water system, utility system, hazard detection system, and control system; and
• Buildings and support facilities.

Jordan Cove proposes to initiate construction of the terminal in the winter of 2007–2008, and anticipates placing the project into service in the fourth quarter of 2010.

PCGP Sendout Pipeline

The PCGP sendout pipeline would consist of the following elements:

• A 223-mile-long, 36-inch-diameter steel underground natural gas pipeline, extending from the proposed Jordon Cove LNG terminal southeast, crossing Coos, Douglas, Jackson, and Klamath Counties, Oregon, and into Modoc County, California, with capacity to deliver 1.0 bscfd at a maximum allowable operating pressure (MAOP) of 1,440 pounds per square inch (psig);
• Butte Falls Compressor Station, at about Milepost (MP) 127, Jackson County, Oregon, consisting of two new 10,310 horsepower compressor units;
• Interconnections with three existing natural gas pipeline systems, including Williams Northwest Pipeline's Grants Pass Lateral, PG&E's 400 and 401 pipelines, and potentially Tuscarora Gas Transmission's pipeline;
• Four receipt or delivery meter stations, including the Coos Bay Receipt Meter Station at MP 0.0 in Coos County, Oregon, the Clarks Branch Delivery Meter Station at about MP 68, Douglas County, Oregon, the Tulelake Delivery Station at MP 223, Modoc County, California, and the potential Tuscarora Delivery Meter Station also at MP 223;
• A gas control communication system, consisting of radio towers at each meter station, and the compressor station, and additional facilities at existing mountain top radio communication towers, and two new additional master radio sites at unspecified locations;
• Mainline block valves at 15 locations along the pipeline route; and
• Pig launchers and receivers located at each end of the pipeline (Coos Bay Meter Station and Tulelake Meter Station).

PCGP proposes to begin construction of the sendout pipeline in the summer of 2009, and anticipates the completion of installation and restoration activities by the spring of 2011.

The EIS Process

The NEPA requires the Commission to take into account the environmental impacts that could result from an action when it considers whether or not an LNG import terminal or an interstate natural gas pipeline should be approved. The FERC will use the EIS to consider the environmental impacts that could result if it issues project authorizations to Jordan Cove and PCGP under sections 3 and 7 of the Natural Gas Act. The NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on important environmental issues. With this NOI, the Commission staff is requesting public comments on the scope of the issues to be addressed in the EIS. All comments received will be considered during preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction, operation, maintenance, and abandonment of the proposed project under these general headings:

• Geology and Soils.
• Water Resources.
• Vegetation and Wildlife.
• Land Use, Recreation, and Visual Resources.
• Cultural Resources.
• Socioeconomics.
• Air Quality and Noise.
• Reliability and Safety.
• Cumulative Impacts.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on affected resources.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (excluding maps) at the ''e-Library'' link or from the Commission's Public Reference Room or call (202) 502–8371. For instructions on connecting to e-Library refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; affected landowners; environmental and public interest groups; Indian tribes and regional Native American organizations; commentors; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 90-day comment period will be allotted for review of the draft EIS. We will consider all comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. We will consider all comments on the final EIS before we make our recommendations to the Commission. To ensure that your comments are considered, please follow the instructions in the Public Participation section of this NOI.

Although no formal application has been filed, the FERC staff has already initiated its NEPA review under its pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. In addition, the Coast Guard, which would be responsible for reviewing the maritime safety and security aspects of the planned project and regulating maritime safety and security if the project is approved, has initiated its review of the project as well.

With this NOI, we are asking Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues, to express their interest in becoming cooperating agencies for the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. The Coast Guard and the U.S. Army Corps of Engineers have already agreed to be cooperating agencies for this project. In letters dated May 9, 2006, we requested that the Oregon Department of Energy (ODE), U.S. Department of Agriculture Forest Service (USFS), U.S. Department of Commerce National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS), U.S. Environmental Protection Agency, U.S. Department of the Interior Bureau of Land Management (BLM), and Fish and Wildlife Service also become cooperating agencies. The ODE and NMFS have declined our invitation to be cooperating agencies in the production of the EIS, but may reconsider at any time during the pre-filing review process.

The EIS will examine the proposed action and alternatives that require administrative or other actions by other federal agencies. The USFS has identified the possible need to amend the existing Umpqua, Rouge River-Siskiyou, and Fremont-Winema National Forest Land and Resource Management Plans. The BLM has identified the possible need to amend the existing Resource Management Plans of the Coos Bay, Roseburg, and Medford Districts and the Klamath Falls Resource Area.

Currently Identified Environmental Issues

We have already identified issues that we think deserve attention based on a preliminary review of the projects, and information provided by Jordan Cove and PCGP. This preliminary list of issues, which is presented below, may be revised based on your comments and our continuing analyses.

- Impact of LNG vessel traffic on other Coos Bay users, including commercial ships, fishing and recreational boaters.
- Potential impacts of dredging the turning basin and LNG ship dock on water quality and estuarine fishery resources.
- Potential impacts of the LNG terminal on residents in the Coos Bay area, including safety issues at the import and storage facility, noise, air quality, and visual resources.
- Potential impact of the LNG terminal on air traffic at the North Bend airport.
- Potential for geological hazards, including seismic activity, to have impacts on both the proposed LNG import terminal and sendout pipeline.
- Potential impacts of the pipeline on waterbodies and wetlands, including issues of erosion control.
- Potential impacts of the pipeline on vegetation, including the clearing of forest.
- Potential impacts of the pipeline on threatened and endangered species, and wildlife habitat.
- Potential impacts of the pipeline on cultural resources.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the planned project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please follow these instructions:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426 .
- Label one copy of your comments for the attention of DG2E/G3.
- Reference Docket Nos. PF06–25–000 and PF06–26–000 on the original and both copies.
- Mail your comments so that they will be received in Washington, DC on or before July 24, 2006. We will provide the Coast Guard with copies of all comments received by the FERC during the scoping period.

The Commission strongly encourages electronic filing of any comments in response to this NOI. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide as well as information in 18 CFR 385.2001(a)(1)(iii). Before you can file comments you will need to create a free account, which can be accomplished on-line.

The public scoping meetings (dates, times, and locations listed above) are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues that they believe should be addressed in the EIS. A transcript of each meeting will be generated so that your comments will be accurately recorded.

Once Jordan Cove and PCGP formally file their applications with the Commission, you may want to become an ''intervenor,'' which is an official party to the proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that you may *not* request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Environmental Mailing List

If you wish to remain on the environmental mailing list, please return the attached Mailing List Retention Form (Appendix 2 of this NOI). If you do not return this form, we will remove your name from our mailing list.

To reduce printing and mailing costs, the draft and final EIS will be issued in both compact disk (CD–ROM) and hard copy formats. The FERC strongly encourages the use of CD–ROM format in its publication of large documents. Thus, all recipients will automatically receive the EIS on CD–ROM. If you wish to receive a paper copy of the draft EIS instead of a CD–ROM, you must indicate that choice on the return mailer.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC (3372) or on the FERC Internet website (*http://www.ferc.gov*) using the ''eLibrary link.'' Click on the eLibrary link, select ''General Search'' and enter the project docket number excluding the last three digits (i.e., PF06–25 or PF06–26) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or by e-mail at *FercOnlineSupport@ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.*

Finally, Jordan Cove and PCGP have established their own Internet websites for this project. The Web sites includes a project overview, status, answers to frequently asked questions, and links to related documents. The Jordan Cove Web site is at *http://www.jordancoveenergy.com.* The PCGP Web site is at *http://www.pacificconnectorgp.com.* Additional information can be obtained directly from Jordan Cove by calling Bob Braddock at 541–266–7510 (e-mail: bobbraddock@attglobal.net) or from PCGP by calling Jan Camp at 360–666–2106 (e-mail: *pacificconnector@williams.com*).

Magalie R. Salas,

Secretary.

[FR Doc. E6–10304 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2698–033—North Carolina, East Fork Hydroelectric Project]

Duke Power Company LLC; Notice of Revised Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

June 23, 2006.

On May 12, 2006, the Federal Energy Regulatory Commission (Commission) issued notice of a proposed restricted service list for the preparation of a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the East Fork Hydroelectric Project No. 2698. Rule 2010(d)(1) of the Commission's Rules of Practice and Procedure, 18 CFR 2010(d)(1) (2005), provides for the establishment of such a list for a particular phase or issue in a proceeding to eliminate unnecessary expense or improve administrative efficiency. Under Rule 2010(d)(4), persons on the official service list are to be given notice of any proposal to establish a restricted service list and an opportunity to show why they should also be included on the restricted service list or why a restricted service list should not be established.

On May 30, 2006, Jackson County, North Carolina; Macon County, North Carolina; the Town of Franklin, North Carolina; the Friends of Lake Glenville Association, Inc.; and the Dillsboro Inn and TJ Walker (jointly) filed a joint response to the notice, requesting that: (1) They be included in the development of the programmatic agreement; (2) the Commission not establish a restricted service list; and (3) the Commission establish a protocol to protect cultural resource information during the development of the programmatic agreement.

Under Rule 2010(d)(2), any restricted service list will contain the names of each person on the official service list, or the person's representative, who, in the judgment of the decisional authority establishing the list, is an active participant with respect to the phase or issue in the proceeding for which the list is established. The joint filers have identified an interest in issues relating to the management of historic properties at the East Fork Project. Therefore, they and their representatives will be added to the restrictive service list.

The joint filers assert that they have a direct interest in ensuring that the decision-making process is open for public review. Apart from this, they have not identified a reason why a restrictive service list should not be established. A restricted service list facilitates consultation under section 106 of the National Historic Preservation Act by ensuring that only those parties who are actively participating in this phase of the proceeding are included, thus improving administrative efficiency and eliminating unnecessary expense. However, the establishment of a restricted service list does not restrict public access to information concerning the consultation. All filings and correspondence leading to the development of the programmatic agreement, as well as the agreement itself, will be placed in the docket for this proceeding and, thus, will be publicly available. In addition, Commission regulations provide procedures for protecting sensitive cultural resource information, such as the location of historic properties, and parties to the restricted service list must follow these procedures. Therefore, there is no need to establish protocols for the protection of this information. See 18 CFR 388.112.

Accordingly, the restricted service list issued on May 12, 2006, for the East Fork Project No. 2698 is revised to add the following persons:

Thomas J. Walker, Dillsboro Inn, 146 North River Road, P.O. Box 270, Dillsboro, NC 28725.

Joe Collins, Mayor, Town of Franklin, 188 W Main St, Franklin, NC 28734–2949.

Philip M. Marston, Marston Law, 218 N. Lee Street, Suite 300, Alexandria, VA 22314.

Carol Adams, President, Friends of Lake Glenville, P.O. Box 493, Glenville, NC 28736–0493.

Paul V. Nolan, 5515 17th Street North, Arlington, VA 22205–2722.

Kenneth L. Westmoreland, Manager, Jackson County Government, 401 Grindstaff Cove Rd, Sylva, NC 28779–3250.

Sam Greenwood, Manager, Macon County, County Manager Office, 5 West Main Street, Franklin, NC 28734–3005.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10303 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–2299–057]

Modesto Irrigation District; Turlock Irrigation District; Notice To Hold a Public Meeting To Discuss the 10-Year Fisheries Summary Report for the Don Pedro Project

June 23, 2006.

The Modesto Irrigation District and the Turlock Irrigation District (licensees) filed a Fisheries Summary Report on March 25, 2005, pursuant to Article 58 of the license, as amended [1]. The Commission noticed the filing on June 24, 2005, and solicited comments, motions to intervene, and protests. Comments were due by July 25, 2005, and replies to comments were due August 25, 2005. Requests for additional time to comment were filed and were granted by order issued September 20, 2005, with revised filing dates of November 22, 2005, for comments and December 22, 2005, for responses to comments. Comments, responses to comments, and motions to intervene were received.

The Commission staff will conduct a public meeting based on the filings of the licensees' report and comments received to date. The meeting will allow Commission staff to discuss: (1) Information filed with the Commission by the various parties concerning the 10-year summary report on the licensees' chinook salmon studies, monitoring, and non-flow mitigation efforts on the Tuolumne River since 1995; (2) information on Central Valley steelhead to determine what effects, if any, may be occurring; and (3) whether to require further monitoring studies and changes in project structures and operations to protect fishery resources in the Tuolumne River.

The meeting will focus on the above topics to clarify information currently in the project file. Commission staff will be prepared to lead a discussion using information that has been filed by the various parties. Commission staff asks all parties that participate to be prepared to support their oral statements with documented information.

The meeting will be held on Tuesday, July 25, 2006, from 9 a.m. to 5 p.m. (PST) at the John E. Moss Federal Building and Courthouse, 650 Capitol Mall, Stanford Room, 1st floor, Sacramento, California 95814. The licensees, resource agency personnel, and other persons interested in these issues are invited to participate. The meeting will be recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Special security precautions are employed at this Federal building. Visitors must go through full security screening and are not permitted to bring in cell phones or cameras with digital photo capability. Laptops and PDAs must be booted up at the security entrance. Any questions about this notice should be directed to Philip Scordelis at the Federal Energy Regulatory Commission, (415) 369–3335, or by e-mail at *philip.scordelis@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–10300 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

[1] See 76 FERC ¶ 61, 117 (1996).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–398–000]

West Texas Gas, Inc.; Notice of Gas Cost Reconciliation Report

June 23, 2006.

Take notice that on June 20, 2006, West Texas Gas, Inc., (WTG) tendered for filing its annual purchased gas cost reconciliation for the period ending April 30, 2006. Under Section 19, any difference between WTG's annual actual purchased gas costs and its spot market-based pricing mechanism is refunded or surcharged to its two jurisdictional customers annually, with interest. WTG states that the report indicates that WTG over-collected its actual costs by $18,708 during the reporting period.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time June 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10310 Filed 6–29–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2002–0302; FRL–8075–9]

Dichlorvos Interim Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Interim Reregistration Eligibility Decision (IRED) for the organophosphate (OP) pesticide dichlorvos (DDVP), and opens a public comment period on this document. The Agency's risk

assessments and other related documents also are available in the DDVP Docket. DDVP is an organophosphate insecticide and fumigant registered for use in controlling flies, mosquitoes, gnats, cockroaches, fleas, and other insect pests. EPA has reviewed DDVP through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before August 29, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2002–0302, 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 Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2002–0302. 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 Federal 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. 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 Drive, 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: Dayton Eckerson, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8038; fax number: (703) 308–8005; e-mail address: *eckerson.dayton@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

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA completed an IRED for the OP pesticide DDVP on June 23, 2006, and is now issuing this document for public comment. DDVP is an OP insecticide and fumigant registered for use in controlling flies, mosquitoes, gnats, cockroaches, fleas, and other insect pests. Formulations of DDVP include pressurized liquid, granular, emulsifiable concentrate, total release aerosol, and impregnated material. DDVP is applied with aerosols and fogging equipment, with ground spray equipment, and through slow release from impregnated materials, such as resin strips and pet collars. DDVP is registered to control insect pests on agricultural sites; commercial, institutional and industrial sites; and for domestic use in and around homes (i.e., resin strips) and on pets. DDVP is used preplant in mushroom houses, and postharvest in storage areas for bulk, packaged and bagged raw and processed agricultural commodities, food manufacturing/processing plants, animal premises, and non-food areas of food-handling establishments. It is also registered for direct dermal pour-on treatment of cattle and poultry, and swine. DDVP is not registered for direct use on any field grown commodities. The DDVP IRED presents the Agency's conclusions on the risks posed by exposure to DDVP alone; however, section 408(b)(2)(D)(v) of the Federal Food, Drug, and Cosmetic Act (FFDCA) directs the Agency also to consider available information on the cumulative risk from substances sharing a common mechanism of toxicity. Because the OP pesticides share a common mechanism of toxicity, the Agency will evaluate the cumulative risk posed by this group before making final reregistration eligibility decisions on individual OPs.

During completion of the OP cumulative assessment, the Agency is proceeding with risk assessments and interim risk management for individual OP pesticides. EPA has determined that, but for the cumulative risk assessment, the data base to support DDVP reregistration is substantially complete and that products containing DDVP will be eligible for reregistration, provided the risks are addressed in the manner described in the IRED. After assessing OP cumulative risks, EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing DDVP. When the Agency finalizes decisions for DDVP and other OP pesticides, further risk mitigation may be required for DDVP. On completion of these final decisions for DDVP and other OP pesticides, EPA will also consider all DDVP tolerances, or legal limits, for residues of DDVP in or on food commodities to be reassessed in accordance with the current FFDCA safety standard.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, was published in the **Federal Register** on May 14, 2004 (69 FR 26819) (FRL–7357–9). DDVP was reviewed through the public participation process during which, EPA worked with stakeholders and the public to reach the regulatory decisions for DDVP.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely reregistration decisions and to involve the public. The Agency is issuing the DDVP IRED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the IRED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for DDVP. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the IRED in the **Federal Register**. In the absence of substantive comments requiring changes, the risk management decisions reflected in the DDVP IRED will be implemented as presented. These decisions may be supplemented by further risk mitigation measures when EPA considers its cumulative assessment of the OP pesticides.

The Agency received a submission on June 2, 2006, from the Natural Resources Defense Council (NRDC), petitioning the Agency to conclude the DDVP Special Review, Reregistration and Tolerance Reassessment processes, and to revoke all tolerances and cancel all registrations for DDVP. This petition has been placed in the public docket. The IRED released today does not constitute a response to this petition. The Agency is currently reviewing this petition and will respond to it in conjunction with all other public comments received, after the comment period on the IRED closes.

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

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product-specific data on individual end-use products and either reregistering products or taking other "appropriate regulatory action."

Section 408(q) of FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 23, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 06–5892 Filed 6–29–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2002–0302;FRL–8075–2]

Dichlorvos (DDVP); Notice of Receipt of Request to Amend to Terminate Uses of Certain 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 a request by the registrant to amend their registrations to terminate uses of certain products containing the pesticide DDVP. The request would terminate DDVP use in or on: Mushroom house (hand held fogger); Greenhouse (hand held fogger); Warehouse (hand held fogger); Residential Crack and Crevice use; Residential Total Release Fogger; Lawn, Turf and Ornamentals; 21 gram Pest Strip; 65 gram Pest Strip; 80 gram Pest Strip; and 100 gram Pest Strip. The request would not terminate the last DDVP 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. In addition, EPA will not approve the request as to the 21 gram, 65 gram, or 80 gram pest strips prior to EPA approving the replacement registrations,

per the registrant's May 9, 2006 letter to EPA. 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 July 31, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2002–0302, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2002–0302. 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 Federal 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. 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 Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Dayton Eckerson, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8038; fax number: (703) 308–8005; e-mail address: *eckerson.dayton@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 Amend Registrations to Delete Uses

This notice announces receipt by EPA of a request from registrant Amvac Chemical Corporation to amend to terminate uses of DDVP product registrations. DDVP is an organophosphate insecticide and fumigant registered for use in controlling flies, mosquitoes, gnats, cockroaches, fleas, and other insect pests. Formulations of DDVP include pressurized liquid, granular, emulsifiable concentrate, total release aerosol, and impregnated material. DDVP is applied with aerosols and fogging equipment, with ground spray equipment, and through slow release from impregnated materials, such as resin strips and pet collars. DDVP is registered to control insect pests on agricultural sites; commercial, institutional and industrial sites; and for domestic use in and around homes (i.e., resin strips) and on pets. DDVP is used preplant in mushroom houses, and postharvest in storage areas for bulk, packaged and bagged raw and processed agricultural commodities, food manufacturing/processing plants, animal premises, and non-food areas of food-handling establishments. It is also registered for direct dermal pour-on treatment of cattle and poultry, and swine. DDVP is not registered for direct use on any field grown commodities. In a letter dated May 9, 2006, Amvac Chemical Corporation requested EPA to amend to terminate uses of pesticide product registrations identified in this notice (Table 1). Specifically, the request would terminate DDVP use in or on: Mushroom house (hand held fogger); Greenhouse (hand held fogger); Warehouse (hand held fogger); Residential Crack and Crevice use; Residential Total Release Fogger; Lawn, Turf and Ornamentals; 21 gram Pest Strip; 65 gram Pest Strip; 80 gram Pest Strip; and 100 gram Pest Strip. The request would not terminate the last DDVP products registered for use in the U.S.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of a request from a registrant to amend to terminate uses of DDVP product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 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 DDVP registrant has requested that EPA waive the 180–day comment period. EPA will provide a 30–day comment period on the proposed requests.

Unless the Agency determines that there are substantive comments that warrant further review of this request, an order will be issued amending the affected registrations. However, EPA will not approve the request as to the 21 gram, 65 gram, or 80 gram pest strips prior to EPA approving the replacement registrations, per the registrant's May 9, 2006 letter to EPA.

TABLE 1.—DDVP PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Product name	Company
5481–96	DDVP TECHNICAL GRADE	Amvac Chemical Corporation
5481–338	ALCO NO-PEST STRIP	Amvac Chemical Corporation
5481–344	AMVAC INSECT STRIP	Amvac Chemical Corporation
5481–348	ALCO PEST STRIP	Amvac Chemical Corporation
5481–461	AMVOS RESTECH	Amvac Chemical Corporation
5481–462	AMVOS LIQUITECH	Amvac Chemical Corporation

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 AMENDMENTS

EPA Company No.	Company Name and Address
5481	Amvac Chemical Corporation, 4695 MacArthur Court, Suite 1250, Newport Beach, CA 92660

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. 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 amendments to terminate uses, the Agency proposes to include the following provisions for the treatment of any existing stocks of the pest strip products identified or referenced in Table 1: Amvac's request for voluntary deletion of pest strip uses is conditioned upon EPA issuing a cancellation order that will not prevent any sale or distribution of product to any end use registrant or supplemental distributor (''Distributor'') bearing previously approving labeling before December 31, 2007, and will not prevent any sale or distribution of such product by retailers. Amvac's request is further conditioned upon EPA allowing the sale or distribution of such product by Distributors after that date if such sale or distribution is for purposes of (i) return of material to Amvac, (ii) proper disposal, or (iii) export consistent with the requirements of section 17 of FIFRA.

However, with respect to the following uses:

- Mushroom house (hand held fogger);
- Greenhouse (hand held fogger);
- Warehouse (hand held fogger);
- Residential Crack and Crevice use;
- Residential Total Release Fogger; and
- Lawn, Turf and Ornamentals.

The Agency proposes to include the following provisions for the treatment of any existing stocks: The distribution, sale or use of any existing stocks of such products will not be permitted, except the EPA intends to allow the sale or distribution for purposes of (i) return of material to Amvac, (ii) proper disposal, or (iii) export consistent with the requirements of section 17 of FIFRA.

If the request for voluntary use termination is granted, the Agency intends to publish the cancellation order in the **Federal Register**.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 23, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 06–5893 Filed 6–29–06; 8:45 am]

BILLING CODE 6560–50–S

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 July 17, 2006.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Daniel T Sims and Nicolette B. Sims, Leawood, Kansas, and Daniel T. Sims, co-trustee of the Will Ben Sims Marital Trust and the Patricia L. Sims Family Trust; Stephen L. Riffel and Mary Susan Riffel, Moberly, Missouri; and Mary Susan Riffel as co-trustee of the Patricia L. Sims Family Trust; Will Ben Sims Marital Trust, Moberly Missouri; Patricia L. Sims Family Trust, Moberly, Missouri; to acquire control of Chariton County Bancshares, Inc., Moberly, Missouri, and thereby acquire control of County Bank, Brunswick, Missouri.

Board of Governors of the Federal Reserve System, June 27, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–10278 Filed 6–29–06; 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 July 24, 2006.

A. Federal Reserve Bank of Cleveland (Cindy West, Manager) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. S&T Bancorp, Inc., Indiana, Pennsylvania; to acquire up to 9.9 percent of the voting shares of CBT Financial Corporation, Clearfield, Pennsylvania, and thereby indirectly acquire Clearfield Bank and Trust Company, Clearfield, Pennsylvania.

Board of Governors of the Federal Reserve System, June 26, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–10268 Filed 6–29–06; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Proposed Privacy Act System of Records

AGENCY: General Services Administration

ACTION: Notice of a system of records subject to the Privacy Act of 1974

SUMMARY: The General Services Administration (GSA) is providing notice of the designation of the FedBizOpps (FBO) (GSA/OAP–4) system as a system of records under the Privacy Act. The purpose of FedBizOpps is to collect, maintain, and disseminate information on Federal procurement solicitations to the public. The system also collects voluntary contact information (e-mail address) on individuals and company information on vendors who use FedBizOpps to find and respond to Federal business opportunities for their products and/or services. System information is used to administer and manage Federal buyer access, maintain interested vendor lists, and keep vendors informed of Federal solicitations of business interest.

DATES: This notice for the FedBizOpps (FBO) system will become effective on August 9, 2006 unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments should be directed to Stuart Dvorkin, FBO Program Manager, FedBizOpps Program Office, General Services Administration, Federal Supply Service (GSA/FIB), Crystal Mall Four, Room 804 (CM4–804), 1901 South Bell Street, Arlington VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street NW, Washington DC 20405; telephone (202) 501–1452.

Dated: June 20, 2006.

JUNE V. HUBER

Director, Office ofInformation Management

GSA/ OAP–4

SYSTEM NAME:

FedBizOpps (FBO)

SYSTEM LOCATION:

Records are maintained in electronic form in the GSA Federal Supply Service

(FSS) FedBizOpps production facilities, hosted by a contractor in Sterling VA and Chicago IL. Contact the system manager for additional information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. *Interested individuals.* Individuals who request information from the FedBizOpps system. The contact is voluntary. The individual's e-mail address is used to respond to requests and inquiries.

b. *Interested vendors*. Contact information provided by vendors and/or individuals who are sole proprietors. Vendors may voluntarily establish a Vendor Notification Profile in FedBizOpps, within the secure production portion of the system. The vendor is notified by the system when selected FedBizOpps postings occur that are of interest to that vendor based on the profile.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system maintains an inventory of Federal solicitations and related documents, and vendor contact information. System information includes:

a. Organizational, contact, and access control information on Federal contracting officials authorized to access and use the FedBizOpps system services for the management, administration, and posting of Federal solicitation information and related documents.

b. Contact information in the form of an e-mail address, provided voluntarily by vendors and other individuals who wish to use FedBizOpps to be kept informed of Federal procurements and/or specific solicitations of interest. Vendors also may choose to be included on the Interested Vendors Listing (IVL) to further eCommerce opportunities. A vendor may provide any or all of the data in the Interested Vendor Listing, which consists of Company Name, Address, Phone Number(s), E-mail address(es), Name of Point of Contact, and Business Type.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM: 15 U.S.C. 637 AND 41 U.S.C. 416.

PURPOSE:

To establish and maintain a system for posting, finding, and retrieving Federal solicitation information for procurements valued over $25,000; and to disseminate Federal solicitations to interested public individuals and businesses.

ROUTINE USES OF THE SYSTEM RECORDS, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSE FOR USING THE SYSTEM:

System information may be accessed and used by authorized Federal contracting officials to post Federal solicitation information and related documents in the conduct of official Federal business or by Federal contractors, vendors, and/or interested individuals to search, monitor, find, and/or respond to Federal solicitations of interest.

Information from this system also may be disclosed as a routine use:

a. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.

b. To a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order when GSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

c. To duly authorized officials engaged in investigating or settling a grievance, complaint, or appeal filed by an individual who is the subject of the record.

d. To the Office of Personnel Management (OPM) and the Government Accountability Office (GAO) when the information is required for evaluation of the program.

e. To a Member of Congress or his or her staff on behalf of and at the request of the individual who is the subject of the record.

f. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

g. To the National Archives and Records Administration (NARA) for records management purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF SYSTEM RECORDS:

STORAGE:

Information is collected electronically and is stored on readily accessible hard drives, backed up to tape media.

RETRIEVABILITY:

Federal government electronic solicitation records and related documents are readily retrievable by the general public using the search and retrieval and/or drill-down select and retrieval capabilities of FedBizOpps. The Federal buyer and interested individual (vendor) contact information described in the Categories of Records in the System paragraph is accessible only to authorized Federal officials and to the FedBizOpps system services that use the information for its intended purposes.

SAFEGUARDS:

System records are safeguarded in accordance with the requirements of the Privacy Act, the Computer Security Act, and the FedBizOpps System Security Plan. Technical, administrative, and personnel security measures are implemented to ensure confidentiality and integrity of the system data that is stored, processed, and transmitted, including password protection and other appropriate security measures.

RETENTION AND DISPOSAL:

Disposition of records is according to the National Archives and Records Administration (NARA) guidelines, as set forth in the GSA Records Maintenance and Disposition System handbooks OAD P 1820.2A and CIO P 1820.1, and authorized GSA records schedules.

SYSTEM MANAGER AND ADDRESS:

FBO Program Manager, FedBizOpps Program Office, General Services Administration, Federal Supply Service (GSA/FIB), Crystal Mall Four, Room 804 (CM4–804), 1901 South Bell Street, Arlington VA 22202–4502.

NOTIFICATION PROCEDURE:

An individual may obtain information on whether the system contains his or her record by addressing a request to the FedBizOpps (FBO) Program Manager at the above address.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to their records should be addressed to the FedBizOpps (FBO) Program Manager at the above address.

CONTESTING RECORD PROCEDURES:

GSA rules for access to systems of records, for contesting the contents of systems of records, and for appealing initial determinations are published in the **Federal Register**, 41 CFR part 105–64.

RECORD SOURCE CATEGORIES:

Information is obtained from individuals who are Federal contracting officials authorized to use the FedBizOpps system for official Federal business or who are individuals voluntarily providing contact information using FedBizOpps vendor services in order to be notified of solicitations of interest.

[FR Doc. 06–5902 Filed 6–29–06; 8:45 am]

BILLING CODE 6820–34–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Applications for the Intergenerational Approaches to HIV/AIDS Prevention Education With Women Across the Lifespan Pilot Program

AGENCY: Office on Women's Health, Office of Public Health and Science, Office of the Secretary, HHS.

ACTION: Notice.

Announcement Type: Cooperative Agreement—FY 2006 Initial announcement.

Funding Opportunity Number: Not applicable.

OMB Catalog Of Federal Domestic Assistance: The OMB Catalog of Federal Domestic Assistance number is pending.

DATES: To receive consideration, the applications must be received by the Office of Grants Management, Office of Public Health and Science (OPHS), Department of Health and Human Services (DHHS), no later than July 31, 2006.

Pre-site visits (if needed)—July 10–14, 2006.

Award date—September 1, 2006.

SUMMARY: The Office on Women's Health (OWH) in the Department of Health and Human Services (DHHS) is the government's focal point for women's health issues, and works to redress inequities in research, health care services, and education that have historically placed the health of women at risk. The OWH coordinates women's health efforts within DHHS to eliminate disparities in health status and supports culturally sensitive educational programs that encourage women to take personal responsibility for their own health and wellness. To that end, OWH has established public/private partnerships to address critical women's health issues nationwide. These partnerships are with non-profit community-based, faith-based, and women's service organizations (CBOs, FBOs, WSOs) innovating intergenerational approaches for HIV/AIDS prevention education targeting women disproportionately impacted by HIV/AIDS across the lifespan. African American and Latino women constituted 25 percent of the U.S. female population in 2002, but 81.5 percent of the reported female AIDS cases (65 percent were among African Americans and 16.5 percent were among Hispanics). (1) The number of Asian/Pacific Islanders and American Indian/Alaskan Native women living with AIDS continues to rise, with an approximately 10 percent increase each year over the past 5 years. (2) Women disproportionately impacted by HIV/AIDS are vulnerable for the disease because they lack accurate information about the virus; are impacted by cultural factors that decrease their abilities to protect themselves against HIV; have low to no condom negotiation skills; are faced with low socioeconomic circumstances; suffer from sexual abuse; struggle with violence and other traumas perpetrated against women, and lack information and skills to share sexual health information with other female members in the family. To this end, the Intergenerational Approaches to HIV/AIDS Prevention Education with Women Across the Lifespan Pilot Program intends to: (1) Develop a cross-generational HIV/AIDS prevention education program to establish effective and/or increase communication about sexual health between African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women at risk for or living with HIV/AIDS with other female family and/or kinship network members 12+ years old; (2) provide opportunities for African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women and other female members of the family 12+ years old to know their serostatus; and (3) address the age-, gender-, cultural-, spiritual-, and language-specific needs of African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women and other female members of the family 12+ years old regarding their sexual health issues, particularly HIV/AIDS prevention so they may decrease their risks for disease.

This program builds on Minority AIDS Initiative- and Office on Women's Health-funded Women and HIV/AIDS Programs (e.g., Model Mentorship Program; HIV Prevention Education for Young Women Attending Minority Academic Institutions) by addressing HIV/AIDS issues using the strength of familial and kinship networks, as well as women-specific vulnerabilities to acquiring the virus.

HHS Collaborative Partners

(1) The OWH is the lead for this program and will be responsible for project officer duties.

(2) The following DHHS agencies and offices have agreed to establish a collaborative partnership:

- Office on Women's Health (OWH), OPHS.
- Substance Abuse Mental Health Services Administration (SAMHSA).
- Office of HIV/AIDS Policy (OHAP), OPHS.
- Indian Health Service (IHS).
- Administration on Aging (AOA).
- Office of Population Affairs (OPA).
- Administration for Children and Families (ACF).
- Center for Faith-Based Community Initiatives (CFBCI).

Together these agencies agree to recruit technical review panelists to evaluate grant proposals; make presentations during the orientation meetings; provide advice and materials during the program year; provide advice during quarterly project monitoring teleconferences; and serve as site evaluation team members and/or assist in development of site evaluation form.

I. Funding Opportunity Description

Administration Authority: This program is authorized by 42 U.S.C. 300u-2(a).

The purpose of the Intergenerational Approaches to HIV/AIDS Prevention Education with Women Across the Lifespan Pilot Program is to develop cross-generational HIV/AIDS prevention education approaches specific to women at risk for or living with HIV/AIDS and other female members of the family 12+ years old , particularly African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women from the Diaspora who are grandmothers, mothers, daughters, granddaughters, and aunts. The goals of the program are:

- To teach cross-generations of women and other female members of the family 12+ years old how to develop healthy communication patterns built on caring, trusting familial relationships; and
- Equip women to give accurate information about their sexual health issues between other female members of the family 12+ years old by incorporating gender-focused, age-specific, culturally competent, and linguistically-appropriate HIV/AIDS prevention information.

The objectives of the program are for African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women and other female members of the family 12+ years old to:

- Know their serostatus;
- Increase their knowledge of HIV/AIDS prevention;
- Gain competencies in cross-generational communications about health in general and sexual health specifically; and
- Connect with a primary healthcare physician (and navigate other systems of care).

In order to achieve the objectives of the program, the grantee shall:

A. During months 1–5 (start-up phase):

1. Attend the OWH Grantee Orientation Meeting. It will be conducted by OWH and DHHS Collaborating Partners (OHAP, IHS, AOA, OPA, ACF, and CFBCI).

2. Hire and all train staff:

a. Request local health department to conduct in-service training on how to establish a review process for conducting a local program evaluation to measure whether goals and objectives are met.

3. Complete program development, including but not limited to the following activities:

a. Complete development of training modules, assessment tools, and protocols necessary to present an intergenerational approach for HIV/AIDS prevention education to reach African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander women at risk for or living with HIV/AIDS and other female members of the family 12+ years old that reflects: (Note: Grantee must reach only *one* racial/ethnic minority group)

• The cultural, spiritual, and/or ritual factors that bridge traditional and American mores and values for women at risk for or living with HIV/AIDS, especially African American; Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander; and,

• Incorporate the ''ABC'' message as strategies to prevent HIV/AIDS; specifically, for adolescents and unmarried individuals, the message should include ''A'' for abstinence; for married individuals or those in committed relationships, the message is ''B'' for be faithful; and, for individuals who engage in behavior that puts them at risk for HIV, the message should include ''A,'' ''B,'' and ''C'' for correct and consistent condom use.

• Evidence-based (with U.S. Government policies) HIV/AIDS prevention education curricula designed to reach women at risk for or living with HIV/AIDS and other female members of the family 12+ years old.

b. With adapted tools from local health department, develop the local program evaluation to measure whether the program goals and objectives are met.

4 Recruit a Team of Consumers to give feedback on what works best during all phases of program development and implementation.

5. Recruit community stakeholders with the following roles:

a. Provide HIV testing opportunities for focus group participants (and consumer advisory team).

b. Provide age-specific referral services via scheduled weekly appointments for women at risk for or living with HIV/AIDS and other female members of the family 12+ years old to receive counseling services from a licensed female behavioral health therapist with expertise in counseling women and other female members of the family 12+ years old most vulnerable for acquiring HIV/AIDS, e.g. counseling to address fear, stigma, abuse, and other areas of need that prevent participants from practicing healthy behaviors.

6. Recruit women at risk for or living with HIV/AIDS to participate in focus groups to:

• Identify gender-focused concerns of women most vulnerable for acquiring HIV/AIDS to be included in trainings;

• Identify age- and culturally-specific barriers to effective cross-generational communication for each women and other female members of the family 12+ years old disproportionately impacted by HIV/AIDS, for instance, African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women from the Diaspora;

• Adult minority women participants to develop strategies for recruiting other female members of the family 12+ years old;

• Participate in small group piloting of the training;

• Provide entry to untapped venues to recruit additional participants;

• Recruit age-appropriate peer support group leaders;

• Recruit peers to get tested for HIV; and

• Recruit peers to participate in program.

7. Submit:

a . Four abstracts for workshop and/or poster presentations at one national HIV/AIDS conference targeting public health professionals; *and*

b. Four abstracts for one community conference attracting an audience of consumers.

8. Require all program staff, consultants, and volunteers to attend OWH site evaluation visit.

9. Identify twenty funding opportunities and submit four applications.

10. Before start-up phase ends, recruit African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women at risk for or living with HIV/AIDS in places where they naturally gather both as a family and individually, including but not limited to:

• Churches and other places of worship.

• Alumni associations of academic institutions for higher learning.

• Women's professional organizations/social organizations.

• PTA meetings.

• Commercial fitness centers.

• Beauty centers.

• English as a Second Language (ESL) courses.

• Conferences.

• Sporting events.

• Supermarkets.

11. Submit OWH initial progress report.

B. During months 6–8 (pilot-test phase 1):

1. Pilot-test program and make program adaptations.

a. Professional counseling services by licensed female behavioral therapist with expertise in counseling women at risk for or living with HIV/AIDS and other female members of the family 12+ years old to be offered to program participants.

b. Peer group support to be offered to program participants.

c. Review and measure success of meeting goals and objectives to-date.

2. Convene scheduled meetings for the:

a. Team of Consumers.

b. Community stakeholders.

3. Require program participants, Team of Consumers, and community stakeholders to recruit new program participants.

4. Receive confirmation for (2) conference presentations.

5. Submit four applications to Federal and non-Federal funding sources.

6. Submit OWH mid-year progress report.

C. During months 9–12 (pilot phase 2).

1. Conduct program with adaptations finalized from pilot phase 1:

• Offer counseling to program participants.

• Offer peer group support to program participants.

2. Convene final meetings for the:

a. Team of Consumers.

b. Community stakeholders.

3. Review the success of meeting program goals and objectives.

4. Conduct one presentation (workshops, panels, posters) on the program at a national HIV/AIDS prevention conference targeting public health professionals.

5. Conduct one presentation (workshops, panels, posters) on the program at one community conference targeting consumers.

5. Submit four applications to Federal and non-Federal funding sources.

6. Submit OWH final progress report.

7. Submit OWH annual report.

II. Award Information

Under this announcement, the OWH anticipates making four cooperative agreement awards. Approximately $1,000,000 is available to make four awards of up to $250,000 each. It is expected that the award will cover costs for the period September 1, 2006 through August 31, 2007. Funding estimates may change.

III. Eligibility Information

1. Eligible Applicants

Eligible entities may include: non profit community-based organizations, faith-based organizations, national organizations, colleges and universities, clinics and hospitals, research institutions, State and local government agencies, tribal government agencies and tribal/urban Indian organizations.

2. Cost Sharing or Matching

Cost sharing and matching funds is not a requirement of this grant.

IV. Application and Submission Information

1. *Address to Request Application Package:* Application kits may be requested by calling (240) 453–8822 or writing to: Director, Office of Grants Management, Office of Public Health and Science, DHHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852. Applicants may fax a written request to the OPHS Office of Grants Management to obtain a hard copy of the applications kit at (240) 453–8823.

2. *Content and Format of Application and Submission:* At a minimum, each application for a cooperative agreement grant funded by this OWH announcement must:

- Describe the applicant's record of success in providing HIV/AIDS prevention education, support services, and/or other services (*e.g.*, other minority women's health issues; socioeconomic empowerment services; educational services) to women at risk for or living with HIV/AIDS.
- Describe the applicant's current HIV/AIDS prevention education, support services, and/or other services for the women at risk for or living with HIV/AIDS served by the agency.
- Give details on the barriers to cross-generational communication between grandmothers, mothers, daughters, aunts, and other female members of the family 12+ years old citing the impact of age, culture, traditions, and spirituality, as well as any trends or shifts in these areas.
- Clearly define the women at risk for or living with HIV/AIDS to be reached by giving demographic and HIV/AIDS data covering the applicant's local service area and State (must cite all data from credible sources only).
- Describe the applicant's work utilizing Teams of Consumers for feedback, in such cases where consumer feedback assisted in the design of new programs or making program adaptations that better meet the needs of those to be served.
- Describe in detail any focus groups convened by the agency to reach women at risk for or living with HIV/AIDS, including demographic information, focus group leadership, number of participants, number of sessions, topics for each session, participant age range, and outcomes of the focus groups.
- Describe the applicant's knowledge and/or experience with evidence-based HIV/AIDS prevention education curricula for women at risk for or living with HIV/AIDS in America. Cite your sources.
- Provide a timeline for start-up, two piloting phases, and the proposed intergenerational approach for HIV/AIDS prevention education with a description of the demographics for women at risk for or living with HIV/AIDS and other female members of the family 12+ years old to be reached.
- Provide a draft Plan of Action that links the applicant's timeline with delineated tasks to be accomplished over the three phases of the program.
- Give a detailed description of the participation of applicant in existing community collaborative efforts. Include information on the purpose for collaboration; goals and objectives; names and complete contact information for partners; roles of each partner; timeline; challenges; corrective actions; and achievements.
- Describe the applicant's competency or needs to build skills in reviewing whether program goals and objectives are met during all phases of the funding period.
- Describe the process for determining whether program goals and objectives are met during all phases of the funding period.

Format and Limitations of Application: Applicants are required to submit an original ink-signed and dated application and 2 photocopies. All pages must be numbered clearly and sequentially beginning with the Project Summary. The application must be typed double-spaced on one side of plain 8½″ x 11″ white paper, using 12 point font, and containing 1″ margins all around. The Project Summary and Project Narrative must not exceed a total of 25 *double-spaced* pages, excluding the appendices. The original and each copy must be stapled and/or otherwise securely bound. The application should be organized in accordance with the format presented in the Program Guidelines. An outline for the minimum information to be included in the "Project Narrative" section is presented below. The content requirements for the Project Narrative portion of the application are divided into five sections and described below within each Factor. Applicants must pay particular attention to structuring the narrative to respond clearly and fully to each review Factor and associated criteria.

Background (Understanding of the Problem)

A. Provide a preliminary assessment of the HIV/AIDS prevention and support service needs for women at risk for or living with HIV/AIDS to be reached in this program. The assessment must be an age-specific demographic and service need profile for African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander women disproportionately impacted by HIV/AIDS and other female members of the family 12+ years old in your local service area and State (cite data from credible sources only).

B. Describe issues or challenges that impact African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander women at risk for or living with HIV/AIDS to be able to have effective cross-generational communication about: (1) Their own sexual health issues; and (2) the health of female family or kinship network members 12+ years old about:

- Understanding a woman's body and how to care for it over the lifespan;
- Knowledge of ways to enhance health;
- Building and/or maintaining healthy relationships that include an understanding of health threats;
- Awareness of a primary healthcare system and how to access it;
- Skills to express feelings and concerns about one's sexual health issues to other female family or kinship network members 12+ years old;
- Awareness and ability to insure physical safety when threatened by sexual, physical, or emotional violence.

Implementation Plan (Approach)

A. State goals for achieving the intended purpose of the proposed Intergenerational Approaches to HIV/AIDS Prevention Education with Women Across the Lifespan Pilot Program: To develop a cross-generational HIV/AIDS prevention education approach specific to women at risk for or living with HIV/AIDS and other female members of the family 12+ years old, particularly African American women, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women from the Diaspora who are grandmothers, mothers, daughters, granddaughters, and aunts.

B. State quantifiable objectives for the number of African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander women at risk for or living with HIV/AIDS and other female members of the family 12+ years old to be reached for the proposed program.

C. Give a detailed Plan of Action and timeline covering:

- Start-up phase activities;
- First pilot phase activities; and
- Second pilot phase activities.

Management Plan

A. Key project staff, volunteer, and student interns; their resumes; and a staffing chart for budgeted staff.

B. To-be-hired staff and their qualifications, including but not limited to a contractual services of a licensed female behavioral health therapist with expertise in counseling African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women at risk for or living with HIV/AIDS and other female members of the family 12+ years old.

C. Staff, consultant/sub-contractor, volunteer, and student intern responsibilities.

D. Management oversight of staff roles and job performance.

E. Address maintenance of confidentiality, ethics in performance, and any mandatory in-service staff training.

Evaluation Plan

A. Indicators that reflect goals/objectives are being met.

B. Indicators of any trends.

C. Indicators of any unanticipated outcomes.

Appendices

A. Required Forms (Assurance of Compliance Form, etc.).

B. Key Staff Resumes.

C. Charts/Tables (target population demographics, gaps in services, etc.).

D. Other attachments.

Use of Funds

A majority of the funds from the award must be used to support staff and efforts aimed at implementing the program. Funds may be used for supplies (including screening, education, and outreach supplies); local travel to perform duties of the funded HIV/AIDS prevention program; and out-of-town travel (required attendance at the OWH Grantee Orientation meeting *and* participation in one national HIV/AIDS prevention conference). Funds may *not* be used for construction, building alterations, equipment, medical treatment, or renovations. All budget requests must be justified fully in terms of the proposed goals and objectives and include an itemized computational explanation/breakout of how costs were determined.

Meetings

The OWH will sponsor a mandatory orientation meeting for grantees. The meeting will be held in the Washington metropolitan area or in one of the ten (10) HHS regional office cities. The budget should include a request for funds to pay for the travel, lodging, and meals. The meeting is usually held within the first eight weeks after awards are made.

The Federal Government (Project Officer) will:

A. Provide substantive guidance and advisement throughout the program funding period, particularly for training development, connecting grantees to OWH Regional Health Coordinators and HHS collaborating partners, to name a few.

B. Conduct an orientation meeting for the grantees (with other federal partners) within the first 8 weeks of the funding period.

C. Conduct at least one site evaluation visit (with DHHS Collaborative Partners) that may include observation of program during pilot or implementation phase.

D. Conduct quarterly project monitoring teleconferences (with DHHS Collaborative Partners).

E. Review all quarterly, final, and annual progress reports.

F. Review timeline and implementation plan.

3. *Submission Date and Times:* All completed applications must be submitted to the Office of Grants Management, OPHS, DHHS at the above mailing address. In preparing the application, it is important to follow ALL instructions provided in the application kit.

Applications must be submitted on the forms supplied (OPHS–1, Revised 6/2001) and in the manner prescribed in the application kits provided by the OPHS. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. The program narrative should not be longer than 25 double-spaced pages, not including appendices and required forms, using an easily readable, 12 point font. All pages, figures and tables should be numbered.

Submission Mechanisms

The OPHS provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant.

Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review. While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by using the *http://www.Grants.gov* Web site portal is encouraged.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement using one of the electronic submission mechanisms specified below. All required hard copy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hard copy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions Via the Grants.gov Web Site Portal

The *http://www.Grants.gov* Web site portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the *http://www.Grants.gov* Web site.

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the *http://www.Grants.gov* application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, must be submitted separately via mail to the OPHS Office of Grants Management, and, if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award.

Electronic applications submitted via the *http://www.Grants.gov* Web site portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. All required mail-in items must be received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation.

Upon completion of a successful electronic application submission via the *http://www.Grants.gov* Web site portal, the applicant will be provided with a confirmation page from *http://www.grants.gov* indicating the date and time (Eastern Time) of the electronic application submission, as well as the *http://www.grants.gov* Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the *http://www.grants.gov* Web site portal will be validated by *http://www.grants.gov*. Any applications deemed ''Invalid'' by the *http://www.grants.gov* Web site portal will not be transferred to the OPHS eGrants system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the *http://www.grants.gov* Web site portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the *http://www.grants.gov* Web site portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and *http://www.grants.gov* Application Receipt Number on all hard copy materials.

Once the application is validated by *http://www.grants.gov,* it will be electronically transferred to the OPHS eGrants system for processing. Upon receipt of both the electronic application from the *http://www.grants.gov* Web site portal, and the required hard copy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the *http://www.grants.gov* Web site portal.

Applicants should contact *http://www.grants.gov* regarding any questions or concerns regarding the electronic application process.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will be returned without review or comment. Applications that exceed the requested amount of $250,000 for a 12-month budget period may also be returned without review or comment. Applicants that are judged to be in compliance will be notified by the OPHS Office of Grants Management. Accepted applications will be reviewed for technical merit in accordance with DHHS policies.

4. *Intergovernmental Review:* This program is subject to the Public Health Systems Reporting Requirements. Under these requirements, a community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). Applicants shall submit a copy of the application face page (SF–424) and a one page summary of the project, called the Public Health System Impact Statement. The PHSIS is intended to provide information to State and local health officials to keep them apprised on proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions.

Community-based, non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted: (a) A copy of the face page of the application (SF 424), (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with the appropriate state or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to the OWH.

This program is also subject to the requirements of Executive Order 12372 that allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit to be made available under this notice will contain a listing of States that have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. Applicants (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC in each affected State. A complete list of SPOCs may be found at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.* The due date for State process recommendations is 60 days after the application deadline. The OWH does not guarantee that it will accommodate or explain its responses to

State process recommendations received after that date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR Part 100 for a description of the review process and requirements.)

5. *Funding Restrictions:* Funds may not be used for construction, building alterations, equipment purchase, medical treatment, renovations, or to purchase food.

6. *Other Submission Requirements:* Beginning October 1, 2003, all applicants are required to obtain a Data Universal Numbering System (DUNS) number as preparation for doing business electronically with the Federal Government. The DUNS number must be obtained prior to applying for OWH funds. The DUNS number is a nine-character identification code provided by the commercial company Dun & Bradstreet, and serves as a unique identifier of business entities. There is no charge for requesting a DUNS number, and you may register and obtain a DUNS number by either of the following methods:

Telephone: 1–866–705–5711.

Web site: *https://www.dnb.com/product/eupdate/requestOptions.html.*

Be sure to click on the link that reads, ''DUNS Number Only'' at the right hand, bottom corner of the screen to access the free registration page. Please note that registration via the web site may take up to 30 business days to complete.

V. Application Review Information

Criteria: The technical review of applications will consider the following factors:

Factor 1: Background/Understanding of the Problem (30%)

This section must discuss:

1. Applicant's experience providing HIV/AIDS prevention education, support services, and/or other services (e.g., women's health issues; socioeconomic empowerment services; educational services) to women at risk for or living with HIV/AIDS, particularly African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander women.

2. Applicant's description of the HIV/AIDS prevention and support service needs for the women at risk for or living with HIV/AIDS and other female members of the family 12+ years old to be reached in this program; must include a detailed assessment must with age-specific demographic and service need profile for minority females (African American, Native American/American Indian, Hispanic/Latino, and Asian/Pacific Islander) in the applicant's local service area.

3. Applicant's full description of the issues or challenges that impact women at risk for or living with HIV/AIDS specific to one of the racial/ethnic minority groups to be reached (African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander) relative to effective cross-generational communication about: 1) their own sexual health issues; and 2) the health of female family or kinship network members 12+ years old about:

• Understanding a woman's body and how to care for it over the lifespan.

• Knowledge of ways to enhance health.

• Building and/or maintaining healthy relationships that includes an understanding of health threats.

• Awareness of primary healthcare system and how to access it.

• Gaining skills to express feelings and concerns about one's sexual health issues to other female family or kinship network members 12+ years old.

• Increasing awareness and ability to secure a safe place to live first when threatened by sexual, physical, or emotional violence.

Factor 2: Implementation /Approach (25%)

This section must discuss:

1. Evidence provided of applicant's success in providing HIV/AIDS prevention education, support services, and/or other services (e.g., women's health issues; socioeconomic empowerment services; educational services) to women at risk for or living with HIV/AIDS who are African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander.

2. Applicant's goals, objectives, plan of action and timeline that fully describes how proposed intergenerational approach to HIV/AIDS prevention education for women at risk for or living with HIV/AIDS who are African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander addresses the barriers to cross-generational communication between grandmothers, mothers, daughters, granddaughters, and aunts and/or other adult female kinship members 12+ years old with the impact of age, culture, traditions, and spirituality, as well as any trends or shifts in these areas.

3. Evidence of applicant's work in establishing and/or convening African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander consumers for feedback on HIV/AIDS prevention, support, care, and/or treatment programs.

4. Evidence of applicant's work in identifying and/or working with community stakeholders, specifically for HIV/AIDS prevention, support, care, and/or treatment.

Factor 3: Management Plan (25%)

The applicant's proposal should contain:

1. Applicant's proposed staff and/or requirements for new staff adequately described in resumes (see Appendix); must include contractual services of a licensed female behavioral health therapist with expertise in counseling African American, Native American/American Indian, Hispanic/Latino, or Asian/Pacific Islander women at risk for or living with HIV/AID and other female members of the family 12+ years old.

2. Proposed staff level of effort;

3. Detailed position descriptions (appears in Appendix); and

4. Addresses maintenance of confidentiality, ethics in performance, and any mandatory in-service staff training.

Factor 4: Evaluation Plan (20%)

The applicant's proposal contains:

1. Clear statement of program goal(s);

2. Quantifiable objectives;

3. Clear indicators to analyze trends; and

4. Clear indicators to recognize unanticipated outcomes.

Review and Selection Process: Funding decisions will be made by the OWH, and will take into consideration the recommendations and ratings of the review panel, program needs, geographic location, stated preferences, and the recommendations of DHHS Regional Women's Health Coordinators (RWHC). Accepted applications will be reviewed for technical merit in accordance with DHHS policies. Applications will be evaluated by a technical review panel composed of experts in the fields of minority women's health issues, particularly HIV/AIDS prevention; community based, faith based, and women's service organizations delivery of HIV/AIDS prevention and support services; and federal and state government public health systems. Applicants are requested to pay close attention to the specific program guidelines and general instructions in the application kit that may be obtained from the Office of Grants Management, Office of Public Health and Science, DHHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852 and to the definitions provided in this notice.

Applications should be submitted to the Office of Grants Management, OPHS, DHHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852. Technical assistance on budget and business aspects of the application may be obtained from Office of Grants Management, Office of Public Health and Science, DHHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852, telephone: (240) 453–8822.

VI. Award Administration Information

1. *Award Notices:* Applicants will receive a Notice of Grant Award signed by the Grants Management Officer (GMO). This is the authorizing document and it will be sent electronically and followed up with a mailed copy.

2. *Administrative and National Policy Requirements:* The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (DHHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to state and local governments. Applicants funded under this announcement must be aware of and comply with these regulations. The CFR volume that includes parts 74 and 92 may be downloaded from *http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfrv1_03.html*.

The DHHS Appropriations Act requires that, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees shall clearly state the percentage and dollar amount of the total costs of the program or project which will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. *Reporting:* The applicant will submit an Initial Progress Report, a Mid-Year Progress Report, a Final Progress Report, an Annual Report detailing the entire funding year, and a Financial Status Report (in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR Parts 74 and 92). The Financial Status Report (FSR) SF–269 is due 90 days after the close of each 12-month budget period. OWH will provide Progress Report Forms and Annual Report Forms during the orientation meeting. The purpose of the progress reports is to provide accurate and timely program information to program managers and to respond to Congressional, Departmental, and public requests for information about the program. An original and two copies of the four report(s) must be submitted.

VII. Agency Contacts

- For budget and business aspects of the application, please contact: Eric West, Associate Grants Management Officer, Grants Management Office, OPHS, DHHS, 1101 Wootten Parkway, Suite 550, Rockville, MD 20857. Telephone: 240–453–8822.
- Questions regarding programmatic information and/or requests for technical assistance in the preparation of the grant application should be directed in writing to: Joanna Short, M. Div., Public Health Advisor, Office on Women's Health, OPHS, DHHS, H. Humphrey Building, Room 733E, 200 Independence Avenue, SW., Washington, DC 20201. Telephone: (202) 260–8420. E-mail: *JShort@osophs.dhhs.gov*.

VIII. Other Information

A. *Protection of Human Subjects Regulations.* The applicant must comply with the DHHS Protection of Human Subjects regulations (which require obtaining Institutional Review Board approval), set out as 45 CFR part 46, if applicable. General information about Human Subjects regulations can be obtained through the Office of Human Research Protections (PHRP) at *http://www.hhs.gov/ohrp*, or *ohrp@osophs.dhhs.gov*, or toll free at (866) 447–4777.

B. *Objectives of Healthy People 2010.* Emphasis will be placed on aligning OWH activities and programs with *Healthy People 2010:* Goal 2 to eliminate health disparities. More information on the Healthy People 2010 objectives may be found on the Healthy People 2010 Web site: *http://www.health.gov/healthypeople.*

C. *Definitions.*

Community-based organization: Public and private, non-profit organizations that are representative of communities or significant segments of communities.

Culturally competent: Information and services provided at the educational level and in the language and cultural context that are most appropriate for the individuals for whom the information and services are intended. Additional information on cultural competency is available at the following Web site: *http://www.aoa.dhhs.gov/May2001/factsheets/Cultural-Competency.html.*

Evidence-Based: DHHS recognizes HIV/AID prevention education approaches for reaching minority populations, namely education/training, outreach (street, media), and care services. Additional information on evidence-based HIV/AIDS prevention programs is available at the following Web site: *http://www.cdc.gov/hiv/pubs/hivcompendium/organize.htm.*

Gender-focused: An approach which, in considering the social and environmental contexts impacting women's lives therefore structures information, activities, program priorities, and service delivery systems that compliment those factors.

Healthy People 2010: A set of national health objectives that outlines the prevention agenda for the Nation. *Healthy People 2010* identifies the most significant preventable threats to health and establishes national goals for the next ten years. Individuals, groups, and organizations are encouraged to integrate *Healthy People 2010* into current programs, special events, publications, and meetings. Businesses can use the framework, for example, to guide worksite health promotion activities as well as community-based initiatives. Schools, colleges, and civic and faith-based organizations can undertake activities to further the health of all members of their community. Health care providers can encourage their patients to pursue healthier lifestyles and to participate in community-based programs. By selecting from among the national objectives, individuals and organizations can build an agenda for community health improvement and can monitor results over time. More information on the Healthy People 2010 objectives may be found on the Healthy People 2010 Web site: *http://www.health.gov/healthypeople.*

Prevention education: Accurate information to increase knowledge of methods and behaviors to keep individuals from becoming infected with HIV.

References

(1) Centers for Disease Control and Prevention. HIV/AIDS Surveillance Report. 2002; 14/Addendum: 5. Table A3.

(2) Centers for Disease Control and Prevention. HIV/AIDS Surveillance Report 2002, Vol. 14.

Dated: June 16, 2006.

Frances Ashe-Goins,

Deputy Director and Director of Policy and Program Development (Women's Health).

[FR Doc. E6–10230 Filed 6–29–06; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–06–0017]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Application for Training (OMB No. 0920–0017)—Revision—Office of Workforce and Career Development (OWCD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The OWCD is requesting an additional three years for this ongoing project, to continue the use of the training and continuing education forms, specifically for CDC and the Agency for Toxic Substances and Disease Registry (ATSDR). The program is also requesting approval of minor revisions made to the training forms currently being used.

The Centers for Disease Control and Prevention (CDC) through its Centers, Institutes, and Offices (CIOs) offers training activities on public health topics to professionals worldwide. Employees of hospitals, universities, medical centers, laboratories, state and federal agencies, and state and local health departments apply for training in an effort to learn up-to-date public health practices. CDC's training activities include laboratory training, classroom study, online training, and distance learning activities.

The training application forms provide CDC with information necessary to manage and conduct training activities pertinent to its agency mission. The information collected in these forms allows CDC to send confirmation of registration to participants, provide certificates of attendance or continuing education credits as proof of their attendance, and generate management reports used to identify training needs, design courses, select location for courses, and evaluate programs.

CDC is accredited by six different continuing education organizations to award credit: (1) The International Association for Continuing Education and Training (IACET) to provide Continuing Education Units (CEUs), (2) the Accreditation Council for Continuing Medical Education (ACCME) to provide Continuing Medical Education credits (CME), (3) the American Nurses Credentialing Center (ANCC) to provide Continuing Nurse Education credits (CNE), (4) the National Commission for Health Education Credentialing (NCHEC) to award CHES credit, (5) the Accreditation Council for Pharmacy Education (ACPE) to provide continuing pharmacy credit, and (6) the American Association of Veterinary State Boards to award Registry of Approved Continuing Education (RACE) credit. The accrediting organizations require a method of tracking an individual completing an educational activity and demographic data allows us to do so. Also, many of the organizations require a permanent record which lists the participant's name, address, and phone number to retrieve historical information as to when a particular individual completed a course or several courses over a time period. This information provides the basis for producing a requested transcript or determining if a person is enrolled in more than one course. The e-mail address is used to verify the participant's electronic request for transcripts, course certificates and confirmation into the course.

The information requested on the forms is used to grant public health professionals the continuing education credits they need to maintain their licenses and certification required by their profession. This information is also needed to create a transcript or summary of training completed at the participant's request. In addition, the forms are also needed to generate management reports and to maintain training statistics. These reports assist CDC in the management of its training programs, such as, identifying training needs, designing courses, selecting locations for courses, evaluating programs, and conducting impact analysis.

CDC's training application forms are used for uniformity and standardization that are required for tracking attendance in the course offerings. The standardized data that is required for the laboratory training, classroom study, online training, and distance learning activities are only provided on these forms. No other CDC component requests this information.

The information on the Application for Training form is required in order to meet the accrediting organizations standards and to distinguish specific professional groups for aggregate reporting purposes. Data is collected only once per course or once per new registration.

The annual burden table has been updated to reflect an increase in distanced based learning. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Application for Training	40,000	1	5/60	3,333

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Total	40,000			3,333

Dated: June 26, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–10343 Filed 6–29–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting:

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.–5 p.m., July 26, 2006. 8:30 a.m.–12 p.m., July 27, 2006.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333, Telephone 404/639–8008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis (TB). Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating TB.

Matters to be Discussed: Agenda items include issues pertaining to minority health & health disparities among African Americans; Federal TB Task Force update; an update on technical guidance on controlling TB among the foreign-born guidelines; and other related TB issues.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE., M/S E–07, Atlanta, Georgia 30333, Telephone 404/639–8008.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 22, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 06–5876 Filed 6–29–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10133, CMS–10050, and CMS–1515 and 1572]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Competitive Acquisition Program (CAP) for Medicare Part B Drugs: Vendor Application and Bid Form; *Use:* The CAP Vendor Application and Bid Form is a collection tool which will be used by potential vendors to provide information related to the characteristics of their company and to submit their bid prices for CAP drugs. The information collected on the CAP Vendor Application and Bid Form will be used by CMS during the bidding evaluation process to evaluate the vendors bid prices, their credentials, experience and to assess their ability to provide quality service to physicians and beneficiaries. Competitive bidding is seen as a means of using the dynamics of the marketplace to provide incentives for suppliers to provide reasonably priced products and services of high quality in an efficient manner. The CAP's objectives include providing an alternative method for physicians to obtain Part B drugs to administer to Medicare beneficiaries and reducing drug acquisition and billing burdens for physicians; *Form Number:* CMS–10133 (OMB#: 0938–0955); *Frequency:* Reporting-Other, during the bidding process; *Affected Public:* Business or other for-profit; *Number of Respondents:* 12; *Total Annual Responses:* 12; *Total Annual Hours:* 480.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Survey of Newly Eligible Medicare Beneficiaries; *Use:* CMS is responsible for providing beneficiaries with the Medicare program information they need to effectively choose the health care plan best suited to their needs. In order to provide such information, CMS needs to know (1) whether or not new enrollees are aware of the choices they have, (2) what beneficiaries understand about the basic elements of the Medicare program, (3) what other sources currently provide Medicare-related information, and (4) how all of these items vary across beneficiary subpopulations. To this end, CMS must have the ability to measure over time what beneficiaries know and understand about the Medicare program. Measuring beneficiaries' information needs and knowledge over time will help CMS evaluate its impact on information/education, population changes and other initiatives. *Form Number:* CMS–10050 (OMB#: 0938–0869); *Frequency:* Reporting—Quarterly; *Affected Public:* Individuals or

Households; *Number of Respondents:* 2400; *Total Annual Responses:* 2400; *Total Annual Hours:* 800.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Home Health Agency Survey and Deficiencies Report, Home Health Functional Assessment Instrument and Supporting Regulations in 42 CFR 488.26 and 442.30; *Use:* In order to participate in the Medicare program as a Home Health Agency (HHA) provider, the HHA must meet Federal Standards. These forms are used to record information about patients' health and provider compliance with requirement and report information to the Federal Government. *Form Number:* CMS–1515 & 1572 (OMB#: 0938–0355); *Frequency:* Reporting—Annually; *Affected Public:* Business or other for-profit, Individuals or Households, and Not-for-profit institutions; *Number of Respondents:* 24,150; *Total Annual Responses:* 24,150; *Total Annual Hours:* 3,864.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed or faxed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503. Fax Number: (202) 395–6974.

Dated: June 21, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E6–10274 Filed 6–29–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0290]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Importer's Entry Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Importer's Entry Notice'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 16, 2005 (70 FR 69576), 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 0910–0046. The approval expires on May 31, 2009. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: June 23, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–10271 Filed 6–29–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Assessment of the State Maternal and Child Health Comprehensive Systems Grant (SECCS) Program (NEW)

HRSA's Maternal and Child Health Bureau (MCHB) is conducting an assessment of MCHB's State Maternal and Child Health Comprehensive Systems Grant (SECCS) Program. The purpose of the SECCS Program is to support State and local communities in their efforts to build comprehensive and coordinated early childhood service systems and to increase the leadership and participation of State MCH Title V programs in multi-agency early childhood systems development initiatives.

The SECCS funding is offered to States, jurisdictions, or Territory Title V agencies in two stages: *Planning and Implementation.* This assessment will only focus on *Implementation Grantees* awarded in 2005 (approximately 20 grantees) and 2006 (approximately 40 grantees). The purpose of the assessment is to determine: (1) Progress of implementation grantees in meeting the goals and objectives set forth in their plans developed during the planning phase and in building program infrastructure and capacity to improve early childhood services in their states/jurisdictions/territories; (2) programmatic, policy, and systemic barriers and facilitators that affect program implementation; and (3) quality and effectiveness of the technical assistance (TA) provided to the grantees. The results of the assessment will provide MCHB with timely feedback on the achievements of the SECCS Program and identify potential areas for improvement, which will inform program planning and operational decisions.

As part of the project, all implementation grantees will be asked to complete a Minimum Data Set (MDS), which will primarily include closed-ended questions addressing grantees' progress in achieving the requirements outlined in the implementation grant guidance. The MDS will primarily capture quantitative data on implementation grantees' progress in increasing the State MCH Program's role and leadership in multi-agency early childhood systems development initiatives and building partnerships and system capacity to improve early childhood services in their States.

This information will supplement and enhance the MCHB's current data collection efforts by providing a quantifiable, standardized, systematic mechanism for collecting information across the funded implementation grantees. For the 2005 cohort of implementation grantees, the MDS will be administered once in 2006 to gather baseline data, and again in the second year of implementation (2007) to gather follow-up data on progress made. For the 2006 cohort of grantees, the MDS will be administered once in 2007.

Respondents: The SECCS implementation grantees (Title V agencies) funded in 2005 and 2006 will be the primary respondents of the instrument. Approximately 60 implementation grantees will respond to the MDS. The estimated response burden is as follows:

Cohort	Number of respondents	Responses per respondent	Hours per response	Total hour burden
2005 Cohort	18	* 2	2	72
2006 Cohort	42	1	2	84
Total	60			156

* Data will be collected once in 2006 and once in 2007.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 23, 2006.

Cheryl R. Dammons,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–10272 Filed 6–29–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Fogarty International Center CareerTrac

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Fogarty International Center (FIC), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 14, 2006, page 7780–7781, and allowed 60-days for public comment. No comments were received from this notification regarding the cost and hour burden estimates. One comment was received suggesting that the Federal Government should not be funding international work until all Amercians are cared for. We note that through partnerships in training and research with scientists from around the world, including those in developing countries, we are able to identify new strategies and new understandings of disease processes, including for AIDS, TB, and chronic diseases such as heart disease, that affect all Americans. The purpose of this announcement is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Fogarty International Center CareerTrac.

Type of Information Collection Request: New.

Need and Use of Information Collection: This data collection system is being developed to track, evaluate and report short and long-term outputs, outcomes and impacts of international trainees involved in health research training programs specifically tracking this for at least ten years following training by having trainees enter their own data after they have completed the program. The data collection system provides a streamlined, Web-based application permitting principal investigators to record career achievement progress by trainee on a voluntary basis. FIC management will use this data to monitor, evaluate and adjust grants to ensure desired outcomes are achieved, comply with OMB PART requirements, respond to congressional inquiries, and as a guide to inform future strategic and management decisions regarding the grant program.

Frequency of Response: Annual and periodic.

Affected Public: None.

Type of Respondents: Principal Investigators funded by Fogarty International Center.

The annual reporting burden is as follows:

Estimated Number of Respondents: 150.

Estimated Number of Responses per Respondent: 15.

Average Burden Hours per Response: 50; and

Estimated Total Annual Burden Hours Requested: 1125.

The annualized cost to respondents is estimated at $87,939. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: 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: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503.

Attention: Desk Office NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Linda Kupfer, Fogarty International Center, National Institutes of Health, 16 Center Drive, Building 16, Bethesda, MD 20892–6705 or call non-toll-free number 301–496–3288 or e-mail your request, including your address to *kupferl@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 21, 2006.

Richard Miller,

Executive Officer, FIC, National Institutes of Health.

[FR Doc. 06–5883 Filed 6–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A New Mouse Monoclonal Antibody Against Human Microphthalmia Transcription Factor (MITF)

Description of Technology: Micropthalmia Transcription Factor (MITF) plays an important role in melanocyte development and melanoma growth. MlTF is important for embryonic development, regulating the generation of pigment cells and formation of melanomas and other tumors. MITF is made in various isoforms that may play unique roles for different organs during different developmental periods. Additionally, tissue MITF levels can serve as a molecular marker for the diagnosis of metastatic melanoma and therapeutic response.

This technology involves the generation of several novel mouse monoclonal antibodies against a sub-domain of an MITF fragment that is cleaved during cell death. Importantly, these antibodies cross-react with human MITF. The antibody was raised by immunizing mice that are incapable of producing the MITF sub-domain used as the antigen. Three (3) different ''clones'' of these antibodies are currently available and their corresponding hybridoma names are 6A5 (IgG1), 1D2 (IgG2a) and 3D1 (IgG2a).

Applications: (1) Novel mouse monoclonal antibodies specific to a domain of MITF as research material; (2) Novel mouse monoclonal antibodies that cross react with human MITF.

Market: The currently commercially available MITF monoclonal antibodies recognize a particular domain of MITF. These have been made available by several companies including Neomarkers, Abcam, Biomeda Corporation, and Calbiochem.

This antibody reacts with a different sub-domain of MITF and cross reacts with human MITF.

Development Status: The technology is ready for the market.

Inventors: Dr. Heinz Arnheiter, Mr. Wenfang Liu and Dr. Hideki Murakami.

Relevant Publications Related to MITF:

1. LA Garraway, HR Widlund, MA Rubin, G Getz, AJ Berger, S Ramaswamy, R Beroukhim, DA Milner, SR Granter, J Du, C Lee, SN Wagner, C Li, TR Golub, DL Rimm, ML Meyerson, DE Fisher, WR Sellers. ''Integrative genomic analyses identify MITF as a lineage survival oncogene amplified in malignant melanoma.'' Nature 2005 Jul 7;436(7047):117–122.

2. SR Granter, KN Weilbaecher, C Quigley, DE Fisher. ''Role for microphthalmia transcription factor in the diagnosis of metastatic malignant melanoma.'' Appl Immunohistochem Mol Morphol. 2002 Mar; 10(1):47–51.

Patent Status: HHS Reference No. E–228–2006/0—Research Material

Availability: The inventor is no longer accepting requests for the antibody; it will now be solely available via a Biological Material License (BML).

Licensing Contact: David A. Lambertson, PhD.; 301/435–4632; *lambertsond@od.nih.gov.*

Diamidine Inhibitors of Tdp1 as Anti-Cancer Agents

Description of Technology: Available for licensing and commercial development are methods and compositions for treating cancer, using novel compounds derived from diamidine. Diamidine and its derivatives are potent inhibitors of tyrosyl-DNA-phosphodiesterase (Tdp1), which may be useful in chemotherapy.

Camptothecins are effective Topoisomerase I (Top1) inhibitors, and two derivatives (Topotecan® and Camptosar®) are currently approved for treatment of ovarian and colorectal cancer. Camptothecins damage DNA by trapping covalent complexes between the Top1 catalytic tyrosine and the 3'-end of the broken DNA. Tdp1 repairs Top1-DNA covalent complexes by hydrolyzing the tyrosyl-DNA bond. Thus, the presence and activity of Tdp1 can reduce the effectiveness of camptothecins as anti-cancer agents. In addition, Tdp1 repairs free-radical-mediated DNA breaks.

Inhibition of Tdp1 using diamidine or its derivatives, may reduce repair of DNA breaks and increase the rate of apoptosis in cancer cells. In addition, diamidine derivatives have the potential to enhance the anti-neoplastic activity of Top1 inhibitors, by reducing repair of Top1-DNA lesions through inhibition of Tdp1.

Development Status: Pre-clinical stage.

Inventors: Yves Pommier and Christophe Marchand (NCI).

Publications:

1. Z Liao et al. ''Inhibition of human Tyrosyl-DNA Phosphodiesterase (Tdp1) by aminoglycoside antibiotics and ribosome inhibitors.'' Mol Pharmacol. 2006 Apr 17; Epub ahead of print, doi:10.1124/mol.105.021865.

2. Y Pommier. ''Camptothecins and topoisomerase I: a foot in the door. Targeting the genome beyond topoisomerase I with camptothecins and novel anticancer drugs: importance of DNA replication, repair and cell cycle checkpoints.'' Curr Med Chem Anticancer Agents. 2004 Sep; 4(5):429–34. Review.

3. Y Pommier et al. ''Repair of and checkpoint response to topoisomerase I mediated DNA damage.'' Mutat Res. 2003 Nov 27;532(1–2):173–203. Review.

Patent Status: U.S. Provisional Application No. 60/786,604 filed 27 Mar 2006 (HHS Reference No. E–165–2006/0-US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: David A. Lambertson, PhD.; 301/435–4632; *lambertsond@od.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Molecular Pharmacology at the National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize diamidine derivatives, particularly optimizing them for therapeutic use. Please contact Lisa Finkelstein at 301/451–7458 for more information.

Use of Tetracyclines as Anti-Cancer Agents

Description of Technology: The invention describes compositions of tetracycline compounds and their derivatives as having anticancer activity, as well as methods of treating cancer. Tetracyclines are commonly used as antibiotics; however, testing of these compounds in a high throughput screening system revealed certain derivatives to be potent inhibitors of tyrosyl-DNA-phosphodiesterase (Tdp1).

Camptothecins are effective Topoisomerase I (Top1) inhibitors, and two derivatives (Topotecan® and Camptosar®) are currently approved for treatment of ovarian and colorectal cancer. Camptothecins damage DNA by trapping covalent complexes between the Top1 catalytic tyrosine and the 3'-end of the broken DNA. Tdp1 repairs Top1-DNA covalent complexes by hydrolyzing the tyrosyl-DNA bond. This can reduce the effectiveness of camptothecins as anti-cancer agents. In addition, Tdp1 repairs free-radical-mediated DNA breaks.

As disclosed in the instant technology, tetracyclines have the potential to enhance the anti-neoplastic activity of Top1 inhibitors by reducing repair of Top1-DNA lesions through inhibition of Tdp1. Inhibition of Tdp1 may also reduce repair of DNA breaks and increase the rate of apoptosis in cancer cells, making them potential anti-cancer agents on their own.

Development Status: Pre-clinical stage.

Inventors: Yves Pommier (NCI), Christophe Marchand (NCI), Laurent Thibaut (NCI).

Publications:

1. Z Liao et al. ''Inhibition of human Tyrosyl-DNA Phosphodiesterase (Tdp1) by aminoglycoside antibiotics and ribosome inhibitors.'' Mol Pharmacol. 2006 Apr 17; Epub ahead of print, doi:10.1124/mol.105.021865.

2. Y Pommier. ''Camptothecins and topoisomerase I: a foot in the door. Targeting the genome beyond topoisomerase I with camptothecins and novel anticancer drugs: importance of DNA replication, repair and cell cycle checkpoints.'' Curr Med Chem Anticancer Agents. 2004 Sep; 4(5):429–34. Review.

3. Y Pommier et al. ''Repair of and checkpoint response to topoisomerase I mediated DNA damage.'' Mutat Res. 2003 Nov 27;532(1–2):173–203. Review.

Patent Status: U.S. Provisional Application No. 60/786,746 filed 27 Mar 2006 (HHS Reference No. E–097–2006/0-US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: David A. Lambertson, PhD.; 301/435–4632; *lambertsond@od.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Molecular Pharmacology at the National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize tetracycline derivatives, particularly optimizing them for therapeutic use. Please contact Lisa Finkelstein at 301/451–7458 for more information.

Dated: June 23, 2006.

David R. Sadowski,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 06–5882 Filed 6–29–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Cooperative Drug Development Group For The Treatment Of Mental Illness.

Date: July 11, 2006.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Yong Yao, PhD, Scientific Review Administrator, Division of Extramural Activities National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606. 301–443–6102. *yaoy3@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Rapid Assessment Post-Impact of Disaster.

Date: July 11, 2006.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Tracy Waldeck, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6132, MSC 9608, Bethesda, MD 20852–9609. (301) 435–0322. *waldeckt@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, MLSCN Assay Review.

Date: July 20, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Yong Yao, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, (301) 443–6102. *yaoy3@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Mood/Anxiety Research Review.

Date: July 24, 2006.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608. (301) 443–1959. *csarampo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 22, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–5884 Filed 6–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Bipolar/Schizophrenia Research Review.
Date: July 19, 2006.
Time: 9 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 208952 (Telephone Conference Call).
Contact Person: Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608. 301–443–1959. *csarampo@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Psychiatric Genetics Review.
Date: July 21, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavillion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Bettina D. Osborn, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892–9609. 301–443–1178. *acunab@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Fellowships and dissertation grants II.
Date: July 24, 2006.
Time: 1 p.m. to 1:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608. 301–402–8152. *mbroitma@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Fellowships and dissertation grants.
Date: July 24, 2006.
Time: 1:30 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Marina Broitman, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608. 301–402–8152. *mbroitma@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Child-Interventions Research Conflicts Review.
Date: July 27, 2006.
Time: 10 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608. 301–443–1959. *csarampo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 22, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–5887 Filed 6–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 26, 2006, 8:30 a.m. to June 26, 2006, 6 p.m., Double Tree Rockville, 1750 Rockville, Pike, Rockville, MD, 20852 which was published in the **Federal Register** on May 23, 2006, 71 FR 29660–29661,

The meeting will be held at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814. The meeting date and time remain the same. The meeting is closed to the public.

Dated: June 21, 2006.

Linda Payne,

Acting Director, Office ofFederal Advisory Committee Policy.

[FR Doc. 06–5885 Filed 6–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Detection and Imaging SBIR.
Date: June 29, 2006.
Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Eva Petrakova, PhD, MPH Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892. 301–435–1716. *petrakoe@mail.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Nutrition Literacy.

Date: July 10, 2006.

Time: 10:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lee S. Mann, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892. 301–435–0677. *mannl@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; HOP EPI.

Date: July 13, 2006.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Heidi B. Friedman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892. 301–435–1721. *hfriedman@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; IRAP Member Conflicts.

Date: July 14, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Heidi B. Friedman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892. 301–435–1721. *hfriedman@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Emotion Stress and Decision Making.

Date: July 19, 2006.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892. 301–435–0912. *levin@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 22, 2006.

Linda Payne,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–5886 Filed 6–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Proposed Project: Mandatory Guidelines for Federal Workplace Drug Testing Programs (OMB No. 0930–0158)—Revision

SAMHSA's Mandatory Guidelines for Federal Workplace Drug Testing Programs will request OMB approval for the Federal Drug Testing Custody and Control Form for Federal agency and federally regulated drug testing programs which must comply with the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs (69 FR 19644) dated April 13, 2004, and for the information provided by laboratories for the National Laboratory Certification Program (NLCP).

The Federal Drug Testing Custody and Control Form is used by all Federal agencies and employers regulated by the Department of Transportation to document the collection and chain of custody of urine specimens at the collection site, for laboratories to report results, and for Medical Review Officers to make a determination. The Federal Drug Testing Custody and Control Form approved by OMB three years ago is being resubmitted for OMB approval without any revision.

Prior to an inspection, a laboratory is required to submit specific information regarding its laboratory procedures. Collecting this information prior to an inspection allows the inspectors to thoroughly review and understand the laboratory(s testing procedures before arriving at the laboratory.

The NLCP application form has not been revised compared to the previous form.

The annual total burden estimates for the Federal Drug Testing Custody and Control Form, the NLCP application, the NLCP inspection checklist, and NLCP recordkeeping requirements are shown in the following table.

Form/respondent	Burden/ response (Hrs.)	Number of responses	Total annual burden (Hrs.)
Custody and Control Form			
Donor	.08	7,096,000	567,680
Collector	.07	7,096,000	496,720
Laboratory	.05	7,096,000	354,800
Medical Review Officer	.05	7,096,000	354,800
Laboratory Application	3.00	3	9
Laboratory Inspection Checklist	3.00	100	300
Laboratory Recordkeeping	250.00	50	12,500
Total			1,786,809

Written comments and recommendations concerning the proposed information collection should be sent by July 31, 2006 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: June 26, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–10286 Filed 6–29–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice Regarding Substance Abuse and Mental Health Services Administration's National Registry of Evidence-Based Programs and Practices (NREPP): Priorities for NREPP Reviews

Summary: The Substance Abuse and Mental Health Services Administration (SAMHSA) is committed to preventing the onset and reducing the progression of mental illness, substance abuse, and substance-related problems among all individuals, including youth. As part of this effort, SAMHSA has expanded and refined the agency's National Registry of Evidence-based Programs and Practices (NREPP). Two previous notices announcing these changes have been published in the **Federal Register** (70 FR 165, Aug. 26, 2005, 50381–50390; 71 FR 49, Mar. 14, 2006, 13133–13155).

This notice explains how SAMHSA and its three Centers will prioritize interventions submitted for NREPP reviews during Fiscal Year 2007 and provides guidance on the submission process. This information can be helpful to individuals and organizations seeking to have an intervention reviewed and listed on the new NREPP Web site.

For Further Information Contact: Kevin D. Hennessy, Ph.D., Science to Service Coordinator/SAMHSA, 1 Choke Cherry Road, Room 8–1017, Rockville, MD 20857, (240) 276–2234.

Dated: June 26, 2006.

Eric B. Broderick,

Acting Deputy Administrator, SAMHSA, Assistant Surgeon General.

Substance Abuse and Mental Health Services Administration's National Registry of Evidence-Based Programs and Practices (NREPP): Priorities for NREPP Reviews

Background

The Substance Abuse and Mental Health Services Administration's (SAMHSA) National Registry of Evidence-Based Programs and Practices (NREPP) is a voluntary rating and classification system designed to provide the public with reliable information on the scientific basis and practicality of interventions that prevent and/or treat mental and substance use disorders. Descriptive information and quantitative ratings are provided across several key areas for all interventions reviewed by NREPP. This information will be available to the public through a new NREPP Web site (*http://www.nrepp.samhsa.gov*) scheduled for launch by the end of 2006.

Public input from a range of stakeholders has improved NREPP's accessibility and usefulness as a "decision support tool" to help States, Territories, community-based organizations, and other interested stakeholders identify interventions that may meet their needs. NREPP will provide useful information—including ratings on the strength of evidence and readiness for dissemination—to assist individuals and organizations in identifying interventions that may address their particular needs and match their specific capacities and resources.

Each of SAMHSA's Centers—the Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment, and the Center for Mental Health Services—will establish annual review priorities regarding the types of interventions to be included in NREPP. In general, these priorities will represent the interests and needs of relevant stakeholders and reflect SAMHSA's matrix and grant priorities.

This notice describes the Centers' priorities for Fiscal Year 2007 and provides guidance to individuals and organizations who may be considering submitting an intervention for NREPP review.

SAMHSA's NREPP Priorities

SAMHSA is prioritizing for NREPP review interventions that prevent and/or treat mental and/or substance use disorders. For NREPP purposes, SAMHSA defines interventions as programs, practices, and/or environmental strategies designed to change behavioral outcomes among a definable population or within a definable geographic area.

The agency anticipates that it will take a minimum of 3 to 5 years to expand NREPP to include a broader array of interventions to prevent and/or treat mental and/or substance use disorders.

SAMHSA encourages submissions of culturally appropriate interventions targeting specific populations.

Minimum Review Requirements

In order to facilitate the submission of interventions likely to receive strong reviews within NREPP, all potential submissions should provide documentation that they meet the following three minimum requirements:

1. The intervention demonstrates one or more positive changes (outcomes) in mental health and/or substance use behavior among individuals, communities, or populations;
2. Intervention results have been published in a peer-reviewed publication or documented in a comprehensive evaluation report; and
3. Documentation (*e.g.,* manuals, process guides, tools, training materials) of the intervention and its proper implementation is available to the public to facilitate dissemination.

Submitted interventions that do not meet all three of these minimum requirements will not be considered for potential NREPP review.

Priority Review Points

Submitted interventions meeting the three minimum requirements will be prioritized through a system of awarded points. Interventions will receive one priority point, and thus higher priority for potential NREPP review, if they have been evaluated using a quasi-experimental or experimental study design. Such studies may include a pre/post design with comparison or control group, or longitudinal/time series design with a minimum of three data points, one of which must be a baseline assessment.

One priority point may also be obtained if the primary outcome(s) of the submitted intervention is in one or more of the following areas, categorized by the Center funding the review:

Center for Substance Abuse Prevention (CSAP)

CSAP Priority Areas focus on comprehensive community strategies, actions and interventions that:

• Prevent and/or reduce substance abuse and its related problems—*e.g.,* underage drinking, inhalent abuse, cannabis use and abuse, drug-related suicide, alcohol and drug abuse among young adults, misuse of alcohol and prescription drugs among the elderly, and HIV/substance abuse problems.

• Change policies and practices at the community level to reduce risk factors and/or increase protective factors across multiple domains—*e.g.,* workplace, schools, and neighborhoods.

• Address emerging substance abuse problems—*e.g.,* methamphetamine, over-the-counter drugs, fentanyl and other synthetic drugs.

Center for Substance Abuse Treatment (CSAT)

CSAT Priority Areas focus on interventions to treat adolescents and adults with alcohol and/or drug disorders that are delivered as part of one or more of the following types of services:

• Screening, brief intervention, and referral.
• Outreach and engagement.
• Treatment and rehabilitation.
• Recovery support.
• Continuing care, self-care, and/or aftercare.

Center for Mental Health Services (CMHS)

CMHS Priority Areas focus on interventions to:

• Foster consumer- and family-provided mental health services.
• Divert adults with serious mental illness and/or children and adolescents with serious emotional disturbances from criminal and juvenile justice systems.
• Develop alternatives to the use of seclusion and restraint for adults with serious mental illness and/or children and adolescents with serious emotional disturbances.
• Prevent suicide in specific age groups (*i.e.,* adolescents, young adults, elders).

Exclusions From NREPP

The following types of interventions should not be submitted to NREPP:

1. Stand-alone pharmacologic treatments—The evidence base for pharmacologic treatments is reviewed and approved through the U.S. Food and Drug Administration (FDA). NREPP reviews will be limited to on-label use of FDA-approved pharmacotherapy interventions that are combined with one or more psycho-social treatments.

2. Stand-alone smoking cessation—Smoking cessation interventions are appropriate for NREPP review only when they are conducted as part of a program for treatment of alcohol or other drugs of abuse.

Availability of NREPP Review Funds

It is essential that all individuals and organizations submitting an intervention for potential NREPP review fully understand that reviews are contingent upon both the number of submissions received and the availability of NREPP contract resources. SAMHSA cannot guarantee the review of any specific submission.

Submission Guidance

SAMHSA has established an initial 4-month period for receipt of NREPP submissions that will begin October 1, 2006, and end February 1, 2007. Interventions submitted after February 1, 2007, will not be considered for NREPP review.

Any individuals or organizations whose submitted interventions are not selected for NREPP review may need to resubmit their materials should they wish to be considered for potential NREPP review during a subsequent fiscal year.

In the event that the total number of submitted interventions in one or more areas (e.g., mental health treatment) is unlikely to exhaust the annual NREPP contract review funds in that area, it is possible that SAMHSA would establish a second submission period in that area(s). If so, SAMHSA would publish information about this second submision period in a subsequent **Federal Register** notice.

Ordering and Priority of Submissions for Review

All submitted interventions meeting the three minimum requirements noted above will be considered for potential NREPP review.

Submitted interventions obtaining two priority points will be considered for potential NREPP review before those submitted interventions obtaining one priority point, and submitted interventions obtaining one priority point will be considered for potential NREPP review before those submitted interventions obtaining zero priority points. The number of interventions actually reviewed will depend upon available contract resources.

After ordering submitted interventions based on priority points obtained, consideration for potential NREPP review will be based on the order in which submitted interventions are received by the NREPP contractor (MANILA Consulting Group) during the 4-month submission period. For example, among substance abuse prevention interventions, all submissions with two priority points will be considered higher in the queue than submissions with one priority point, but among those with two priority points, an intervention received by MANILA Consulting Group on November 15, 2006, will be higher in the queue for potential NREPP review than an intervention received on January 15, 2007.

Contact Regarding Submissions

Individuals and/or organizations interested in submitting an intervention for NREPP review should contact the NREPP contractor, MANILA Consulting Group, to express this interest. Staff from MANILA will then provide further guidance and details about the submission process as appropriate. Electronic correspondence (e-mail) is preferred and can be sent to *nrepp@manilaconsulting.net.* Interested parties can also contact MANILA by phone at (571) 633–9797.

[FR Doc. 06–5928 Filed 6–29–06; 8:45 am]
BILLING CODE 4160–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket Number: DHS–2006–0016]

Critical Infrastructure Partnership Advisory Council

AGENCY: Preparedness Directorate, Office of Infrastructure Protection, Department of Homeland Security.

ACTION: Committee Management: Notice of CIPAC Committee Membership.

SUMMARY: The Department of Homeland Security announced the establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC) by Notice published in the **Federal Register** on March 24, 2006 (''First CIPAC Notice''). That Notice identified the purpose of the committee as well as its membership. This Notice identifies the institutions currently serving as CIPAC members. This Notice also identifies the government entities that comprise the Government Coordinating Council for each sector.

FOR FURTHER INFORMATION CONTACT: Brett Lambo, Infrastructure Programs Office, Infrastructure Partnerships Division, Office of Infrastructure Protection, Preparedness Directorate, United States Department of Homeland Security, Washington, DC 20528, telephone (703) 235–5311 or via e-mail at *brett.lambo@dhs.gov. Responsible*

DHS Official: Nancy J. Wong, Director, Infrastructure Programs Office, Infrastructure Partnerships Division, Office of Infrastructure Protection, Preparedness Directorate, United States Department of Homeland Security, Washington, DC 20528, telephone (703) 235–5349.

SUPPLEMENTARY INFORMATION: On March 24, 2006, the Secretary of the Department of Homeland Security (DHS) published notice in the **Federal Register** (71 FR 14930) announcing the establishment of the Critical Infrastructure Partnership Advisory Council (CIPAC). That first CIPAC Notice identified the CIPAC's intended purpose as facilitating interaction between representatives of government and the community of critical infrastructure and key resources (CI/KR) owners and operators in each critical sector. As set forth in that notice, that interaction will include the following activities: ''planning; coordination; security program implementation; operational activities related to critical infrastructure protection security measures, including incident response, recovery, and reconstitution from events both man-made and naturally occurring; and the sharing of information about threats, vulnerabilities, protective measures, best practices, and lessons learned.''

CIPAC is designed to include as many of the owners and/or operators and the owner and/or operator representative trade associations deemed by each sector's Sector Coordinating Council (SCC) as necessary participants in the activities described in the March 24, 2006 Notice. That first Notice provided a list of the CIPAC membership from each sector as of that date. That first Notice also stated that the CIPAC Executive Secretariat would work with each SCC's leadership and with the Sector Specific Federal Agency for each sector to compile a list of the CIPAC SCC members from each sector. It further stated that the Department would publish a subsequent Notice identifying these additional members of the CIPAC.

Consistent with that statement, this second Notice announces the current membership. This notice also contains the government entities that comprise the Government Coordinating Council for each sector. CIPAC membership identification is an ongoing process. Some sectors are currently in the process of organizing themselves and will provide additional names to DHS as they develop. Upon review to ensure that the entities provided meet the definition of CIPAC membership contemplated by the Department (*i.e.*, that the institutions identified are, ''owners and/or operators or trade associations representing the interests of owners and/or operators that own and invest in infrastructure assets, in the systems and processes to secure them, and that are held responsible by the public for their operations and the response and their recovery when their infrastructures or key resources are disrupted''), the institutions accepted as members of the CIPAC will be added to the CIPAC membership roster published on the CIPAC Web site (*http://www.dhs.gov/cipac*). That CIPAC Web site will maintain an updated list of all Sector industry/institutional CIPAC membership, all government entities involved in CIPAC, and the membership of all formal task force and working group entities established and acting within CIPAC. Quarterly, the Department will publish in the **Federal Register**, instructions how the public can obtain the most current roster of CIPAC membership as well as the membership of all formal task force and working group entities within CIPAC.

Dated: June 20, 2006.

Nancy J. Wong,

Director, Infrastructure Programs Office, Infrastructure Partnerships Division, United States Department of Homeland Security.

Appendix A—CI/KR Institutions Critical Infrastructure Partnership Advisory Council (CIPAC)

CI/KR Institutions

Chemical Sector

Bureau of Alcohol Tobacco and Firearms & Explosives
United States Department of Commerce
United States Department of Defense
United States Department of Homeland Security
United States Department of Justice
United States Department of Transportation
United States Environmental Protection Agency

American Chemistry Council
America Forest & Paper Association
Chemical Producers & Distributors Association
Chlorine Chemistry Council
Compressed Gas Association
Crop Life America
DuPont
Institute of Makers of Explosives
International Institute of Ammonia Refrigeration
National Association of Chemical Distributors
National Paint & Coatings Association
National Petrochemical and Refiners Association
Rhodia
Synthetic Organic Chemical Manufacturers Association
The Adhesive and Sealant Council
The Chlorine Institute
The Fertilizer Institute
The Society of the Plastics Industry, Inc

Commercial Facilities Sector

General Services Administration
National Endowment of the Arts
United States Department of Commerce
United States Department of Education
United States Department of Homeland Security
United States Department of Housing and Urban Development
United States Department of Interior
United States Department of Justice
United States Environmental Protection Agency

Affinia Hospitality
BOMA, International
Dallas Convention Center
Fox Entertainment Group
International Association of Amusement Parks & Attractions
International Association of Assembly Managers
International Association of Fairs and Exhibitions
International Council of Shopping Centers
Major League Baseball
Marriott International
NASCAR, Inc.
National Association of Industrial and Office Properties
National Association of RV Parks and Campgrounds
National Hockey League
National Multi Housing Council
National Retail Federation
NBC Universal
Office of the Commissioner of Baseball
Oneida Gaming Commission
RBC Center
Retail Industry Leaders Association
Related Management Company
Self Storage Association
Stadium Management Association
The Real Estate Roundtable
Tishman Speyer Properties
The Walt Disney Company
Venetian Resort Hotel & Casino
Warner Bros. Studio Facilities

Communications Sector

Federal Communications Commission
General Services Administration
United States Department of Commerce
United States Department of Defense
United States Department of Homeland Security
United States Department of Justice

BellSouth Corporation
Cellular Telecommunications & Internet Association
Cingular
Telecommunications Industry Association
U.S. Telecom Association
Verizon

Dams Sector

Federal Energy Regulatory Commission
State of California, Department of Water Resources
State of New Jersey, Department of Environmental Protection
State of Ohio, Department of Natural Resources
State of Virginia, Department of Conservation and Recreation

State of Washington, Department of Ecology
Tennessee Valley Authority
United States Department of Agriculture
United States Department of Defense
United States Department of Homeland Security
United States Department of Interior
United States Department of Labor
United States Department of State
United States Environmental Protection Agency

Allegheny Energy
Ameren Services Company
American Electric Power
Association of State Dam Safety Officials
AVISTA Utilities
Canadian Dam Association
Chelan County
CMS Energy
Dominion Resources
Duke Energy Corporation
Exelon Corporation
National Hydropower Association
National Mining Association
New York City, Department of Environmental Protection
New York Power Authority
Pacific Gas & Electric Company
PPL Corporation
Xcel Energy Corporation
Scana Corporation
South Carolina Public Service Authority
Southern California Edison
Southern Company Generation
TransCanada
United States Society of Dams

Electricity Sector

Federal Energy Regulatory Commission
National Association of Regulatory Utility Commissioners
National Association of State Energy Officials
United States Department of Agriculture
United States Department of Defense
United States Department of Energy
United States Department of Homeland Security
United States Department of Interior
United States Department of State
United States Department of Transportation
United States Environmental Protection Agency

Arizona Public Service Company
Exelon Corporation
Independent Electricity System Operator, Ontario Canada
North American Electric Reliability Council (NERC)
National Rural Electric Cooperative Association
New York Independent System Operator
Reliability First Corporation
Southern Company Services, Inc.

Emergency Services Sector

United States Department of Homeland Security
United States Department of Transportation
United States Department of Justice

American Red Cross
International Association of Emergency Managers
International Association of Fire Chiefs
National Association of State EMS Officials
National Emergency Management Association
National Sheriff's Association

Financial Services Sector

Commodity Futures Trading Commission
Conference of State Bank Supervisors
Farm Credit Administration
Federal Deposit Insurance Corporation
Federal Housing Finance Board
Federal Reserve Bank of New York
Federal Reserve Board
National Association of Insurance Commissioners
National Association of State Credit Union Supervisors
National Credit Union Administration
North American Securities Administration Association
Office of Federal Housing Enterprise Oversight
Office of the Comptroller of the Currency
Office of Thrift Supervision
Securities and Exchange Commission
Securities Investor Protection Corporation
United States Department of the Treasury

America's Community Bankers
American Bankers Association
American Council of Life Insurers
American Insurance Association
BITS/The Financial Services Roundtable
Bank Administration Institute
ChicagoFIRST, LLC
Chicago Mercantile Exchange
CLS Group
Consumer Bankers Association
Credit Union National Association
The Depository Trust & Clearing Corporation (DTCC)
Fannie Mae
Financial Information Forum
Financial Services Technology Consortium
Futures Industry Association
Independent Community Bankers of America
Investment Company Institute
Managed Funds Association
The NASDAQ Stock Market, Inc.
National Association of Federal Credit Unions
National Association of Securities Dealers (NASD)
NACHA—The Electronic Payments Association
New York Board of Trade (NYBOT)
The Clearing House
Securities Industry Association (SIA)

Food and Agriculture Sector

Association of State and Territorial Health Officials
Intertribal Agriculture Council
National Assembly of State Animal Health Officials
National Association of County and City Health Officials
National Association of State Departments of Agriculture
National Science Foundation
United States Department of Agriculture
United States Department of Commerce
United States Department of Defense
United States Health and Human Services
United States Department of Homeland Security
United States Department of the Interior
United States Department of Justice
United States Environmental Protection Agency

Agricultural Retailers Association
American Farm Bureau Federation
CF Industries, Inc.
CropLife America
Food Marketing Institute
Food Processors Association
International Association of Refrigerated Warehouses
International Dairy Foods Association
International Food Service Distributors Association
International In-flight Food Service Association
International Warehouse Logistics Association
McCormick & Company, Inc.
National Association of Convenience Stores
National Cattlemen's Beef Association
National Corn Growers Association
National Milk Producers Federation
National Pork Producers Association
National Restaurant Association
National Retail Federation
National Food Service Security Council
United Fresh Fruit & Vegetable Association

Information Technology Sector

National Association of State Chief Information Officers
United States Department of Commerce
United States Department of Defense
United States Department of Homeland Security
United States Department of Justice
United States Department of State
United States Department of the Treasury

Bell Security Solutions, Inc.
BellSouth Corporation
Center for Internet Security
Cisco Systems, Inc.
Citadel Security Software, Inc.
Computer and Communications Industry Association
Computer Associates International
Computer Sciences Corporation
Computing Technology Industry Association
Cyber Security Industry Alliance
Electronic Industries Alliance
Entrust, Inc.
EWA Information & Infrastructure Technologies, Inc.
IBM Corporation
Information Technology Association of America
Intel Corporation
International Systems Security Engineering Association (ISSEA)
Internet Security Alliance
Internet Security Systems—ISS
Lockheed Martin
McAfee, Inc.
Microsoft Corporation
NTT America
Seagate Technology
Symantec
U.S. Internet Service Provider Association
Unisys Corporation
VeriSign
Verizon

Nuclear Sector

Nuclear Regulatory Commission
United States Department of Defense
United States Department of Energy
United States Department of Homeland Security

United States Department of Justice
United States Environmental Protection Agency
Arizona Public Service Company
Constellation Energy Generation Group
Dominion Energy
Dominion Generation
Entergy Operations
Excelon Generation Company, LLC
General Electric Energy Nuclear Energy
National Institute of Standards and Technology
Nuclear Energy Institute
Southern Nuclear Company
USEC, Inc.

Oil and Gas Sector

Federal Energy Regulatory Commission
National Association of Regulatory Utility Commissioners
National Association of State Energy Officials
United States Department of Agriculture
United States Department of Defense
United States Department of Energy
United States Department of Homeland Security
United States Department of the Interior
United States Department of State
United States Department of Transportation
United States Environmental Protection Agency
American Gas Association
American Petroleum Institute
American Public Gas Association
Anadarko Canada Corp.
Anadarko Petroleum Corporation
Association of Oil Pipe Lines
BP
Canadian Association of Petroleum Producers
Chevron Corporation
ConocoPhillips
Domestic Petroleum Council
Dominion Resources, Inc.
Edison Chouest Offshore, LLC
El Paso Corp.
ExxonMobil
Gas Processors Association
International Association of Drilling Contractors
Interstate Natural Gas Association of America
Independent Petroleum Association of America
Leffler Energy
Marathon Petroleum Company, LLC
National Petrochemical & Refiners Association
National Propane Gas Association
NiSource, Inc.
Newfoundland Ocean Industries Association
Offshore Marine Service Association
Petroleum Marketers Association of America
Rowan Companies, Inc.
Shell Oil Company
Shipley Stores, LLC
U.S. Oil & Gas Association
Valero Energy Corporation
Western States Petroleum Association

Postal and Shipping Sector

United States Department of Defense
United States Department of Health and Human Services
United States Department of Homeland Security
United States Department of Justice
DHL
FedEx
United Parcel Service of America, Inc.
United States Postal Service

Transportation Sector

United States Department of Defense
United States Department of Energy
United States Department of Homeland Security
United States Department of Transportation
American Public Transportation Association
Association of American Railroads
New Jersey Transit

Water Sector Members

Association of State and Interstate Water Pollution Control Administrators
Association of State Drinking Water Administrators
United States Army Corps of Engineers
United States Department of Agriculture
United States Department of Defense
United States Department of Health and Human Services
United States Department of Homeland Security
United States Department of State
United States Department of the Interior
United States Environmental Protection Agency
Alexandria Sanitation Authority
American Water
American Water Works Association
Association of Metropolitan Water Agencies
AWWA Research Foundation
Bean Blossom Patricksburg Water Corporation
Boston Water and Sewer Commission
Breezy Hill Water and Sewer Company
City of Portland Bureau of Environmental Services
Columbus Water Works
Fairfax Water
Greenville Water System
Los Angeles Department of Water and Power
Manchester Water Works
Milwaukee Water Works
National Association of Clean Water Agencies
National Association of Water Companies
National Rural Water Association
New York City Department of Environmental Protection
Pima County Wastewater Management Department
United Water
Water Environment Federation
Water Environment Research Foundation

[FR Doc. E6–10276 Filed 6–29–06; 8:45 am]
BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22837]

Nationwide Automatic Identification System, Draft Programmatic Environmental Impact Statement

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of availability; notice of public meeting; request for public comments.

SUMMARY: The U.S. Coast Guard (USCG) announces the availability of the draft programmatic environmental impact statement (PEIS) addressing the proposed implementation of the Nationwide Automatic Identification System (NAIS) project. The proposed implementation of the NAIS project would involve installing receivers, transmitters, transceivers, repeaters, and other equipment on towers or other structures at up to 450 sites at locations along 95,000 miles of coastline and inland waterways, as well as the use of selected remote platforms. The USCG requests public comments on the draft PEIS.

DATES: One public meeting concerning the draft PEIS is planned. The public meeting will be held on Wednesday, August 9,2006 in Washington, DC. The public meeting will begin at 9 a.m. and is scheduled to end at 11 a.m. The public meeting may end earlier or later than the stated time, depending on the number of persons wishing to speak. Comments and related material submitted in response to the request for public comments must reach the Docket Management Facility on or before August 14, 2006.

ADDRESSES: The public meeting will be held at the USCG Headquarters building (Transpoint Building), 2100 Second Street, SW., Washington, DC 20593.

You may submit comments identified by Coast Guard docket number USCG–2005–22837 to the Docket Management Facility at the U.S. Department of Transportation (DOT). To avoid duplication, please use only one of the following methods to submit comments or other materials:

(1) *Web site: http://dms.dot.gov.*

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) *Fax:* 202–493–2251.

(4) *Delivery:* Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m and 5 p.m., Monday through Friday, except holidays. The telephone number is 202–366–9329.

(5) *Federal eRulemaking Portal: http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, please call or e-mail Anita Allen, Ph.D., NAIS Environmental Manager, at 202–474–3292 or *aallen@comdt.uscg.mil*. If you have questions on viewing the docket, call Ms. Andrea M. Jenkins, Program Manager, Docket Operations at 202–366–0271.

The draft PEIS is available for viewing online at the DOT's docket management Web site: *http://dms.dot.gov* under docket number 22837. A copy of the draft PEIS can also be obtained on the NAIS project Web site: *http://www.uscg.mil/hq/g-a/AIS/* or by contacting Dr. Allen.

SUPPLEMENTARY INFORMATION:

Public Meeting

We invite you to comment at the public meeting on the proposed action and the evaluation presented in the draft PEIS.

Please notify the USCG prior to the public meeting if you wish to speak at the public meeting (see **FOR FURTHER INFORMATION CONTACT**). In order to allow everyone a chance to speak, the USCG may limit speaker time, or extend the meeting hours, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded or transcribed for inclusion in the public docket. You may submit written material at the public meeting, either in place of or in addition to speaking. Written material must include your name and address.

Verbal and written input will be included in the public docket. Public docket materials will be made available to the public on the Docket Management Facility's Docket Management System (DMS). See "Request for Comments" for information about DMS and your rights under the Privacy Act.

If you plan to attend the public meeting, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the USCG (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information, as well as information about your specific needs.

Request for Comments

As a part of the process to prepare the PEIS, the USCG requests public comments or other relevant information on the draft PEIS. The public meeting is not the only opportunity you have to comment on the draft PEIS. In addition to, or in place of attending the meeting, persons or organizations can submit material to the Docket Management Facility during the public comment period (see **DATES**). The USCG will consider all comments submitted during the public comment period, and subsequently will prepare the final PEIS. The USCG will announce the availability of the final PEIS and once again give interested parties an opportunity to review the document. (If you want the notice for the final PEIS to be sent to you, please contact the personnel identified in **FOR FURTHER INFORMATION CONTACT**.)

All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG–2005–22837) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments 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 received during the comment period.

Viewing comments and documents: To view comments, go to *http://dms.dot.gov* at any time, click on "Simple Search," enter the last five digits of the docket number for this rulemaking, and click on "Search." You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Proposed Action

The USCG published a notice of intent to prepare a PEIS for the proposed implementation of the NAIS project in the **Federal Register** (70 FR 70862, November 23, 2005). The proposed action requiring environmental review is a DHS Level I investment and USCG major systems acquisition that would involve installing receivers, transmitters, transceivers, repeaters, and other equipment on towers or other structures at up to 450 sites along 95,000 miles of coastline, other inland waterways, and remote platforms such as satellites, offshore oil and gas platforms and data buoys.

The purpose of the proposed action evaluated in the draft PEIS is to establish a nationwide network of receivers and transmitters to capture, display, exchange, and analyze AIS-generated information. The proposed action would satisfy the USCG's need to enhance homeland security while carrying out its mission to ensure marine safety and security, preserve maritime mobility, protect the marine environment, enforce U.S. laws and international treaties, and perform search and rescue (SAR) operations.

The AIS is an international standard for ship-to-ship, ship-to-shore, and shore-to-ship communication of information, including vessel identity, position, speed, course, destination, and other data of critical interest for navigational safety and maritime security. The proposed implementation of the NAIS project would provide the USCG with the capability to receive and distribute information from shipboard AIS equipment and transmit information to AIS equipped vessels to enhance Maritime Domain Awareness. The proposed project would provide detection and identification of vessels carrying AIS equipment approaching or operating in the maritime domain where little or no vessel tracking currently exists.

Alternatives To the Proposed Action

The technical and operational requirements for NAIS require the system to be operational in both inland navigable waters and the open ocean out to 2,000 nautical miles (NM) offshore. No single implementation alternative could meet the technical and operational requirements of this large and geographically variable area. As a result, the USCG believes that a combination of implementation alternatives would be needed to meet the technical and operational requirements. The proposed implementation of the NAIS project includes using a combination of the following coverage mechanisms:

(1) NAIS Short-Range Coverage—Shore-Based Radio Frequency (RF) Sites. The establishment of shore-based RF sites was the only alternative found by the USCG to be viable for achieving short-range NAIS coverage. Short-range NAIS coverage includes inland navigable waters, and out to 50 nautical miles (NM) offshore. Shore-based RF sites would consist of AIS equipment

mounted on towers, buildings, bridges, or other structures. The USCG anticipates the majority of these sites would be tower-based. The USCG would be faced with the choice of installing AIS equipment at new sites (''new build''); installing AIS equipment adjacent to existing communications equipment (''collocation''); or, program wide, using a combination of the collocation and new build sites for shore-based RF sites.

For the proposed implementation of the NAIS project, the USCG has chosen to bound or bracket the programmatic environmental analysis of the shore-based RF sites by evaluating three potential NAIS siting alternatives: All New Tower Builds, Combination of Collocations and New Tower Builds, and All Collocations.

(2) NAIS Long-Range Coverage—Satellites. For long-range coverage, satellite services could be leased from commercial satellite providers or the government. The USCG is currently assessing technology development to support this capability. The analysis of this alternative assumes that the initial technology development would yield a deployable solution. The satellite system is envisioned to consist of a number of low earth orbit satellites to provide the needed long-range maritime tracking of vessels (i.e., coverage requirement to receive AIS signals with a minimum 4-hour reporting rate out to 2,000 NM offshore).

(3) NAIS Long-Range Coverage—Offshore Platforms and Data Buoys. NAIS long-range coverage could be provided, in part, by using existing offshore platform and data buoy capabilities to provide additional coverage availability. The USCG is currently evaluating the effectiveness of deploying AIS base stations and AIS receivers on various offshore Gulf of Mexico oil and gas platforms and National Oceanic and Atmospheric Administration data buoys. Potential offshore platforms of interest include existing active U.S. Department of the Interior (DOI) Minerals Management Service (MMS)-regulated oil and gas infrastructures in the Gulf of Mexico, Pacific, and Alaska regions.

Dated: June 22, 2006.

J.P. Currier,

Rear Admiral, United Stated Coast Guard, Assistant Commandant for Acquisition.

[FR Doc. E6–10256 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities; Protest

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Protest. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments form the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 19197) on April 13, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 31, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at *Nathan.Lesser@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Title: Protest.

OMB Number: 1651–0017.

Form Number: CBP Form 19.

Abstract: This collection is used by an importer, filer, or any party at interest to petition CBP, or Protest any action or charge, made by the port director on or against any; imported merchandise, merchandise excluded from entry, or merchandise entered into or withdrawn from a bonded warehouse.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Business.

Estimated Number of Respondents: 3,750.

Estimated Time per Respondent: 6 hours.

Estimated Total Annual Burden Hours: 67,995.

Estimated Total Annualized Cost on the Public: N/A.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 15, 2006.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 06–5895 Filed 6–29–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Modification of the CBP NCAP Test Regarding Reconciliation for Entries Under the Dominican Republic-Central America-United States Free Trade Agreement

AGENCY: Customs and Border Protection, Homeland Security.

ACTION: General notice.

SUMMARY: This document announces a modification to the Customs and Border Protection Automated Commercial

System (ACS) Reconciliation prototype test that adds to the issues subject to the Reconciliation process those arising under the Dominican Republic-Central America-United States Free Trade Agreement. Other than this modification, the test remains the same as set forth in previously published **Federal Register** notices.

DATES: The test modification set forth in this document is effective on September 28, 2006. The two-year testing period of this Reconciliation prototype commenced on October 1, 1998, and was extended indefinitely starting October 1, 2000. Applications to participate in the test will be accepted throughout the duration of the test.

ADDRESSES: Written inquiries regarding participation in the Reconciliation prototype test and/or applications to participate should be addressed to Ms. Monica Crockett, Reconciliation Team, Bureau of Customs and Border Protection, 1300 Pennsylvania Ave., NW., Room 5.2A, Washington, DC 20229–0001. Answers to inquiries regarding the test are also available at *Recon.Help@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Monica Crockett at (202) 344–2511.

SUPPLEMENTARY INFORMATION:

Background

Reconciliation, a planned component of the National Customs Automation Program (NCAP), as provided for in Title VI (Subtitle B) of the North American Free Trade Agreement Implementation Act (the NAFTA Implementation Act; Public Law 103–182, 107 Stat. 2057 (December 8, 1993)), is currently being tested by the Bureau of Customs and Border Protection (CBP) under the CBP Automated Commercial System (ACS) Prototype Test. CBP announced and explained the test in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998. Clarifications and operational changes were announced in subsequent **Federal Register** notices: 63 FR 44303, published on August 18, 1998; 64 FR 39187, published on July 21, 1999; 64 FR 73121, published on December 29, 1999; 66 FR 14619, published on March 13, 2001; 67 FR 61200, published on September 27, 2002 (with a correction document published at 67 FR 68238 on November 8, 2002); 69 FR 53730, published on September 2, 2004; 70 FR 1730, published on January 10, 2005; and 70 FR 46882, published on August 11, 2005. A **Federal Register** (65 FR 55326) notice published on September 13, 2000, extended the prototype indefinitely. This document announces a modification to the Reconciliation test to expand the issues subject to Reconciliation to include those arising under the Dominican Republic-Central America-United States Free Trade Agreement. Aside from this modification, the test remains as set forth in the previously published **Federal Register** notices.

For application requirements, see the **Federal Register** notices published on February 6, 1998, and August 18, 1998. Additional information regarding the test can be found at *http://www.customs.gov/xp/cgov/import/cargo_summary/reconciliation/.*

Reconciliation Generally

Reconciliation is the process that allows an importer, at the time an entry summary is filed, to identify undeterminable information (other than that affecting admissibility) to CBP and to provide that outstanding information at a later date. The importer identifies the outstanding information by means of an electronic ''flag'' which is placed on the entry summary at the time the entry summary is filed and payment (applicable duty, taxes, and fees) is made. Previously published **Federal Register** documents have set forth that the issues for which an entry summary may be ''flagged'' (for the purpose of later reconciliation) are limited and relate to: (1) Value issues other than claims based on latent manufacturing defects; (2) classification issues, on a limited basis; (3) issues concerning value aspects of entries filed under heading 9802, Harmonized Tariff Schedule of the United States (HTSUS) (9802 issues); and (4) issues concerning merchandise entered under the North American Free Trade Agreement (NAFTA issues/claims) and under the United States-Chile Free Trade Agreement (CFTA or Chile issues/claims) that are eligible for treatment under 19 U.S.C. 1520(d).

The flagged entry summary (the underlying entry summary) is liquidated for all aspects of the entry except those issues that were flagged. The means of providing the outstanding information at a later date relative to the flagged issues is through the filing of a Reconciliation entry. The flagged issues will be liquidated at the time the Reconciliation entry is liquidated. Any adjustments in duties, taxes, and/or fees owed will be made at that time. (See the February 6, 1998, **Federal Register** notice for a more detailed presentation of the basic Reconciliation process.)

CBP reminds test participants that the filing of a Reconciliation entry, like the filing of a regular consumption entry, is governed by 19 U.S.C. 1484 and can be done only by the importer of record as defined in that statute.

Test Modification

The Agreement and the Implementation Act

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR or the Agreement) was entered into by the governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and the United States on August 5, 2004. The United States Congress approved the CAFTA–DR in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the Implementation Act), Public Law 109–53, 119 Stat. 462 (19 U.S.C. 4001 *et seq.*). Under the Implementation Act, the provisions of the CAFTA–DR become effective for individual CAFTA–DR countries (defined under the Implementation Act to include all countries that are signatory to the Agreement except the United States) only when the Agreement enters into force for a CAFTA–DR country upon issuance of a presidential proclamation to that effect, an action that is conditioned upon the fulfillment of certain requirements (i.e., the CAFTA–DR country has taken measures to comply with the provisions of the Agreement). Importations of originating goods of such a CAFTA–DR country are entitled to the benefits of the Agreement as of the effective date set forth in the presidential proclamation and in accordance with the Implementation Act and new General Note 29 of the Harmonized Tariff Schedule of the United States (HTS).

As of the date of this notice, the Agreement has entered into force for three CAFTA–DR countries: El Salvador, in accordance with Presidential Proclamation 7987, issued on February 28, 2006 (71 FR 10827; March 2, 2006) (see also U.S. International Trade Commission (USITC) Publication 3829, February 2006), and Honduras and Nicaragua, in accordance with Presidential Proclamation 7996, issued on March 31, 2006 (71 FR 16971; April 4, 2006) (see also USITC Publication 3845, April 2006).

Ordinary CAFTA–DR Claim and Post-Importation CAFTA–DR Claim Under 19 U.S.C. 1520(d)

A claim for preferential tariff treatment for an originating CAFTA–DR good, in accordance with CAFTA–DR and applicable procedures (regulations are forthcoming), is made at the time of entry summary. (See General Note 29, HTSUS, for rules of origin.) However, in some instances, an importer may not be able to make the claim at that time, usually because the importer does not possess all the information or documentation required. In those instances, an importer may make a post-importation CAFTA–DR claim under 19 U.S.C. 1520(d) (section 1520(d)), pursuant to an amendment to that section made by the Implementation Act (section 207). Under this amendment to section 1520(d), entries of goods qualifying under CAFTA–DR rules of origin are eligible for reliquidation when preferential tariff treatment under CAFTA–DR is not claimed at the time of importation, notwithstanding that a protest under 19 U.S.C. 1514 (section 1514) is not timely filed. (A section 1514 protest is a means of objecting to, among other things, the liquidation of an entry by filing the protest within 180 days of the liquidation (or other protestable decision or action by CBP).) A claimant must file a claim under section 1520(d) within one year of the applicable importation and meet other requirements, such as applicable documentary requirements, including (when requested by CBP) the filing of a certification or information demonstrating that the entered goods are originating CAFTA–DR goods.

Post-Importation CAFTA–DR Claim Under Reconciliation

This notice announces that a post-importation claim for preferential tariff treatment under section 1520(d) for an entry filed pursuant to the CAFTA–DR also may be made under the Reconciliation test, in the same way as a post-importation NAFTA or Chile claim may be made (see, respectively, notices published in the **Federal Register** on September 27, 2002, and September 2, 2004, cited previously). This alternative requires that an importer follow the Reconciliation test procedure which, in contrast to the ordinary section 1520(d) procedure described above, requires action at the time of entry. That action is to flag the entry summary for the CAFTA–DR issue(s), which will be followed later by the filing of a Reconciliation entry within one year of the applicable importation. It is noted that CAFTA–DR Reconciliation entries cannot include other Reconciliation-eligible issues; i.e., a CAFTA–DR Reconciliation entry is limited to covering only CAFTA–DR issues (claims). NAFTA and Chile Reconciliation entries/claims are similarly limited.

This CAFTA–DR Reconciliation alternative is available for eligible importations involving any eligible CAFTA–DR country (a CAFTA–DR country as to which the Agreement has entered into force) 90 days after the date this notice is published in the **Federal Register**.

Reconciliation CAFTA–DR Claim Precludes Claims by Other Means

CBP emphasizes that once an importer flags an entry summary for CAFTA–DR issues for Reconciliation, indicating that it is pursuing the post-importation, section 1520(d) claim through the Reconciliation process, the only means of perfecting the CAFTA–DR claim is by completing the Reconciliation process by filing a timely Reconciliation entry. (See the September 27, 2002, **Federal Register** notice for an explanation of this same limitation relative to NAFTA and Chile issues.) By flagging the entry summary, the importer makes a commitment to perfect the claim only through the Reconciliation process—to, in effect, waive filing the claim any other way. Thus, once entries have been flagged for Reconciliation of CAFTA–DR issues, CBP will not accept a claim filed for those entries under the ordinary section 1520(d) procedure. This will prevent dual filings for the same underlying entry summaries.

Benefits of Reconciliation

Finally, CBP recommends the use of the Reconciliation test procedure for making post-importation CAFTA–DR claims because the test procedure provides the importer with several benefits. First, using the test procedure is a simpler means of filing claims: i.e., the importer is able to make potentially thousands of CAFTA–DR claims on one Reconciliation entry. Second, the importer can receive one check from CBP rather than many (even up to thousands) upon CBP's liquidation of a Reconciliation entry and issuance of a refund. Third, because processing CAFTA–DR claims under Reconciliation is simpler for CBP, the refund delivery system is more efficient.

Dated: June 23, 2006.

William S. Heffelfinger III,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 06–5875 Filed 6–29–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2006, the interest rates for overpayments will increase from 6 to 7 percent for corporations and from 7 to 8 percent for non-corporations, and the interest rate for underpayments will increase from 7 to 8 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

DATES: Effective Date: July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: One for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2006–30, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2006, and ending September 30, 2006. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentage points (2%) for a total of seven percent (7%). For overpayments made by non-corporations, the rate is the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). These interest rates are subject to change for the calendar quarter beginning October 1, 2006, and ending December 31, 2006.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	093006	8	8	7

Dated: June 26, 2006.

Deborah J. Spero,

Acting Commissioner, Bureau of Customs and Border Protection.

[FR Doc. 06–5878 Filed 6–29–06; 8:45 am]

BILLING CODE 9114–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5045–N–26]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *ARMY:* Ms. Audrey C. Ormerod, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM-MD, Rm 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 601–2520; *COE:* Ms. Shirley Middleswarth, Army Corps of Engineers, Civil Division, 441 G Street, NW., Washington, DC 20314–1000; (202) 761–1295; *ENERGY:* Mr. John Watson, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–0072; *NAVY:* Mr. Warren Meekins, Associate Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305; (These are not toll-free numbers).

Dated: June 22, 2006.

Mark R. Johnston,

Acting Deputy Assistant Secretary for Special Needs.

Title V, Federal Surplus Property Program—Federal Register Report For 6/30/06

Suitable/Unavailable Properties

Buildings (by State)

Arizona

Bldg. 22040
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620065
Status: Excess
Comment: 1131 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 22404
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620066
Status: Excess
Comment: 928 sq. ft., presence of asbestos/lead paint, most recent use—hdqts., off-site use only

Bldg. 22540
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency Army
Property Number: 21200620067
Status: Excess
Comment: 958 sq. ft., most recent use—storage, off-site use only

Bldg. 66150
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620068
Status: Excess
Comment: 4027 sq. ft., most recent use—storage, off-site use only

Bldg. 76910
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620069
Status: Excess
Comment: 2001 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 90335
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620070
Status: Excess
Comment: 456 sq. ft., most recent use—storage, off-site use only

Bldg. 90336
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620071
Status: Excess
Comment: 8339 sq. ft., most recent use—storage, off-site use only

Maryland

Bldg. 00239
Fort Meade

Anne Arundel Co: MD 20755–
Landholding Agency: Army
Property Number: 21200620072
Status: Unutilized
Comment: 2363 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 00249
Fort Meade
Anne Arundel Co: MD 20755–
Landholding Agency: Army
Property Number: 21200620073
Status: Unutilized
Comment: 894 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 02212
Fort Meade
Anne Arundel Co: MD 20755–
Landholding Agency: Army
Property Number: 21200620074
Status: Unutilized
Comment: 9092 sq. ft., presence of asbestos/lead paint, most recent use—scout bldg., off-site use only

Texas

Bldgs. 125, 126
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620075
Status: Excess
Comment: 2700/7200 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 190
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620076
Status: Excess
Comment: 2995 sq. ft., presence of asbestos, most recent use—conf. center, off-site use only

Bldg. 00738
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620077
Status: Excess
Comment: 6400 sq. ft., most recent use—storage, off-site use only

Bldg. 02240
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620078
Status: Excess
Comment: 487 sq. ft., presence of asbestos, most recent use—pool svc bldg, off-site use only

Bldg. 04164
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620079
Status: Excess
Comment: 2253 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldgs. 04218, 04228
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620080
Status: Excess
Comment: 4682/9000 sq. ft., presence of asbestos, most recent use—admin, off-site use only

Bldg. 04272
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620081
Status: Excess
Comment: 7680 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldgs. 04289, 04331
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620082
Status: Excess
Comment: 1600/2432 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04415
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620083
Status: Excess
Comment: 1750 sq. ft., presence of asbestos, most recent use—classroom, off-site use only

4 Bldgs
Fort Hood
04419, 04420, 04421, 04424
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620084
Status: Excess
Comment: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

4 Bldgs.
Fort Hood
04425, 04426, 04427, 04429
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620085
Status: Excess
Comment: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

4 Bldgs.
Fort Hood
04428, 04437, 04438, 04443
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620086
Status: Excess
Comment: 3100 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04430
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620087
Status: Excess
Comment: 3241 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04434
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620088
Status: Excess
Comment: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04439
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620089
Status: Excess
Comment: 3312 sq. ft., presence of asbestos, most recent use—co ops bldg, off-site use only

Bldgs. 04470, 04471
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620090
Status: Excess
Comment: 3241 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04493
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620091
Status: Excess
Comment: 3108 sq. ft., presence of asbestos, most recent use—housing maint., off-site use only

Bldg. 04494
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620092
Status: Excess
Comment: 2686 sq. ft., presence of asbestos, most recent use—repair bays, off-site use only

Bldg. 04632
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620093
Status: Excess
Comment: 4000 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04640
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620094
Status: Excess
Comment: 1600 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04645
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620095
Status: Excess
Comment: 5300 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04906
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620096
Status: Excess
Comment: 1040 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 20121
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620097
Status: Excess
Comment: 5200 sq. ft., presence of asbestos, most recent use—rec center, off-site use only

Bldg. 21002
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620098
Status: Excess
Comment: 9402 sq. ft., presence of asbestos, most recent use—dining facility, off-site use only

Bldg. 21003
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620099
Status: Excess
Comment: 115,440 sq. ft., presence of asbestos, most recent use—barracks/admin, off-site use only

Bldg. 70004
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620100
Status: Excess
Comment: 800 sq. ft., presence of asbestos, most recent use—recreation, off-site use only

Bldg. 91052
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200620101
Status: Excess
Comment: 224 sq. ft., presence of asbestos, most recent use—lab/test, off-site use only

Unsuitable Properties

Buildings (by State)

Florida

Bldg. 25
(f) Richmond Naval Air Station
15810 SW 129th Ave.
Miami Co: Dade FL 33177–
Landholding Agency: COE
Property Number: 31200620031
Status: Excess
Reason: Extensive deterioration

Bldg. 508
Naval Station
Mayport Co: FL 32228–
Landholding Agency: Navy
Property Number: 77200620035
Status: Unutilized
Reasons: Floodway, Secured Area

Georgia

Bldg. 0038
Naval Submarine Base
Kings Bay Co: GA 31547–
Landholding Agency: Navy
Property Number: 77200620036
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Unsuitable Properties

Buildings (by State)

New York

Bldg. 0482
Brookhaven Natl Laboratory
Upton Co: NY 11973–
Landholding Agency: Energy
Property Number: 41200620023
Status: Unutilized
Reason: Secured Area

Bldg. 0649
Brookhaven Natl Laboratory
Upton Co: NY 11973–
Landholding Agency: Energy
Property Number: 41200620024
Status: Unutilized
Reason: Secured Area

Land (by State)

Washington

230 sq. ft. land
Naval Magazine
Indian Island Co: WA–
Landholding Agency: Navy
Property Number: 77200620037
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

[FR Doc. E6–10115 Filed 6–29–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Friday, July 14, 2006—1:30 p.m. to 4 p.m.

ADDRESSES: Emrick Technology Center, 2750 Hugh Moore Park Road, Easton, PA 18042.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988 and extended through Public Law 105–355, November 13, 1998.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 2750 Hugh Moore Park Road, Easton PA 18042. (610) 923–3548.

Dated: June 22, 2006.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 06–5877 Filed 6–29–06; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 31, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Jeffery M. Ponder, Greenwood, IN, PRT–124090.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Robert B. Turner, San Diego, CA, PRT–122420.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Peter E. Seda, Kennewick, WA, PRT–126734.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Matt Ward, Santa Monica, CA, PRT–126681.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: William D. Firman, Orlando, FL, PRT–125074.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Larry W. Hansard, Carrollton, TX, PRT–125336.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Steven W. Laskey, Paradise Valley, AZ, PRT–125338.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Charles R. Massey, Knoxville, TN, PRT–125806.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Wayne G. Lyster, III, Versailles, KY, PRT–125917.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: George Carden Circus Intl., Inc, Springfield, MO, PRT–080831, 128998, 128999 and 716917.

The applicant requests permits to re-export and re-import one male captive-born Asian elephant and two female Asian elephants (*Elephas maximus*) that were born in the wild to worldwide locations for the purpose of enhancement of the species through conservation education. The permit numbers and animals are: 128998 (re-export) and 128999 (re-import), Beau aka Bo; 080731, Jazz; 716917, Betty. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

Applicant: Mitchel Kalmanson, Maitland, FL, PRT–120074.

The applicant requests a permit to export and re-import one female captive-born tiger (*Panthera tigris*) to worldwide locations for the purpose of enhancement of the species through conservation education. The permit number and animal is 120074, Zena. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: James J. Stavola, Jr., Red Bank, NJ, PRT–125553.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Marty R. Barber, Lehi, UT, PRT–125905.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Frank S. Noska, IV, Wasilla, AK, PRT–126959.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Whiteford C. Blakeney, Jr., Mt. Pleasant, SC, PRT–126300.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: James R. Hens, Cohoes, NY, PRT–127173.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Dated: June 9, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–10269 Filed 6–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and/or marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
108865	Kimberly A. Vinette Herrin, D.V.M.	71 FR 10701; March 2, 2006	May 15, 2006.

ENDANGERED MARINE MAMMALS AND MARINE MAMMALS

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
060373	Hubbs-Sea World Research Institute	71 FR 16823; April 4, 2006	May 23, 2006.
120037	Christopher F. Azur	71 FR 16823; April 4, 2006	June 6, 2006.
120039	Francis H. Azur	71 FR 16823; April 4, 2006	May 25, 2006.

Dated: June 9, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–10275 Filed 6–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by July 31, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Dr. Jeffrey Powell, Yale University, New Haven, CT, PRT–784934

The applicant requests renewal of a permit to import samples collected from wild Galapagos tortoises (*Geochelone nigra*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: Zoological Society of San Diego, San Diego, California, PRT–124435

The applicant requests a permit to export semen samples from a Northern white rhinoceros (*Ceratoterium simum cottoni*) to the Zoologicka Zahrada Dvur Kralove nad Labem in the Czech Republic for enhancement of the survival of the species.

Applicant: Sterling G. Fligge, II, Granite Bay, CA, PRT–128031

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Mark A. Wayne, Arlington, VA, PRT–126766

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: George F. Gehrman, Powell, WY, PRT–127007

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Paul J. Ritz, Polacca, AZ, PRT–127651

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Thomas M. Baker, Bowling Green, KY, PRT–128023

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Michael T. Yeary, Pampano Beach, FL, PRT–126631

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Larry J. Kovach, Flagstaff, AZ, PRT–125221

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant:James D. Giles, Garland, TX, PRT–122437

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Kevin Keith aka Kevin Keith's Primal Instinct, Napa, CA, PRT–126707

The applicant request a permit to export, re-export, and re-import one captive-born male mandrill (*Mandrillus sphinx*) to worldwide locations for the purpose of enhancement of the species through conservation education. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

Dated: June 16, 2006.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–10316 Filed 6–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of the Ukiah Proposed Resource Management Plan and Final Environmental Impact Statement; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 *et seq.*), the Bureau of Land Management (BLM) has prepared a proposed Resource Management Plan/ Final Environmental Impact Statement (RMP/EIS) for the Ukiah Field Office.

DATES: The BLM Planning Regulations (43 CFR 1610.5–2) state that any person who participated in the planning process, and has an interest which is or may be adversely affected, may protest BLM's approval of a RMP. You must file a protest within 30 days of the date that the Environmental Protection Agency publishes their Notice of Availability in the **Federal Register**. Instructions for filing of protests are described in the Proposed RMP/Final EIS and in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Eli Ilano, 2550 North State Street, Ukiah, CA 95482; (916) 978–4427; *ukiahrmp@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The planning area covers approximately 270,000 surface acres and approximately 214,000 acres of additional subsurface mineral estate within the following California counties: Marin, Solano, Sonoma, Mendocino, Lake, Napa, Yolo, Colusa, and Glenn. The Ukiah RMP, when completed, will provide management guidance for use and protection of the resources managed by the Ukiah Field Office. The Ukiah Proposed RMP/Final EIS has been developed through a collaborative planning process, including numerous public meetings, workshops, and field trips held across the planning area and throughout the planning process. The Ukiah Draft RMP/ Draft EIS was published for public comment on September 16, 2005. During the 90 day public comment period BLM received approximately 2,400 comments, which are responded to in the Proposed RMP/Final EIS. Public comments resulted in the addition of clarifying text, but did not significantly change proposed land use decisions. The primary issues addressed in the Proposed RMP/Final EIS include: Conflicts between motorized, mechanized, and non-motorized/non-mechanized recreationists; protection of sensitive natural and cultural resources from impacts due to increased recreational use and other land uses; provision of guidance for wind energy development; special management areas; and addressing other planning issues raised during the scoping process.

Copies of the Ukiah Proposed RMP/ Final EIS have been sent to affected Federal, State, and local government agencies and to interested parties. Copies of the Proposed RMP/Final EIS are available for public inspection at the BLM Ukiah Field Office, the BLM California State Office, and at the public library in Ukiah. Interested persons may also review the Proposed RMP/Final EIS on the Internet at *http://www.blm.gov/ca/ukiah/rmp.*

Instructions for filing a protest with the Director of the BLM regarding the Proposed Plan/Final EIS may be found at 43 CFR 1610.5–2. A protest may only raise those issues which were submitted for the record during the planning process. E-mail and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, BLM will consider the e-mail or faxed protest as an advance copy and it will receive full consideration. If you wish to provide BLM with such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at 202–452–5112, and e-mails to *Brenda_Hudgens-Williams@blm.gov.*

Please direct the follow-up letter to the appropriate address provided below. The protest must contain:

a. The name, mailing address, telephone number, and interest of the person filing the protest.

b. A statement of the part or parts of the plan and the issue or issues being protested.

c. A copy of all documents addressing the issue(s) that the protesting party submitted during the planning process or a statement of the date they were discussed for the record.

d. A concise statement explaining why the protestor believes the State Director's decision is wrong.

All protests must be in writing and mailed to one of the following addresses:

Regular Mail: Director (210), Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035.

Overnight Mail: Director (210), Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, DC 20036.

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your protest. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. The Director will promptly render a decision on the protest. The decision will be in writing and will be sent to the protesting party by certified mail, return receipt requested. The decision of the Director is the final decision of the Department of the Interior.

Dated: April 28, 2006.

Mike Pool,

State Director.

[FR Doc. 06–5912 Filed 6–29–06; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0025, 1029–0040 and 1029–0104

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection requests for 30 CFR 733, Maintenance of state programs and procedures for substituting federal enforcement of state programs and withdrawing approval of state programs; 30 CFR 785, Requirements for permits for special categories of mining; and 30 CFR 876, Acid mine drainage treatment and abatement program, have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and their expected burden and cost.

DATES: Comments must be submitted on or before July 31, 2006, to be assured of consideration.

ADDRESSES: Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Department of the Interior Desk Officer, via e-mail at *OIRA_Docket@omb.eop.gov,* or by facsimile to (202) 395–6566. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 202–SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.* Please reference 1029–0025 for Part 733, 1029–0040 for Part 785, and 1029–0104 for Part 876 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To request a copy of any of the information collection requests, explanatory information and related forms, contact John A. Trelease at (202) 208–2783. You may also contact Mr. Trelease at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted three requests to OMB to renew its approval for the collections of information found at 30 CFR Parts 733, 785 and 876. OSM is requesting a 3-year term of approval for these information collection activities.

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 these collections of information are 1029–0025 for Part 733, 1029–0040 for Part 785, and 1029–0104 for Part 876, and may be found in OSM's regulations at 733.10, 785.10 and 876.10.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on March 31, 2006 (71 FR 16344). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities:

Title: Maintenance of State programs and procedures for substituting Federal enforcement of State programs and withdrawing approval of State programs, 30 CFR 733.

OMB Control Number: 1029–0025.

Summary: This part provides that any interested person may request the Director of OSM to evaluate a State program by setting forth in the request a concise statement of facts that the person believes establishes the need for the evaluation.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Any interested person (individuals, businesses, institutions, organizations).

Total Annual Responses: 1.

Total Annual Burden Hours: 100.

Title: Requirements for permits for special categories of mining, 30 CFR 785.

OMB Control Number: 1029–0040.

Summary: The information is being collected to meet the requirements of sections 507, 508, 510, 515, 701 and 711 of Pub. L. 95–87, which requires applicants for special types of mining activities to provide descriptions, maps, plans and data of the proposed activity. This information will be used by the regulator authority in determining if the applicant can meet the applicable performance standards for the special type of mining activity.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for coalmine permits and State Regulatory Authorities.

Total Annual Responses: 228.

Total Annual Burden Hours: 16,146.

Title: Acid mine drainage treatment and abatement program, 30 CFR 876.

OMB Control Number: 1029–0104.

Summary: This part establishes the requirements and procedures allowing states and Indian tribes to establish acid mine drainage abatement and treatment programs under the Abandoned Mine Land fund as directed through Public Law 101–508.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State governments and Indian tribes.

Total Annual Responses: 1.

Total Annual Burden Hours: 350.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the places listed under **ADDRESSES**. Please refer to the appropriate OMB control number in all correspondence.

Dated: June 2, 2006.

Vermell Davis,

Acting Chief, Division of Regulatory Support.

[FR Doc. 06–5896 Filed 6–29–06; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Monitoring Information Collections.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until August 29, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rebekah Dorr, Department of Justice Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed collection; comments requested.

(2) *Title of the Form/Collection:* Monitoring Information Collections.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: COPS Office hiring grantees that are selected for in-depth monitoring of their grant implementation and equipment grantees that report using COPS funds to implement a criminal intelligence system will be required to respond. The Monitoring Information Collections include two types of information collections: the Monitoring Request for Documentation and the 28 CFR part 23 Monitoring Kit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 140 respondents annually will complete the collections: 40 respondents to the Monitoring Request for Documentation at 3 hours per respondent; 100 respondents to the 28 CFR part 23 Monitoring Kit at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 320 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 26, 2006.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E6–10279 Filed 6–29–06; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03–39]

D & S Sales, Revocation of Registration; Introduction and Procedural History

On June 30, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause proposing to revoke Respondent D & S Sales' DEA Certification of Registration, 003884DSY, as a distributor of List I chemicals, and to deny any pending applications for renewal or modification of that registration under 21 U.S.C. 824(a) (4) and 823(h). The Show Cause Order alleged that the continuation of Respondent's registration would be inconsistent with the public interest as that term is defined in 21 U.S.C. 823(h). Specifically, the Show Cause Order alleged that Respondent's "product mix and sales of combination ephedrine products are inconsistent with the known legitimate market and known end user demand for products of this type," that D & S's owner, Mr. Dean Call, knew "that his ephedrine sales are not for legitimate uses," ALJ Exh. 1, at 6, and that the ephedrine products he distributed were being purchased for use in the illicit manufacture of methamphetamine.

Respondent requested a hearing. The matter was assigned to Administrative Law Judge Gail Randall, who conducted a hearing in Fort Wayne, Indiana, on June 15, 2004. Following the hearing, the Government filed Proposed Findings of Fact, Conclusions of Law and Argument, and Respondent filed its Proposed Findings of Fact and Conclusions of Law.

On February 11, 2005, the ALJ submitted her decision. The ALJ concluded that the Government had proved that the continuation of Respondent's registration would be inconsistent with the public interest. See ALJ at 35. The ALJ further recommended that Respondent's registration be revoked and that its pending application for renewal of its registration be denied. See *id.* at 36. Thereafter, the Government filed exceptions on the ground that the ALJ had erred in holding that the statistical evidence it introduced through its expert witness did not provide "conclusive evidence of diversion or fault on the part of Respondent." Government's Exceptions to the Recommended Findings of Fact, Conclusions of Law, and Decision of the ALJ, at 2 (quoting ALJ Dec. at 33).

Having considered the record as a whole, I hereby issue this decision and final order adopting the ALJ's findings of fact and conclusions of law except as expressly rejected herein. I further grant the Government's exception and hold that the Government has established by a preponderance of the evidence that diversion occurred. For the reasons set forth below, I concur with the ALJ's conclusion that Respondent's continued registration would be inconsistent with the public interest and concur with the ALJ's recommendation that Respondent's registration be revoked and that its pending application for renewal be denied.

Findings of Fact

Respondent D & S Sales, a sole proprietorship owned by Mr. Call, holds DEA Certificate of Registration, 003884DSY, which authorizes it to distribute the List 1 chemicals of ephedrine and pseudoephedrine. While Respondent's registration expired on June 30, 2003, its registration has remained effective during the course of these proceedings. Mr. Call has also submitted an application to renew Respondent's registration.

While ephedrine and pseudoephedrine have therapeutic uses, they are also precursor chemicals that are regulated by the Controlled Substances Act. See 21 U.S.C. 802(34). These chemicals are easily extracted from legal over-the-counter products and used to make methamphetamine. Methamphetamine is ''a powerful and addictive central nervous system stimulant,'' Tr. at 28, and is a schedule II controlled substance. 21 CFR 1308.12(d). The illegal manufacture and abuse of methamphetamine pose a grave threat to this country. Methamphetamine abuse has destroyed lives and families, ravaged communities, and created serious environmental harms. The State of Indiana, which is where Respondent engages in business, has experienced a dramatic increase in the number of illegal meth labs, with the number of seizures increasing from forty-three in 1998 to 1260 in 2003. Tr. 26.

In June 2002, Madeline Kuzma, a Diversion Investigator (DI) assigned to DEA's Indianapolis, Indiana District Office, initiated a periodic investigation of Respondent. DI Kuzma met with Mr. Call at his home, which also serves as Respondent's registered location. While interviewing Mr. Call, DI Kuzma determined that Respondent distributes List 1 chemical products, novelty items, sunglasses, lighters and gloves to convenience stores and gas stations in North-Central and North-Eastern Indiana. The List 1 chemical products included Two-Way Action, a product manufactured by Body Dynamics, Inc. (BDI), which contains 25 milligrams of ephedrine and 200 mg of guaifenesin per tablet in both 60 count bottles and 6 tablet packets. Respondent also sold ProActive Laboratories ephedrine multi-action tablets in both 60 count bottles and 6 tablet packets. DEA has issued multiple warning letters to both BDI and ProActive Labs advising them that their products have been found in illegal meth labs.

During the interview, DI Kuzma also learned that Mr. Call derived substantial profits from his business, while working only four full days and a few partial days per month. Most of D & S's profits were derived, however, from ephedrine products. Mr. Call told DI Kuzma that his business sold an average of 17 to 20 cases of ephedrine products per month, with each case containing 144 bottles of 60 tablets.

DI Kuzma then provided Mr. Call with a DEA ''red notice.'' The red notice advised of the illegal and illegitimate use of ephedrine and pseudoephedrine in the illicit manufucturing of methamphetamine and further informed Mr. Call of the potential civil and criminal penalties for illegal possession or distribution of these List 1 Chemicals.

During DI Kuzma's discussion with Mr. Call regarding the illegal use of ephedrine, Mr. Call indicated that he knew of meth. labs in the area and that ephedrine could be used in the illegal manufacturing of the drug. Mr. Call told DI Kuzma that ephedrine ''was stupid and people that used it were stupid[,] as well as people that would ingest methamphetamine.'' Tr. 128. According to DI Kuzma's testimony, Mr. Call ''indicated that probably not one bottle of the product he distributed was actually ultimately used or purchased for the purpose for which it was medically approved by FDA.'' Tr. 129.

DI Kuzma then asked Mr. Call to voluntarily surrender respondent's DEA registration. Mr. Call refused, indicating ''that as long as [ephedrine] was legal and there were going to be firms registered to handle the product, * * * he was not going to be shut out from selling the product because someone else would step in and take over his accounts, and he'd lose money.'' Tr. 130.

Before concluding her visit with Mr. Call, DI Kuzma obtained a copy of Respondent's customer list. All of Respondent's customers were non-traditional retailers of over-the-counter medications such as convenience stores, gas stations, or liquor stores. DI Kuzma also obtained a sampling of Respondent's sales records for the period between early January 2002, and June 12, 2002, the date of the investigation.

Thereafter, DI Kuzma visited six of Respondent's customers to conduct verification visits. For these visits, DI Kuzma selected stores that were purchasing at least one case of ephedrine per month. The purpose of the visits was to verify the customers' purchases of ephedrine from Respondent and to determine the identity of the store's retail customers. The stores were typically located in rural areas.

At one store, DI Kuzma was informed that two customers purchased bottle quantities of ephedrine on a daily basis. At another store, DI Kuzma was informed by the cashier that some customers were purchasing ten to twelve 60-count bottles at a time, and another customer was purchasing a dozen bottles approximately every two weeks. At another store, DI Kuzma was told of a person who bought two bottles every afternoon and fit the description of a methamphetamine addict. At other stores supplied by Respondent, ephedrine was being purchased by factory workers who used it to stay awake. At one of these stores, DI Kuzma was informed that most of its ephedrine customers drove vehicles with Ohio license plates. The State of Ohio, however, prohibits ephedrine sales.

At the hearing, the DI testified that based on the quantity of ephedrine sold by Respondent and the nature of its customers, she believed that many of Respondent's ephedrine sales were suspicious and subject to reporting to DEA. It is DEA policy to send a suspicious order list to a registrant at the time of its initial registration by certified mail and to retain the certified mail receipt in the registrant's file. There was, however, no evidence in the record establishing that Respondent had received a suspicious order list at the time of its initial registration.

Respondent has not reported any suspicious transactions to DEA. Indeed, when DI Kuzma testified as to the information she had received at one store regarding the physical appearance of a purchaser who had the appearance of a methamphetamine addict, Mr. Call objected to the testimony stating, ''I could care less about who buys them or who, you know, I have no control over the retail end of those sales. I drop them off to the store and I'm done.'' Tr. 137.

At the hearing, the Government introduced the expert testimony of Mr. Jonathan Robbin, Founder and President of Ricecar, Inc., of Bethesda, MD. Mr. Robbin's firm ''specializes in the statistical analysis of demographic, economic, geographic, survey and sales data for the purpose of locating, sizing and segmenting markets for a wide variety of consumer goods sold at retail.'' ALJ at 19. Based on data from the latest available United States Economic Census of retail trade, Mr. Robbin has determined that ''over 97% of all sales of non-prescription drug products occur in drug stores and pharmacies, supermarkets, large discount merchandisers and electronic shopping and mail order houses.'' Govt. Exh. 17, at 4. According to Mr. Robbin, ''[t]hese four retail industries * * * are where the vast majority of American consumers satisfy their needs for nonprescription remedies for coughs, colds, nasal congestion or asthmatic conditions,'' and ''constitute the traditional marketplace where such goods are purchased by ordinary consumers.'' *Id.*

Convenience stores are not classified in any of the categories described above. Based on the Census Data, Mr. Robbin determined that sales of non-prescription drugs by convenience stores ''account for only 2.2% of the overall sales of all convenience stores that handle the line and only 0.7% of the total sales of all convenience stores.'' *Id.*

Using Census Data, commercially available point of sale transaction data, and information from surveys conducted by the National Association of Convenience Stores, Mr. Robbin created a model of the traditional market for pseudoephedrine in the retail sector. According to Mr. Robbin, ''a very small percentage of the sales of such goods occur in convenience stores—only about 2.6% of the [Health and Beauty Care] category of merchandise or 0.05% of total in-store (non-gasoline) sales.'' *Id.* Mr. Robbin thus concluded that convenience stores are a non-traditional (or gray) market for over-the-counter pseudoephedrine products and that ephedrine containing products ''have about half the over the counter sales volumes of pseudoephedrine'' tablets. *Id.*

Based on his analysis of both general retail sales data and data measuring retail sales from the supply side, including that obtained in the U.S. Census Bureau's 1997 Economic Census, Mr. Robbin determined ''that the normal expected retail sale of pseudoephedrine * * * tablets in a convenience store may range between $0 and $40 per month, with an average of $20.60 per month.'' *Id.* at 7. Mr. Robbin further concluded that ''the expected sale of ephedrine * * * tablets in a convenience store ranges between $0 and $25, with an average of $ 12.58.'' *Id.* Moreover, a monthly retail sale of $40 of ephedrine ''would be expected to occur less than one in 1,000 times in random sampling.'' *Id.*

DEA provided Mr. Robbin with the sales data it obtained during its investigation of Respondent. The data included a list of 413 transactions between Respondent and the 37 stores it supplied during the 178 day period between January 2, 2002, and June 28, 2002. The data revealed that Respondent had sold 17,062 sixty-count bottles and 17,868 six-tablet packs of ephedrine products. The bottles contained 1,023,720 tablets and sold for a wholesale price of $52,713.70. The six tablet packs contained a total of 107,208 tablets and sold for a wholesale price of $9,150.60.

Mr. Robbin prepared a table, which ranked Respondent's 37 customers based on their ephedrine purchases. Only one store had made purchases of ephedrine products that were within the expected sales range. The next two stores had made purchases that were 4.9 and 5.2 times the expected sales range.

The three stores with the greatest sales sold over 100 times the expected sales range, and the top twelve stores all sold over 50 times expectation. Moreover, the top twenty-seven stores all sold more than 25 times the expected range. In Mr. Robbin's expert opinion, Respondent's sales ''are not possible in the normal commerce of these goods at ordinary convenience stores.'' *Id.* at 13. Mr. Robbin thus concluded that Respondent ''frequently sells * * * combination ephedrine (Hcl) products in extraordinary excess of normal or traditional demand.'' *Id.*

Mr. Call testified on behalf of Respondent. The ALJ found that ''Mr. Call credibly testified that he tries to conduct an honest and straight forward business, without knowingly violating any laws.'' ALJ at 22. The ALJ further found that Call ''credibly stated that if he had violated any laws, if the DEA would have called such violations to his attention, 'I'd have been more than glad to change directions.' '' *Id.* (quoting Tr. 219). Yet on cross-examination, Mr. Call twice denied having stated that he would change directions and then claimed that ''I don't remember saying it.'' *Id.* at 223.

Later in the cross-examination, Mr. Call was asked whether, after the DI's visit, ''you continued to sell Ephedrine as you did before, didn't you?'' Mr. Call answered, ''Why wouldn't I?'' and then asserted he did so ''with the blessing of the DEA.'' Tr. 224. After once again stating that ''I never said I was going to change direction I know of,'' the Government asked Mr. Call: ''And you never did, did you?'' Mr. Call then stated ''And I haven't yet. I sold it, I sold it yesterday morning.'' *Id.*

I decline to accept the ALJ's finding crediting Mr. Call's testimony that '' 'I'd have been more than glad to change directions.' '' In doing so, I am mindful of the Supreme Court's holding in *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474, 496 (1951), ''that evidence supporting a conclusion may be less substantial when an impartial, experienced [ALJ] who has observed the witness and lived with the case has drawn conclusions different from the [ultimate factfinder's] than when the [ALJ] has reached the same conclusion.'' See also *Morall* v. *DEA*, 412 F.3d 165, 179 (D.C. Cir. 2005). ''The findings of the [ALJ] are to be considered along with the consistency and inherent probability of the testimony.'' *Universal Camera*, 340 U.S. at 496.

But just as the ultimate factfinder must consider contrary evidence, see Morall, 412 F.3d at 179, so too must the ALJ. Here, the ALJ's decision does not acknowledge the apparent contradiction between Mr. Call's testimony on direct and his testimony on cross-examination, let alone explain why she made the finding that Mr. Call would change directions. Thus, the finding is not entitled to deference and I do not accept it.

The ALJ also found that Mr. Call ''hates the fact that ephedrine can be used to manufacture methamphetamine,'' but because ''ephedrine is a legal product for distributors and retailers to sell, * * * he has to carry those products.'' ALJ at 23. The ALJ further found that Call testified credibly that ''if I sold the ephedrine product and I knew a person bought that to manufacture methamphetamine, I would be the first one to turn him in or anybody else.'' *Id.* (quoting Tr. 223). While I acknowledge these findings, I conclude that they are immaterial. I do accept the ALJ's finding that Mr. Call cooperated with DEA in the investigation.

Discussion

21 U.S.C. 824(a) provides that a registration to distribute List 1 chemicals may be suspended or revoked ''upon a finding that the registrant * * * has committed such as acts as would render [its] registration under section 823 of this title inconsistent with the public interest as determined under that section.'' *Id.* section 824(a)(4). In making the public interest determination, the Controlled Substance Act requires the consideration of the following factors:

(1) Maintenance by the [registrant] * * * of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance by the [registrant] with applicable Federal, State, and local law;

(3) Any prior conviction record of the [registrant] under Federal or State laws relating to controlled substances or to

chemicals controlled under Federal or State law;

(4) Any past experience of the [registrant] in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety. *Id.* section 823(h).

''[T]these factors are considered in the disjunctive.'' *Joy's Ideas*, 70 FR 33195, 33197 (2005). I ''may rely on any one or combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked or an application for a registration be denied.'' *Id. See also Energy Outlet*, 64 FR 14,269 (1999); *Henry J. Schwartz, Jr., M.D.*, 54 FR 16,422 (1989). In this case, I have concluded that factors one, four and five are dispositive and support the revocation of Respondent's registration.

Factor One—Maintenance of Effective Controls Against Diversion

It is undisputed that Respondent maintains effective controls against diversion while listed chemical products are in its possession. But as the ALJ correctly noted, the inquiry into the effectiveness of Respondent's controls ''does not end when products leave [their] physical location.'' ALJ at 28.

''[P]rior agency rulings have applied a more expansive view of factor one than mere physical security.'' *OTC Distribution Co.*, 68 FR 70538, 70542 (2003). In OTC Distribution, I held that a registrant's ''unwillingness to fully comply with its record keeping and report obligations'' under a Memorandum of Agreement was a relevant consideration under Factor One. *Id.* at 70542. This principle applies to a registrant's failure to report suspicious transactions as required by 21 CFR 1310.05. The regulation specifically provides that a registrant ''shall report * * * [a]ny regulated transaction involving an extraordinary quantity of a listed chemical * * * or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this part.'' *Id.* § 1310.05(a) & (a)(1).

I agree with the ALJ's finding that Respondent was required ''to exercise a high degree of care in monitoring its customers' purchases,'' ALJ at 29, and that Respondent failed to do so. Indeed, the record demonstrates that Mr. Call was not simply negligent but deliberately indifferent to the diversion of Respondent's products. The record clearly establishes that Mr. Call was aware that the ephedrine products he sold were being used in the illicit manufacturing of methamphetamine. The testimony indicates that Mr. Call knew of the existence of methamphetamine labs in the area and that ephedrine could be used to make the drug. Moreover, Mr. Call acknowledged to DI Kuzma ''that probably not one bottle of the product he distributed was actually ultimately used or purchased for the purpose for which it was medically approved.'' Tr. 129. Notwithstanding Mr. Call's evident knowledge that Respondent's products were being diverted, he failed to report any suspicious transactions to DEA.

I am especially appalled by Mr. Call's statement during the hearing that ''I could care less about who buys [my products] or who, you know, I have no control over the retail end of those sales. I drop them off to the store and I'm done.'' *Id.* at 137. This attitude is fundamentally inconsistent with the obligations of a registrant. It is highly relevant in assessing the adequacy of a registrant's systems for monitoring the disposition of List I chemicals. See 21 CFR 1309.71(b)(8). I thus conclude that Respondent has failed to maintain effective controls against diversion. This factor strongly weighs in favor of the revocation of Respondent's registration. Indeed, I conclude that this factor alone supports the revocation of Respondent's registration.

Factor Two—Compliance With Applicable Federal, State and Local Law

The ALJ concluded that beyond the violations described above, ''the record contains no additional evidence of conduct that violated any applicable law by the Respondent, or its owner.'' ALJ at 31. I note, however, that the Eighth Circuit has upheld a criminal conviction for distribution of pseudoephedrine, having reason to believe that the chemical would be used to manufacture methamphetamine in violation of 21 U.S.C. 841(c)(2), based on a ''deliberate ignorance'' instruction. *United States* v. *Sdoulam*, 398 F.3d 981, 993–94 (8th Cir. 2005). Beyond the testimony that Mr. Call was aware ''that not one bottle of the product he distributed was actually used or purchased for the purpose for which it was medically approved,'' Tr. 129, I also note Mr. Call's admission on cross-examination to the effect that he had continued to sell ephedrine even after the visit of DI Kuzma, during which he had been advised of the illicit use of ephedrine in manufacturing methamphetamine. Tr. 224. The Government did not, however, elicit the amount of product Mr. Call had sold following the DI's visit. Ultimately, it is not necessary to determine whether the evidence in this case is sufficient to establish a criminal violation on the part of Respondent's owner because the record supports several alternative grounds for revoking Respondent's registration. Thus, while I do not accept the ALJ's finding, I do not make a finding on Factor Two.

Factor Three—Any Prior Conviction Record Relating to Distribution of Controlled Substances or Listed Chemicals

I agree with the ALJ that there is no record evidence establishing that either Respondent or Mr. Call have been convicted of any crime relating to the distribution of either a controlled substance or listed chemical.

Factor Four—Any Past Experience in the Distribution of Listed Chemicals

I acknowledge that Respondent has several years of experience in distributing List 1 chemicals, that Respondent has never received a warning letter, and that DI Kuzma testified that Respondent has cooperated with DEA. But, as explained above, Mr. Call has conducted Respondent's business with deliberate indifference to the diversion of its products. I thus conclude that this factor weighs in favor of revocation.

Factor Five—Such Other Factors as Are Relevant to and Consistent With the Public Health and Safety

The Government contends that the evidence it produced of Respondent's excessive sales of ephedrine into the gray market is conclusive evidence of diversion and justifies revocation. The ALJ acknowledged that the Government's ''substantial statistical evidence * * * establish[ed] that the Respondent's customers sell more list one chemicals than most convenience stores.'' ALJ at 33. The ALJ concluded, however, that the evidence was not conclusive ''of diversion or fault on the part of Respondent.'' *Id.*

According to the ALJ,''[i]n any specific case, there may be a number of reasons why a distributor's customers have sales in excess of the national average.'' *Id.* Because Respondent's customers are largely located in rural areas ''where traditional retailers are not found,'' the ALJ reasoned that ''[o]ne could argue that their high volume sales of list one chemical products are attributable to the necessity, ease, and/or convenience of local shopping, not diversion.'' *Id.* While acknowledging that ''this is only a possible explanation,'' the ALJ held ''that evidence of sales in excess of the national average is not, without more, enough to justify the revocation of a

DEA registrant's registration.'' *Id.* at 33–34. Following her canvassing of the case law, the ALJ concluded that ''precedent and due process considerations obligate me to consider the behavior of each individual Respondent, not merely the purchases of its customers.'' *Id.* at 35.

I grant the Government's exception and conclude that it has proved by a preponderance of the evidence that diversion occurred. The preponderance standard requires only that the ultimate factfinder ''believe the existence of a fact is more probable than its nonexistence before * * * find[ing] in favor of the party who has the burden to persuade the [factfinder] of the fact's existence.'' *Metropolitan Stevedore Co.* v. *Rambo*, 521 U.S. 121, 137 n.9 (1997) (other citation omitted). In short, the standard only requires proof that diversion was more likely than not to have occurred.

In this case, the Government submitted the expert testimony of Jonathan Robbin, who analyzed nearly six months of Respondent's sales records. Mr. Robbin testified at length as to the methodology he employed, his data sources, and the model he created for the traditional market in pseudoephedrine and ephedrine. Mr. Robbin laid an adequate foundation for his testimony, which included his findings that Respondent's twelve largest customers had bought quantities of ephedrine that were more than 50 times the expectation of legitimate demand and the three greatest customers had purchased quantities that were more than 100 times the expectation. Moreover, twenty-seven stores bought more than 20 times the expectation of legitimate demand. Mr. Robbin further testified that the probability that the purchases of these twenty-seven stores were to meet legitimate demand ''is so small as to be near impossibility.'' Govt. Exh. 17, at 13. Given the near impossibility that these sales were the result of legitimate demand, I conclude the Government has proved that it is more likely than not that diversion occurred. Indeed, courts have relied on statistical evidence far less compelling than this. See, e.g., *United States* v. *Kandiel*, 865 F.2d 967, 971 (8th Cir. 1989) (prosecution for making false representation of citizenship; upholding use of expert testimony that genetic tests established ''only a 'one in 1,000' chance that defendant was the child of a Native American''). Cf. *United States* v. *Veysey*, 334 F.3d 600, 605 (7th Cir. 2003) (''All evidence is probabilistic-statistical evidence merely explicity so * * * Statistical evidence is merely probabilistic evidence coded in numbers rather than words.'') (internal quotations and citations omitted).

I find unpersuasive the ALJ's hypothesis that Respondent's excessive sales could be attributable to the fact that its customers are located in rural areas *where traditional retailers are not found*. The record simply does not establish ''that most of the Respondent's customers are located in rural areas where traditional retailers are not found.'' ALJ at 33 (emphasis added). At most, it establishes that some of the six stores visited by DI Kuzma in conducting the verifications were ''stand-alone facilit[ies].'' Tr. 202. The record lacks substantial evidence regarding the density of, or lack of, traditional retailers within the area of Respondent's customers.

DI Kuzma also testified that there was a Target or Walmart in Decatur, Indiana, which was also the location of one of Respondent's customers, the Fairway Deli. Notwithstanding its proximity to traditional retailers, the Fairway Deli's sales were more than 38 times the expected amounted. Govt. Exh. 17 Table 2.

Respondent could have produced evidence of its own establishing an expected sales range for non-traditional retailers in rural areas. It did not. Respondent could have also challenged the validity of Mr. Robbin's methodology. It did not.

I further note that the Eighth Circuit has rejected a challenge to similar testimony of Mr. Robbin in a criminal case involving a Kansas based chemical distributor. See *Sdoulam*, 398 F.3d at 989–91. In *Sdoulam*, Mr. Robbin testified that the defendant's convenience store was selling pseudoephedrine in an amount 123 times the expected range. *Id.* at 989. The Eighth Circuit upheld the admission of this testimony, observing that ''Robbin laid adequate foundational support for his conclusions by explaining their bases'' in national census population and marketing data and business records. *Id.* at 990. So too here. I thus conclude that the Government has proved that a substantial portion of Respondent's products were diverted.

Nonetheless, I decline to announce a rule that renders diversion by itself adequate grounds to revoke a registration. I acknowledge the ALJ's concern that each case cited by the Government required not only excessive sales into the gray market but also a showing that the Respondent ''committed or proposed to commit other acts inconsistent with the public interest.'' ALJ at 34. Most of the cited cases, however, involved denials of applications. The cases did not go so far as to establish a requirement that the Government must show fault on the part of a Respondent to sustain a public interest revocation. Indeed, fault is typically a concept that is associated with past conduct and not proposed future activity. Thus, while these cases suggest that more than excessive sales are required to deny an application, they are not controlling in a revocation action.

I further note that dicta in *Mediplas Innovations*, 67 FR 41256, 41261 (2002), a suspension of shipments case, observed that a revocation of a registration ''require[s] a finding of culpability.'' The *Mediplas* decision further declared that ''[o]nly upon a finding of culpability can a DEA registrant permanently be deprived of controlled substances or List I chemicals.'' *Id.* at 41261.

In support of these assertions, *Mediplas* cited sections 823 and 824. The case did not, however, analyze the statutory text of either provision and neither section 824(a)(4) nor section 823(h) appears to impose on the Government the burden of proving culpability in order to sustain a public interest revocation. The statute is silent on the question, see *Chevron, U.S.A. Inc.,* v. *NRDC*, 467 U.S. 837, 843 (1984), and a reconsideration of the issue might be warranted in light of the unique difficulties posed in combating the use of OTC products in the illicit manufacture of methamphetamine. *Cf. Rust* v. *Sullivan*, 500 U.S. 173, 186–87 (1991) (an agency ''must be given ample latitude to adapt [its] rules and policies to the demands of changing circumstances'') (internal quotations and citations omitted).

Holding registrants strictly liable for excessive sales of listed chemicals might well be the appropriate approach for effectuating Congress' intent to protect the public interest. See 21 U.S.C. 824(f). Given that the Supreme Court has endorsed the propriety of strict liability for regulatory criminal offenses, see *Morisette* v. *United States*, 342 U.S. 246, 255–60 (1952), the imposition of strict liability in a purely regulatory scheme should not raise any serious constitutional objection.

I need not decide this question, however, because the Government alleged that Mr. Call knew that Respondent's ''ephedrine sales [were] not for legitimate uses,'' see ALJ Exh.1, at 6, and there is ample evidence of Respondent's fault. As explained above, Mr. Call's admissions to DI Kuzma and his statements and testimony during the hearing establish that he was—as Respondent's owner—deliberately indifferent to the diversion of its products for use in the illicit manufacture of methamphetamine. Burying one's head in the sand while his firm's products are being diverted may allow one to maximize profits. But it is manifestly inconsistent with public health safety and justifies the revocation of Respondent's registration.

In sum, factors one, four and five each independently support revocation. I have considered the mitigating evidence offered by Respondent including his cooperation with the investigation. I nonetheless conclude that revocation is necessary to adequately protect the public interest.

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823 & 824, and 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, 003884DSY, issued to D & S Sales, be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective July 31, 2006.

Dated: June 12, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–9705 Filed 6–29–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention; Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: National Youth Gang Survey.

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the *Federal Register,* Volume 71, Number 23, page 5881, on February 3, 2006 allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 31, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* National Youth Gang Survey.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice, is sponsoring the collection.

Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, local, or tribal law enforcement agencies. Other: None. This collection will gather information related to youth gangs and their activities for research and assessment purposes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take 2,300 respondents approximately ten minutes each to complete the survey.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual burden hours to complete the certification form is less than 427 hours.

If additional information is required, contact Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 23, 2006.

Robert B. Briggs,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 06–5926 Filed 6–29–06; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–042)]

NASA International Space Station Independent Safety Task Force; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the International Space Station Independent Safety Task Force (IISTF).

DATES: Tuesday, July 25, 2006, 8 a.m. to 5 p.m.; Wednesday, July 26, 2006, 8 a.m. to 5 p.m.; and Thursday, July 27, 2006, 8 a.m. to 12 Noon, Central Daylight Time.

ADDRESSES: NASA Lyndon B. Johnson Space Center, 2101 NASA Parkway, Bldg. 1, Room 966, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Y. Gard, IISTF Executive Director, National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Houston, TX 77058, telephone (281) 244–7980, e-mail *melissa.y.gard@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room (20). Seating will be on a first-come basis. The agenda for the meeting includes the following topics:

—Presentations related to the IISTF's charter to assessing any vulnerabilities of the ISS that could lead to its destruction, compromise the health of its crew, or necessitate its premature abandonment.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. To expedite admittance, attendees should provide identifying information in advance by contacting Ms. Jana Schultz via e-mail at *jana.t.schultz@nasa.gov* or by telephone at (281) 244–7913 by July 20, 2006. Foreign nationals that wish to attend this meeting will be required to provide the following information: Full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee not less than 10 days prior to the meeting in order to process their security check and provide sufficient escorts for admittance on to Johnson Space Center.

Members of the public may make five minute verbal presentations to the Task Force on the subject of International Space Station safety. All those wishing to make such a statement in front of the Task Force are requested to contact Ms. Jana Schultz via e-mail at *jana.t.schultz@nasa.gov* or by telephone at (281) 244–7913 by July 20, 2006, prior to the first day of the meeting. If public requests to speak are received, they will be heard during the first 30 minutes of the July 25, 2006, meeting on a first-come basis. Any member of the public is permitted to file a written statement with the Task Force at the time of the meeting. Verbal presentations and written comments should be limited to the subject of International Space Station safety.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Michael F. O'Brien,

Assistant Administrator, Office of External Relations.

[FR Doc. E6–10323 Filed 6–29–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–041)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant Partially-Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the inventions described and claimed in ''Ordered Biological Nanostructures Formed From Chaperonin Polypeptides,'' ARC–14744–1 and ''A Versatile Platform for Nanotechnology Based on Circular Permutations of Chaperonin Protein,'' ARC–14744–2, to Cambrios Technologies, having its principal place of business in Mountain View, California. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially-exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective [exclusive/partially-exclusive] license may be granted unless within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially-exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective [exclusive/partially-exclusive] license may be submitted to Chief Patent Counsel, Office of Chief Counsel, NASA Ames Research Center, MS 202A–4, Moffett Field, CA 94035–1000, (650) 604–5104; Fax (650) 604–2767.

FOR FURTHER INFORMATION CONTACT: Robert M. Padilla, Chief Patent Counsel, Office of Chief Counsel, NASA Ames Research Center, MS 202A–4, Moffett Field, CA 94035–1000, (650) 604–5104; Fax (650) 604–2767. Information about other NASA inventions available for licensing can be found online at *http://techtracs.nasa.gov/.*

Dated: June 22, 2006.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E6–10325 Filed 6–29–06; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Company; Brunswick Steam Electric Plant, Units 1 and 2; Notice of Issuance of Renewed Facility Operating License Nos. DPR–71 and DPR–62 for an Additional 20-Year Period

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued Renewed Facility Operating License Nos. DPR–71, and DPR–62 to Carolina Power & Light Company (the licensee), the operator of the Brunswick Steam Electric Plant (BSEP), Units 1 and 2. Renewed Facility Operating License No. DPR–71 authorizes operation of BSEP, Unit 1, by the licensee at reactor core power levels not in excess of 2923 megawatts thermal, in accordance with the provisions of the BSEP renewed license and its Technical Specifications. Renewed Facility Operating License No. DPR–62 authorizes operation of BSEP, Unit 2, by the licensee at reactor core power levels not in excess of 2923 megawatts thermal, in accordance with the provisions of the BSEP renewed license and its Technical Specifications.

BSEP, Units 1 and 2, are located south of Wilmington, NC, at the mouth of the Cape Fear River in Brunswick County, NC, and 2 miles north of Southport, NC. The licensee's application for the renewed licenses complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. As required by the Act and the Commission's regulations in 10 CFR Chapter I, the Commission has made appropriate findings, which are set forth in each license. Prior public notice of the action involving the proposed issuance of the renewed licenses and of an opportunity for a hearing regarding the proposed issuance of the renewed licenses was published in the **Federal**

Register on December 6, 2004 (69 FR 70471).

For further details with respect to this action, see (1) the Carolina Power & Light Company's license renewal application for BSEP, Units 1 and 2, dated October 18, 2004, as supplemented by letters dated February 24, March 14, March 17, March 31, April 8, April 21, May 4, May 11, May 16, June 1, June 14, July 18, August 11, September 29, November 22, and December 6, 2005; (2) the Commission's safety evaluation report (NUREG–1856), dated March 2006; and (3) the Commission's final environmental impact statement (NUREG–1437, Supplement 25), published in April 2006. These documents are available at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, and on the NRC public Web site in the Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.*

Copies of Renewed Facility Operating License Nos. DPR–71 and DPR–62 may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Director, Division of License Renewal. Copies of the BSEP, Units 1 and 2, safety evaluation report (NUREG–1856) and the final environmental impact statement (NUREG–1437, Supplement 25) may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161–0002, *http://www.ntis.gov,* 703–605–6000, or Attention: Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954, *http://www.gpoaccess.gov*), 202–512–1800. All orders should clearly identify the NRC publication number and the requester's Government Printing Office deposit account number or a VISA or MasterCard number and expiration date.

Dated at Rockville, Maryland, this 26th day of June 2006.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 06–5900 Filed 6–29–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–244]

R.E. Ginna Nuclear Power Plant, LLC; R.E. Ginna Nuclear Power Plant Final Environmental Assessment and Finding of No Significant Impact Related to the Proposed License Amendment To Increase the Maximum Reactor Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC or Commission).

SUMMARY: The NRC has prepared a final Environmental Assessment as part of its evaluation of a request by R.E. Ginna Nuclear Power Plant, LLC (Ginna LLC) for a license amendment to increase the maximum steady state power level at the R.E. Ginna Nuclear Power Plant (Ginna) from 1520 megawatts thermal (MWt) to 1775 MWt. This represents a power increase of approximately 16.8 percent, which is considered an extended power uprate (EPU). As stated in the NRC staff's position paper dated February 8, 1996, on the Boiling-Water Reactor Extended Power Uprate Program, the NRC staff will prepare an environmental impact statement if it believes a power uprate will have a significant impact on the human environment. The NRC staff did not identify any significant impact from the information provided in the licensee's EPU application for Ginna Station or the NRC staff's independent review; therefore, the NRC staff is documenting its environmental review in an environmental assessment. Also, in accordance with the position paper, the final Environmental Assessment and finding of no significant impact is being published in the **Federal Register**.

The NRC published a draft Environmental Assessment and finding of no significant impact on the proposed action for public comment in the **Federal Register** on April 12, 2006 (71 FR 18779). One set of comments was received on the draft Environmental Assessment from the New York State Department of Environmental Conservation (NYSDEC) by letter dated May 12, 2006 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML061370627). The comments are discussed in the paragraphs below.

Some of the comments provided by the NYSDEC were clarifications and corrections to the draft Environmental Assessment (see comment a, b, c, d, and e in the NYSDEC letter). Based on these comments, the NRC revised the appropriate sections of the final Environmental Assessment. In comment "f," NYSDEC indicated "based on review of historical data, staff would not characterize impingement and entrainment rates as 'minimal,' but would describe them as 'lower than most similar sized electrical generating facilities in New York State.' " The NRC only evaluates environmental impacts at the site and surrounding area that could be affected by the proposed EPU at the facility. Rather than comparing the impacts with other perhaps similar facilities, the NRC staff looks at the overall impact of the affected resource, i.e., aquatic species in Lake Ontario. Our conclusion of "minimal" should be interpreted as not having a noticeable impact on the long-term sustainment of aquatic species in Lake Ontario due to entrainment and impingement. This action may have no impact to aquatic species in other parts of New York State; therefore, our analysis does not make such comparison. The comment is noted, but no changes were made to the Environmental Assessment based on this comment.

The NYSDEC comments "g and h" raised concerns regarding possible unknown synergistic effects of physical and thermal stresses to the cold water species alewife and three-spine stickleback impinged in the Ginna fish return system under the proposed EPU conditions. In addition, NYSDEC recommended the discussion on the fish return system include references to the 316(b) Phase II rule developed by the Environment Protection Agency (EPA). This regulation established Federal requirements applicable to the location, design, construction, and capacity of cooling-water intake structures at existing facilities that exceed a threshold value for water withdrawals. The draft Environmental Assessment did include a discussion on how the new performance standards are designed to significantly reduce impingement and entrainment losses resulting from plant operation, and any site-specific mitigation would result in less impact due to continued plant operation. Currently, the Ginna State Pollutant Discharge Elimination System (SPDES) permit modification application is under technical review by NYSDEC. The SPDES permit modification application incorporated the requirements listed in Subpart J of the EPA 316(b) Phase II rule. Also, Ginna LLC has begun some studies required for compliance with the EPA 316(b) Phase II rule. The NRC staff agrees that implementation of technologies and/or operational procedures required by the EPA 316(b) Phase II rule, with authority delegated to NYSDEC, would further minimize impingement and entrainment losses of all aquatic species (including alewife and three-spine stickleback) at Ginna, under proposed EPU conditions. The comment did not provide any new information; therefore, no changes were made to the Environmental Assessment.

NYSDEC comment ''I'' stated that the draft Environmental Assessment did not address ''potential impacts to early life stages of fish entrained into the discharge plume.'' Entrainment applies specifically to aquatic organisms (*i.e.* early life stage fish and shellfish) that are small enough to pass through a plant's intake debris screens, travel through the cooling system, and be exposed to heat, mechanical and pressure stresses, and possibly biocidal chemicals before being discharged back to the body of water. Early life stage fish (eggs and larvae) not entrained by the plant, but in the nearby water column of Lake Ontario within or near the discharge plume under the proposed conditions, would not be significantly impacted. Ginna is not adjacent to or near habitat features or spawning/nursery areas preferred by or important to local fish. As indicated by NYSDEC, the temperatures injurious to alewife eggs are limited to a small area of the thermal plume (at the mouth of the discharge canal).

Comment ''j'' states NYSDEC has received reports of bald eagle sightings in the Wayne County area over the past 3 to 4 years. The reports include observations of first-year immature birds, which indicate bald eagle nesting sites could be closer to the Ginna site than originally analyzed. In addition, NYSDEC states the closest verified nest is located in the Northern Montezuma Wildlife Management Area, approximately 30 miles away from the Ginna site. The NRC staff spoke with the staff of the U.S. Fish and Wildlife Service, Montezuma National Wildlife Refuge office, who verified there are nesting sites in the southern area of the refuge and possibly in the northern area. Based on this new information, the NRC staff believes bald eagle nesting sites are closer (30 miles) to the Ginna site than originally analyzed (55 miles). However, the staff believes the conclusion that the bald eagle will not likely be impacted by the proposed EPU, is still valid, and no changes to the Environmental Assessment are warranted.

NYSDEC also expressed concerns on possible radiological impacts to threatened and endangered species due to the proposed EPU. EPA standards (40 CFR Part 190, 40 FR 23420) concluded that environmental radiation standards developed by the nuclear power industry are adequate to protect the overall ecosystem. At this time, there is no evidence that there is any biological species sensitive enough to warrant a greater level of protection than that which is determined to be adequate for man. As a result of the proposed EPU, the radiation levels in many plant areas are expected to increase up to approximately 17%. The radiological impacts section of the Environmental Assessment provides a detailed analysis of potential impacts related to radiation. The NRC staff concluded all radiological doses were below regulatory limits and found no significant impact due to the proposed EPU.

Environmental Assessment

Plant Site and Environs

Ginna is located 6 km (4 mi) north of Ontario, New York, in the northwest corner of Wayne County and on the south shore of Lake Ontario. The immediate area around Ginna is rural, with the city of Rochester approximately 32 km (20 mi) to the west and Oswego, New York, 64 km (40 mi) to the east-northeast. The plant consists of one unit equipped with a nuclear steam supply system supplied by Westinghouse Electric Corporation, which uses a pressurized-water reactor (PWR) and a once-through cooling system for turbine exhaust condensor cooling and as the ultimate heat sink.

Identification of the Proposed Action

By letter dated July 7, 2005 (ADAMS Accession No. ML051950123), Ginna LLC proposed an amendment to the operating license for Ginna to increase the maximum steady state power level by approximately 16.8 percent, from 1520 MWt to 1775 MWt. The change is considered an EPU because it would raise the reactor core power level by more than 7 percent above the currently licensed maximum power level. This proposed action would allow the heat output of the reactor to increase, which would increase the flow of steam to the main turbine-generator. This would result in the increase in production of electricity and the amount of waste heat delivered to the condenser, resulting in an increase in the temperature of the water being discharged into Lake Ontario.

The Need for the Proposed Action

Ginna LLC estimates the proposed action would result in approximately 85 additional megawatts-electric (MWe) being generated. This additional electricity generation could power approximately 95,000 homes and would contribute to meeting the goals and recommendations of the New York State Energy Plan. The EPU could be implemented for approximately one-fifth of the cost to construct two small (50–MWe) natural gas combustion turbine units, as recommended by the New York State Energy Planning Board, and would not cause the environmental impacts that would occur from construction of new power generation facilities to meet the region's electricity needs.

Environmental Impacts of the Proposed Action

At the time of issuance of the operating license for Ginna, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of Ginna, which was issued March 1973. In addition, in February 2004, the NRC published its Supplemental Environmental Impact Statement (SEIS), NUREG–1437 Supplement 14, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 14, Regarding R.E. Ginna Nuclear Power Plant—Final Report,'' which evaluated the environmental impacts of operating Ginna for an additional 20 years. In the SEIS, the NRC determined that the adverse environmental impacts of license renewal would not be so great that preserving the option of license renewal for energy-planning decision makers would be unreasonable. This Environmental Assessment summarizes the radiological and non-radiological impacts in the environment that may result from the EPU.

Non-Radiological Impacts

Land Use Impacts

The potential impacts associated with land use for the proposed action include impacts from construction and plant modifications. The impacts from construction due to the proposed EPU are minimal. No expansion of roads, parking lots, equipment storage areas, or transmission facilities and no new building construction is anticipated to support the proposed EPU. Volumes of industrial chemicals, fuels, or lubricants are not expected to increase substantially, and would not require additional onsite storage space.

Some plant modifications would be required to implement the proposed action. The modifications are listed in Table 4–1 of Ginna EPU, Supplemental Environmental Report (ER), submitted by Ginna LLC on July 7, 2005. The most significant modification to be conducted would be replacement of the high-pressure turbine rotor. Major modifications completed in the last 10 years that contribute to the increased power opportunities at Ginna are the re-tubing of the main condenser (1995), the replacement of the steam generators with an increased size design (1996), and replacement of the reactor vessel head (2003). None of the plant modifications listed above or in Table 4–1 of the ER will result in any changes in land use.

Historic and archeological resources should not be affected by the proposed EPU, because there are no modifications to land use. The proposed EPU would not modify land use at the site significantly over that described in the FES and NUREG–1437 Supplement 14. Therefore, the NRC staff concludes that the land use impacts of the proposed EPU are bounded by the impacts previously evaluated in the FES and NUREG–1437 Supplement 14.

Transmission Facility Impacts

The potential impacts associated with transmission facilities for the proposed action include changes in transmission line corridor right-of-way maintenance and electric shock hazards due to increased current. The proposed EPU would not require any physical modifications or changes in the maintenance and operation of existing transmission lines, switchyards, or substations. Ginna LLC's transmission lines right-of-way vegetation management would not change. There would be no change in voltage, but there would be an increase in the current flowing through the transmission facilities.

The National Electric Safety Code (NESC) provides design criteria that limit hazards from steady-state currents. The NESC limits the short-circuit current to ground to less than 5 milliamperes. The increase in current passing through the transmission lines is directly associated with the increased power level of the proposed EPU. In addition, the increased electrical current passing through the transmission lines would cause an increase in the electromagnetic field strength.

Based on information provided in the ER, the transmission lines at Ginna would continue to meet the applicable NESC recommendations for electric-field induced shock under the proposed EPU. Therefore, the risk of shock from the offsite transmission lines would not be expected to increase significantly over the current impact.

The impacts associated with transmission facilities for the proposed action would not change significantly over the impacts associated with current plant operations. There would be no changes to current transmission line right-of-way operation and maintenance practices; no physical modifications to the transmission lines, switchyards, or substations; and electric current passing through the transmission lines would increase slightly. Therefore, the NRC staff concludes that there would be no significant impacts associated with transmission facilities for the proposed action.

Water Use Impacts

Potential water use impacts from implementation of the proposed action would include hydrological alterations to Lake Ontario. Ginna uses a once-through condenser cooling system drawing water from Lake Ontario through a submerged offshore intake. Water used to cool the turbine condenser is discharged into the discharge canal. The heated water enters Lake Ontario at the shoreline. Total nominal flow of water for turbine condenser cooling and most secondary systems (*i.e.* service water and fire protection) is approximately 354,600 gallons per minute (gpm).

Lake Ontario serves as a principal water source for several local water supply systems in New York State's Monroe and Wayne Counties. All water required for plant operation, except potable water, is withdrawn from Lake Ontario. The rate of withdrawal would not increase as a result of the EPU. Therefore, operation of Ginna would not affect the availability of surface water. Groundwater is not used in plant operations; therefore, there are no impacts from onsite groundwater use. The NRC staff concludes that the proposed EPU would not have a significant impact on water use.

Discharge Impacts

Surface water and wastewater discharges to Lake Ontario from the plant are regulated by the State of New York via a SPDES Permit (Number NY–0000493), effective February 1, 2003—February 1, 2008. This permit is reviewed and renewed by the NYSDEC. It is expected that the EPU would increase the temperature of the water discharged to Lake Ontario as well as the thermal discharge plume, which would require modifications to the current SPDES permit.

The current SPDES permit allows a 28 ''F rise in temperature of the discharge water over the ambient temperature of the lake water, and a maximum 320-acre mixing zone. The current permit also limits the discharge temperature to 102 °F. During current operating conditions, the difference between plant discharge temperature and ambient lake temperature is approximately 20 °F in the summer months, and 28 °F during the winter months. The larger temperature difference, which occurs in the winter months, is due to recirculation of heated water from the discharge canal to the screenhouse inlet forebay to assist in maintaining inlet water temperature and eliminating ice that may form in the inlet forebay. Under proposed EPU operating conditions, the difference in temperature would be approximately 25 °F and 35 °F in summer (*i.e.*, intake temp > 45 °F) and winter (*i.e.*, intake temp ≤ 45 °F) months, respectively. In addition, the discharge temperature would at times exceed the current SPDES permit limits (102 °F) to an upper limit of 106 °F.

The current SPDES permit limit for the Ginna thermal discharge plume mixing area is 320 acres. In 2004, Ginna LLC commissioned studies to determine the effect of the proposed EPU on water temperatures, temperature distribution in near-field and far-field areas associated with the discharge, and to assess the impacts on aquatic species. According to the information calculated by the near-field plume model (CORMIX) and far-field hydrodynamic and thermal model (ECOM), under existing plant operating conditions, the thermal plume mixing area is less than 300 acres in summer and winter months. An increased mixing zone of 360 acres from the point of discharge on a daily basis (24 hours) would be needed to support operation under the proposed EPU operating conditions. The discharge environmental impacts of the proposed EPU conditions are described in the ''Impacts to Aquatic Biota'' section of the ER.

By letters dated March 8, April 2, July 29, October 18, November 18, 2005, January 12, and March 15, 2006, Ginna LLC submitted a permit modification request to NYSDEC regarding an increase in the Ginna Station Outfall 001 discharge temperature limit, intake-discharge ΔT, and the size of the mixing zone to accommodate the proposed EPU conditions described above. The NYSDEC sets limits on and regulates the amount of heat discharged to Lake Ontario. Approval from the NYSDEC for these SPDES Permit modifications is currently pending.

Based on information provided in the ER and NUREG–1437 Supplement 14, the NRC staff has determined the thermal discharge environmental impacts to Lake Ontario under the proposed EPU conditions would not be significant.

Impacts on Aquatic Biota

The potential impacts to aquatic biota from the proposed action include impingement, entrainment, thermal discharge effects, and impacts due to transmission line right-of-way maintenance. Aquatic organisms that are caught on a plant's intake debris screens made of mesh are considered impinged. The term entrainment applies to aquatic organisms (i.e. fish and shellfish) that are small enough to pass through a plant's intake debris screens and travel through the cooling system and be exposed to heat, mechanical, and pressure stresses and possibly biocidal chemicals, before being discharged back to the body of water. Ginna has intake and discharge structures on Lake Ontario. The aquatic species evaluated in this Environmental Assessment are in the vicinity of the Ginna intake and discharge structures.

Ginna LLC monitors entrained and impinged species as required by the current NYSDEC SPDES Permit. In 2004, Ginna LLC commissioned a biological assessment to analyze the effects of increased water temperature and mixing zone associated with the proposed EPU on Lake Ontario. The assessment included potential impacts to impingement and entrainment rates associated with the proposed EPU.

The most prominent fish species located in the shoreline area of Lake Ontario near Ginna are smallmouth bass, spottail shiner, American eel, alewife, yellow perch, threespine stickleback, brown trout, rainbow smelt, lake trout and rainbow trout. Ginna LLC reviewed these ten fish populations, which were identified by the NYSDEC as the ''Representative Identified Species,'' (RIS) occurring in the vicinity of Ginna. For the purpose of this Environmental Assessment, the identical ten fish species were reviewed.

Impingement and entrainment monitoring at Ginna has been investigated since the 1970's. Based on this historical data and requirements of the SPDES Permit, impingement and entrainment rates at Ginna are minimal, and according to the ER no significant adverse impact on the RIS populations would result due to the increased discharge temperatures. These conclusions are based on the following: (1) Ginna is not adjacent to or near habitat features or spawning/nursery areas preferred by or important to local fish populations; (2) cooler areas for refuge are readily available to fish that enter the cooling water discharge; (3) the thermal plume under proposed EPU conditions would generally extend no more than 1 to 3 feet below the surface, providing a zone of passage for fish; (4) Ginna does not have any known incidents of cold shock to aquatic biota and cold shock incidents for the RIS would be minimized due to gradual shutdown and reduction procedures in cooling water temperature; (5) fish will avoid portions of the lake that exceed their thermal preferenda; and (6) any impinged fish exposed to elevated temperatures (above their thermal preferenda) in the fish return system will be exposed only for a short duration (20–50 seconds). After reviewing the information presented in the ER, the NYSDEC SPDES permit modification demonstration submittal, and NUREG–1437 Supplement 14, the NRC staff concludes that the impact of the proposed EPU on aquatic biota would not be significant.

As discussed in the transmission facility impacts section of this Environmental Assessment, transmission line right-of-way maintenance practices would not change. Therefore, the NRC staff concludes that the impact of the proposed action to aquatic biota would not be significant.

On July 9, 2004, EPA published a final rule in the **Federal Register** (69 FR 41575) addressing cooling water intake structures at existing power plants whose flow levels exceed a minimum threshold value of 50 million gallons per day (gpd). The rule is Phase II in the Environmental Protection Agency's (EPA's) development of 316(b) regulations that establish national requirements applicable to the location, design, construction, and capacity of cooling water intake structures at existing facilities that exceed the threshold value for water withdrawals. The national requirements, which are implemented through National Pollutant Discharge Elimination System (NPDES) permits, minimize the adverse environmental impacts associated with the continued use of the intake systems. In the case of Ginna, the SPDES permit is equivalent to the NPDES permit. Licensees are required to demonstrate compliance with the Phase II performance standards at the time of renewal of their NPDES permit. Licensees may be required as part of the NPDES renewal to alter the intake structure, redesign the cooling system, modify station operation, or take other mitigative measures as a result of this regulation. The new performance standards are designed to reduce significantly impingement and entrainment losses due to plant operation. Any site-specific mitigation would result in less impact due to continued plant operation.

Impacts on Terrestrial Biota

The potential impacts to terrestrial biota from the proposed action would be due to transmission line right-of-way maintenance. As discussed in the transmission facility impacts section of this Environmental Assessment, transmission line right-of-way maintenance practices would not change for the proposed action. Therefore, the NRC staff concludes that there are no significant impacts to terrestrial plant or animal species associated with transmission line right-of-way maintenance for the proposed action.

Impacts on Threatened and Endangered Species

Potential impacts to threatened and endangered species from the proposed action include the impacts assessed in the aquatic and terrestrial biota sections of this Environmental Assessment. These impacts include impingement, entrainment, thermal discharge effects, and impacts due to transmission line right-of-way maintenance for aquatic species, and impacts due to transmission line right-of-way maintenance for terrestrial species.

There are four animal and two plant species listed as threatened or endangered under the Federal Endangered Species Act within Wayne County, New York. These species are the bog turtle (*Clemmys muhlenbergii*), bald eagle (*Haliaeetus leucocephalus*), piping plover (*Charadrius melodus*), Indiana bat (*Myotis sodalis*), small-whorled pogonia (*Isotria medeoloides*), and prairie fringed orchid (*Plantanthera leucophaea*). There are no records of any of these species on the Ginna site. The nearest designated critical habitat is for piping plover (*C. melodus*), which lies 90 miles from the Ginna site on the eastern shore of Lake Ontario. No critical habitat or known occurrences of bog turtle (*C. muhlenbergii*), Indiana bat (*M. sodalis*), small-whorled pogonia (*I. medeoloides*), and prairie fringed orchid (*P. leucophaea*) have been reported within the Ginna site vicinity or within the transmission lines right-of-way. However, bald eagles (*H. leucocephalus*) are occasionally observed in the vicinity, usually during spring migration. The nearest known bald eagle nesting site is approximately 30 miles southeast of the Ginna site, near Montezuma National Wildlife Refuge. It is not likely that the bald eagles would be impacted by the EPU because the birds are transient and do not nest at the Ginna site.

There are no Federally listed threatened or endangered aquatic species listed under the Endangered Species Act in the vicinity of Ginna or Wayne County, New York. There are two State-listed aquatic species known to occur in Wayne County: Pugnose shiner (*Notropis anogenus*) and lake sturgeon (*Acipenser fulvescens*). However, neither species has been reported in the vicinity of Ginna. Therefore, the NRC staff concludes that there is no effect to threatened and endangered species associated with the proposed EPU based on the information provided in the ER, NUREG–1437 Supplement 14, and the staff's own independent review.

Social and Economic Impacts

Potential social and economic impacts due to the proposed EPU relate to potential changes to the size of the workforce at Ginna. The NRC staff has reviewed the information provided by Ginna LLC regarding socioeconomic impacts. Ginna LLC is a major employer in the community with approximately 436 people employed on a full-time basis and 167 long- and short-term contractors employed on a regular basis.

In January 2005, Ginna LLC, which acquired the plant in June 2004, entered into a payment agreement with the Town of Ontario, the Wayne County School District, and Wayne County as opposed to paying sales and property taxes. The agreement in place is a Payment In-Lieu of Taxes Agreement (PILOT). Under this agreement, Ginna's assessed value is set at $260,000,000. Annual payments in equal amounts will be paid to tax jurisdictions in an amount equal to the assessed value multiplied by the real property tax rate established by each tax jurisdiction for the applicable tax year. Estimates of what amounts are to be paid through 2009 can be found in Chapter 5 of the Ginna EPU ER.

Ginna LLC and its personnel contribute directly and indirectly to the surrounding communities of the plant. Taxes collected under the PILOT agreement are used to fund schools, police and fire protection, road maintenance, and other municipal services. In addition, Ginna LLC personnel and contractors contribute indirectly to the tax base by paying sales and property taxes, state income tax, and hotel and meal taxes.

The proposed EPU would not significantly affect the size of the Ginna workforce. Most EPU modifications were performed during the Spring 2005 Refueling Outage, with the remaining modifications scheduled to be completed during the 2006 Refueling Outage. During a regularly scheduled refueling outage, the workforce at Ginna increases by approximately 534 persons on average. The workforce needed for the 2006 Refueling outage will require additional workers above the usual 534 persons average. The supplemental workers are not expected to adversely affect area housing availability, transportation services, or the public water supply due to the short period of the demand.

The NRC staff expects that granting the EPU as proposed would improve the economic viability of Ginna, ensuring that it would continue to contribute positively to the surrounding communities.

As discussed above, granting the EPU as proposed would have little direct socioeconomic impact to the local and regional economies. Therefore, the NRC staff concludes that there are no significant social or economic impacts for the proposed action based on information in the ER and NUREG–1437 Supplement 14.

Summary

The EPU, if implemented as proposed, would not result in a significant change in non-radiological impacts in the areas of land use, water use, thermal discharges, terrestrial and aquatic biota, transmission facility operation, or social and economic factors. No other non-radiological impacts were identified or would be expected. Table 1 summarizes the non-radiological environmental impacts of the proposed EPU at Ginna.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS

Land Use	No significant land use modifications are expected.
Transmission Facilities	No physical modifications to the transmission lines; lines meet shock safety requirements; no changes to right-of-ways including vegetation management; small increase in electrical current and magnetic field.
Water Use	No physical modifications to intake structure; no increased rate of withdrawal; no water use conflicts.
Discharge	Increase in water temperature and mixing zone to Lake Ontario; application to increase SPDES permit discharge temperature and plume acreage submitted to New York State, decision pending.
Aquatic Biota	No adverse impact will occur to the RIS populations due to the following: Ginna Station is not near preferred/important spawning areas; cooler areas for refuge are readily available; thermal plume under proposed conditions would extend approximately 1 to 3 feet below the surface; cold shock incidents would be minimal due to gradual shutdown and reduction procedures; fish avoid areas that exceed their thermal preferenda; impinged species exposed to elevated temperatures (above thermal preferenda) will be exposed only for a short duration (20–50 seconds); EPU would have no additional impact on entrained species.
Terrestrial Biota	No change in transmission line maintenance; EPU would have no additional impact on terrestrial plant or animal species.
Threatened and Endangered Species.	Six Federally listed species in Wayne County; No species have been identified on the Ginna site; EPU would have no effect on species.
Social and Economic	No significant change in size of Ginna Station work force required for plant operation; small increase in work force required for spring 2006 refueling outage to implement remaining plant modifications. EPU would have no effect on socioeconomics.

Radiological Impacts

Radioactive Waste Stream Impacts

Ginna uses waste treatment systems designed to collect, process, and dispose of gaseous, liquid, and solid wastes that might contain radioactive material in a safe and controlled manner such that discharges are in accordance with the requirements of Part 20, "Standards for Protection Against Radiation," and Part 50, "Domestic Licensing of Production and Utilization Facilities," Appendix I, of Title 10 of the *Code of Federal Regulations* (10 CFR). These radioactive waste streams are discussed in the FES. The methodology used in scaling the increase of radioactive content under the proposed EPU conditions were based on techniques in NRC's Calculations of Releases of Radioactive Materials in Gaseous and Liquid Effluents from Pressurized Water Reactors (PWR–GALE code), NUREG–0017, Revision 1. The proposed EPU would not result in any physical changes to the gaseous, liquid, or solid waste systems.

Gaseous Radioactive Waste and Offsite Doses

During normal operation, the gaseous effluent treatment systems process and control the release of gaseous radioactive effluents to the environment, including small quantities of noble gases, halogens, tritium, and particulate material. The gaseous waste management systems include the offgas system and various building ventilation systems. The Ginna Base Case Average Dose, an annual average dose from 1999 through 2003 to extrapolated 100-percent plant operating capacity, was less than 1 millirem (mrem) per year. Ginna LLC predicts that gaseous radioactive effluents would linearly increase as a result of the proposed EPU, approximately 17 percent. Even with a 17-percent increase from the peak dose of less than 1 mrem per year, the dose would still remain well below the regulatory standards in 10 CFR Part 50, Appendix I. Therefore, the increase in offsite dose due to gaseous effluent release following the EPU would not be significant.

Liquid Radioactive Waste and Offsite Doses

During normal operation, the liquid effluent treatment systems process and control the release of liquid radioactive effluents to the environment such that the doses to individuals offsite are maintained within the limits of 10 CFR Part 20 and 10 CFR Part 50, Appendix I. The liquid radioactive waste systems are designed to process the waste and then recycle it within the plant as condensate, reprocess it through the radioactive waste system for further purification, or discharge it to the environment as liquid radioactive waste effluent in accordance with State and Federal regulations. Ginna LLC predicts the offsite dose from liquid effluents would increase linearly, approximately 17 percent. The increase would not increase the volume of liquid radioactive waste, but the radioactivity levels in the reactor coolant. Even with an increase, the maximum annual total body and organ doses (all pathways) would be well below the regulatory standards contained in 10 CFR Part 50, Appendix I, as well as the doses bounded by the FES. Therefore, the NRC concludes that the increase in offsite dose due to liquid effluent release following the EPU would not be significant.

Solid Radioactive Wastes

The solid radioactive waste system collects, processes, packages, and temporarily stores radioactive dry and wet solid wastes prior to shipment offsite and permanent disposal. Ginna produces dry active waste (paper, plastic, wood, rubber, glass, floor sweepings, cloth, metal), sludge, oily waste, bead resin and filters. The increase in volume of solid waste would not be linear, because the proposed EPU would neither alter installed equipment performance nor require drastic changes in system operation or maintenance. In recent years (2003–2004), the solid waste volume generated by Ginna has been significantly above the 9-year non-outage average of 2,500 cubic feet, and outage year average of 5,000 cubic feet. This increase in volume is a result of the roof and reactor head replacement projects and mandated security upgrades.

Under the proposed EPU conditions, any increase in volume of solid waste would be due to increases in disposal of bead resins and filters. This increase would not be significant, although the amount of radioactivity in the waste would linearly increase. Even with such increases, Ginna LLC expects the results would remain below the generation volumes and doses in the FES. Therefore, the NRC concludes that there would be no significant impact to offsite dose due to solid waste disposal following the EPU.

In-Plant Radiation Doses

The proposed EPU would increase in-plant radiation dose rates linearly with the increase in core power level, by approximately 17 percent. These higher doses rates would not be expected to increase the annual average collective occupational doses more than 17 percent. Ginna LLC performed an analysis of the expected increased levels of radiation in the following four areas at Ginna: Areas near Reactor Vessel, In-Containment Areas Adjacent to the Reactor Coolant System, Areas near Irradiated Fuels and Other Irradiated Objects, and Areas outside Containment where the Radiation Source Is Derived from the Primary Coolant. Plant programs and administrative controls, such as conservatism used in the original design basis reactor coolant system source terms, conservatism used in designing plant shielding requirements, and the Ginna Station Radiation Protection Program would ensure that occupational doses would be maintained within regulatory limits of 10 CFR Part 20, with the expected 17-percent increase. Therefore, the NRC concludes that there would be no significant impact to in-plant radiation doses.

Direct Radiation Doses Offsite

Under the proposed EPU conditions, Ginna LLC predicted the increase to direct radiation doses offsite would be proportional to the uprate percentage increase, approximately 17 percent, from liquid and gaseous releases. Potential offsite doses were calculated using plant core power operating history, 1999–2003, reported gaseous and liquid effluent and dose data from 1999–2003, NUREG–0017 equations and assumptions, and a conservative methodology. The extrapolated and increased offsite dose calculations for the liquid and gaseous effluents were found to be well below the regulatory standards in 10 CFR Part 50, Appendix I, 40 CFR Part 190 and the FES. Therefore, the NRC staff concludes that there would be no significant impact of offsite direct radiation doses.

Postulated Accident Doses

As a result of implementation of the proposed EPU, there would be an increase in the source term used in the evaluation of some of the postulated accidents in the FES. The inventory of radionuclides in the reactor core is dependent upon power level; therefore, the core inventory of radionuclides could increase by as much as 17 percent. The concentration of radionuclides in the reactor coolant might also increase by as much as 17 percent; however, this concentration is limited by the Ginna Technical Specifications. Therefore, the reactor coolant concentration of radionuclides would not be expected to increase significantly. This coolant concentration is part of the source term considered in some of the postulated accident analyses. Some of the radioactive waste streams and storage systems evaluated for postulated accidents might contain slightly higher quantities of radionuclides. For those postulated accidents where the source term has increased, the calculated potential radiation dose to individuals at the site boundary (the exclusion area) and in the low population zone would be increased over values presented in the FES.

The NRC's acceptance criteria for radiological consequences analysis using an alternative source term are based on 10 CFR 50.67. Ginna LLC's assessment of new calculated doses following the EPU are well below the NRC regulatory standard described in Regulatory Guide (RG) 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Plants.'' The NRC staff is reviewing the licensee's analyses and performing confirmatory calculations to verify the acceptability of the licensee's calculated doses under accident conditions. The results of the NRC staff's calculations will be presented in the safety evaluation to be issued with the license amendment, and the EPU will not be approved by NRC unless the NRC staff's independent review of dose calculations under postulated accident conditions determines that dose is within regulatory limits. Therefore, the staff concludes if the doses from postulated accidents remained within the NRC regulatory limits of 10 CFR Part 50 and RG 1.183, the impacts would be small.

Fuel Cycle and Transportation Impacts

The environmental impacts of the fuel cycle and transportation of fuels and wastes are described in Tables S–3 and S–4 of 10 CFR 51.51 and 10 CFR 51.52, respectively. An additional NRC generic environmental assessment (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to a higher burnup fuel cycle and concluded that there is no significant change in environmental impact from the parameters evaluated in Tables S–3 and S–4 for fuel cycles with uranium enrichments up to 5-weight percent Uranium-235 and burnups less than 60,000 megawatt (thermal) days per metric ton of Uranium-235 (MWd/MTU). Ginna LLC has concluded that the fuel enrichment at Ginna would be increased up to 4.95 percent as a result of the proposed EPU. In addition, the expected core average exposure for the EPU would be approximately 52,000 MWd/MTU, with no fuel pins exceeding the maximum fuel rods limits. Therefore, the environmental impacts of the EPU would remain bounded by the impacts in Tables S–3 and S–4 and would not be significant.

Summary

The proposed EPU would not significantly increase the consequences of accidents, would not result in a significant increase in occupational or public radiation exposure, and would not result in significant additional fuel cycle environmental impacts based on information provided in the ER and the NRC staff's independent review. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed EPU. Table 2 summarizes the radiological environmental impacts of the proposed EPU at Ginna.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Gaseous Effluents and Doses.	Small dose increase due to gaseous effluents; doses to individuals offsite would remain below NRC limits.
Liquid Effluents and Doses	No significant volume increase in liquid effluent generated would be expected; small increase of radioactive materials in liquid effluent; doses to individuals offsite would remain below NRC limits.
Solid Radioactive Waste	Volume of solid waste increased due to equipment replacement projects and security upgrades; increase in radioactive material would be expected; all increases (volume and dose) within NRC limits.
In-plant Dose	Occupational dose expected to increase by 17 percent overall; would remain within all NRC limits.
Direct Radiation Dose	Increase of 17 percent would be expected; doses would remain below NRC regulatory standards and those in the FES.
Postulated Accidents	Increase in the source term used in the evaluation of postulated accidents. New calculated doses must meet NRC regulations (10 CFR 50.67), which will be confirmed and presented in NRC safety evaluation.
Fuel Cycle and Transportation.	Impacts in Tables S–3 and S–4 in 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," are bounding.

Alternatives to Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed EPU (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in the current environmental impacts. The plant would continue to operate under its current licensing basis, possibly up to an additional 20 years. However, if the EPU were not approved, other agencies and electric power organizations might be required to pursue other means of providing electric generation capacity to offset future demand. The additional power not supplied by the Ginna site would likely be replaced by demand-side management and energy conservation, purchased power from other electricity providers, other alternative energy sources, or a combination of these options. The environmental impacts associated with the no-action alternative would also have positive impacts at Ginna (for example, increase in solid waste generation) would be eliminated.

The environmental impacts of alternative sources of producing electrical power are described in the FES and Chapter 8 of NUREG–1437 Supplement 14. Non-nuclear power generation technologies considered were coal-fired and natural-gas fired generation at the Ginna or at an alternative site. The construction and operation of a coal or natural-gas fired plant would create greater negative environmental impacts in areas such as air quality, land use, and waste management, than those identified for the proposed Ginna EPU. Implementation of the proposed EPU would have less impact on the environment than the construction and operation of a new coal or natural-gas fired plant at an alternative site. In addition, the EPU does not involve environmental impacts that are significantly different from those presented in the 1973 FES for Ginna. Therefore, the NRC staff concludes that the impacts of the no-action alternative would be greater than the impacts of the proposed action based on information in the FES and NUREG–1437 Supplement 14.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FES and NUREG–1437 Supplement 14.

Agencies and Persons Consulted

In accordance with its stated policy, on June 26, 2006, the NRC staff consulted with the State of New York official, John Spath, of the Energy Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no additional comments other than those provided in the NYSDEC letter of May 12, 2006.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that implementation of the action as proposed would not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated July 7, 2005, as supplemented by letters dated August 15, September 30, December 6, 9, and 22, 2005, and January 11 and 25, and February 16, March 3 and 24, and May 9 and 19, 2006 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML051950123, ML052310155, ML052800223, ML053480388, ML053480362, ML053640080, ML060180262, ML060960416, ML060540349, ML060810218, ML060940312, ML061350375, and ML061450381, respectively). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O–1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 26th day of June 2006.

For the Nuclear Regulatory Commission.

Patrick D. Milano,

Senior Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 06–5897 Filed 6–29–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Governors' Designees Receiving Advance Notification of Transportation of Nuclear Waste

On January 6, 1982 (47 FR 596 and 47 FR 600), the U.S. Nuclear Regulatory Commission (NRC) published in the **Federal Register** final amendments to 10 CFR parts 71 and 73 (effective July 6, 1982), that require advance notification to Governors or their designees by NRC licensees prior to transportation of certain shipments of nuclear waste and spent fuel. The advance notification covered in part 73 is for spent nuclear reactor fuel shipments and the notification for part 71 is for large quantity shipments of radioactive waste (and of spent nuclear reactor fuel not covered under the final amendment to 10 CFR part 73).

The following list updates the names, addresses, and telephone numbers of those individuals in each State who are responsible for receiving information on nuclear waste shipments. The list will be published annually in the **Federal Register** on or about June 30, to reflect any changes in information. Current State contact information can also be accessed throughout the year at *http://www.hsrd.ornl.gov/nrc/special/designee.pdf.*

Questions regarding this matter should be directed to Rosetta O. Virgilio, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, by e-mail at *rov@nrc.gov* or by telephone at 301–415–2367.

Dated at Rockville, Maryland this 8th day of June 2006.

For the U.S. Nuclear Regulatory Commission.

Dennis K. Rathbun,

Deputy Director, Office of State and Tribal Programs.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS

State	Part 71	Part 73
ALABAMA	Colonel W. M. Coppage, Director, Alabama Department of Public Safety, 500 Dexter Avenue, P.O. Box 1511, Montgomery, AL 36102–1511. (334) 242–4394, 24 hours: (334) 242–4128.	SAME.
ALASKA	Kim Stricklan, P.E., Alaska Department of Environmental Conservation, Solid Waste Program Manager, 555 Cordova Street, Anchorage, AK 99501. (907) 269–1099, 24 hours: (907) 457–1421.	SAME.
ARIZONA	Aubrey V. Godwin, Director, Arizona Radiation Regulatory Agency, 4814 South 40th Street, Phoenix, AZ 85040. (602) 255–4845, ext. 222, 24 hours: (602) 223–2212.	SAME.
ARKANSAS	Bernard Bevill, Division of Radiation Control and Emergency Management, Arkansas Department of Health, 4815 West Markham Street, Mail Slot #30, Little Rock, AR 72205–3867. (501) 661–2301, 24 hours: (501) 661–2136.	SAME.
CALIFORNIA	Captain R. Patrick, California Highway Patrol, Enforcement Services Division, 444 North 3rd St., Suite 310, P.O. Box 942898, Sacramento, CA 94298–0001. (916) 445–1865, 24 hours: 1–(916) 845–8931.	SAME.
COLORADO	Captain Allen Turner, Hazardous Materials Section, Colorado State Patrol, 700 Kipling Street, Suite 1000, Denver, CO 80215–5865. (303) 239–4546, 24 hours: (303) 239–4501.	SAME.
CONNECTICUT	Edward L. Wilds, Jr., PhD., Director, Division of Radiation, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106–5127. (860) 424–3029, 24 hours: (860) 424–3333.	SAME.
DELAWARE	David B. Mitchell, J.D., Secretary, Department of Safety & Homeland Security, P.O. Box 818, Dover, DE 19903. (302) 744–2665, 24 hours: Cell (302) 222–6590.	SAME.
FLORIDA	John Williamson, Environmental Administrator, Bureau of Radiation Control, Environmental Radiation Program, Department of Health, P.O. Box 680069, Orlando, FL 32868–0069. (407) 297–2095, 24 hours: (407) 297–2095.	SAME.
GEORGIA	Captain Bruce Bugg, Special Projects Coordinator, Georgia Department of Public Safety & Motor Carrier, P.O. Box 1456, 2206 East View Parkway, Atlanta, GA 30371–1456. (404) 624–7211, 24 hours: (404) 635–7200.	SAME.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
HAWAII	Laurence K. Lau, Deputy Director for Environmental Health, Hawaii State Department of Health, P.O. Box 3378, 1250 Punchbowl Street, Suite 325, Honolulu, HI 96813. (808) 586–4424, 24 hours: (808) 368–6004.	SAME.
IDAHO	Lieutenant William L. Reese, Deputy Commander, Commercial Vehicle Safety, Idaho State Police, P.O. Box 700, Meridian, ID 83680–0700. (208) 884–7222, 24 hours: (208) 846–7500.	SAME.
ILLINOIS	Gary N. Wright, Assistant Director, Illinois Emergency Management Agency, Division of Nuclear Safety 1035 Outer Park Drive, 5th Floor, Springfield, IL 62704. (217) 785–9868, 24 hours: (217) 782–7860.	SAME.
INDIANA	Superintendent Paul Whitesell, PhD., Indiana State Police, Field Enforcement Division, IGCN 100 N Senate Avenue, 3rd Floor, Indianapolis, IN 46204. (317) 232–8248, Fax: 317–232–0652.	SAME.
IOWA	David Miller, Administrator, Iowa Homeland Security and Emergency Management Division, 7105 Northwest 70th Avenue, Camp Dodge, Building W–4, Johnston, IA 50131. 24 hours: (515) 281–3231, Fax: 515–725–3260.	SAME.
KANSAS	Frank H. Moussa, M.S.A., Technological Hazards Administrator, Department of the Adjutant General, Division of Emergency Management, 2800 SW Topeka Boulevard, Topeka, KS 66611–1287. (785) 274–1409, 24 hours: (785) 296–8013.	SAME.
KENTUCKY	Dewey Crawford, Manager, Radiation Health and Toxic Agents Branch, Cabinet for Health and Family Services, 275 East Main Street, Mail Stop HS–1C–A, Frankfort, KY 40621–0001. (502) 564–3700, ext. 3695, 24 hours: (502) 667–1637.	SAME.
LOUISIANA	Captain Robert Pinero, Louisiana State Police, 7919 Independence Boulevard, P.O. Box 66614 (#A2621), Baton Rouge, LA 70896–6614. (225) 925–6113, ext. 241, 24 hours: (877) 925–6595.	SAME.
MAINE	Colonel Craig Poulin, Chief of the State Police, Maine Department of Public Safety, 42 State House Station, Augusta, ME 04333–0042. (207) 624–7000.	SAME.
MARYLAND	Michael Bennett, Director Electronic Systems Division, Maryland State Police, 1201 Reisterstown Road, Pikesville, MD 21208. (410) 653–4229, 24 hours: (410) 653–4200.	SAME.
MASSACHUSETTS	Robert J. Walker, Director, Radiation Control Program, Massachusetts Department of Public Health, Shraffts Building, Mezzanine Level, 529 Main Street, Charlestown, MA 02129. (617) 242–3035 ext. 2001, 24 hours: (617) 427–2913.	SAME.
MICHIGAN	Captain Dan Atkinson, Commander, Field Operations Division, Michigan State Police, 714 South Harrison Road, East Lansing, MI 48823. (517) 336–6136, 24 hours: (517) 336–6100.	SAME.
MINNESOTA	Kevin C. Leuer, Director, Preparedness Branch, Minnesota Division of Homeland Security & Emergency Management, 444 Cedar Street, Suite 223, St. Paul, MN 55101–6223. (651) 201–7406, Fax: (651) 296–0459, 24 hours: (651) 649–5451 or 1–800–422–0798.	SAME.
MISSISSIPPI	Harrell B. Neal, Program Manager, Mississippi Emergency Management Agency, P.O. Box 4501,1410 Riverside Drive (Zip 39202), Fondren Station, Jackson, MS 39296–4501. (601) 366–6957, 24 hours: (601) 352–9100.	SAME.
MISSOURI	Ronald Reynolds, Director, Emergency Management Agency, P.O. Box 116, 2302 Militia Drive, Jefferson City, MO 65102. (573) 526–9101, 24 hours: (573) 751–2748.	SAME.
MONTANA	Dan McGowan, Administrator, Montana Disaster & Emergency Services Division, P.O. Box 4789, Fort Harrison, MT 59636–4789. 24 hours: (406) 841–3911.	SAME.
NEBRASKA	Colonel Bryan J. Tuma, Nebraska State Patrol, P.O. Box 94907, Lincoln, NE 68509–4907. (402) 479–4931, 24 hours: (402) 471–4545.	SAME.
NEVADA	Karen Beckley, Supervisor, Radiological Health Section, Bureau of Health Protection Services,Nevada State Health Division, 1179 Fairview Drive, Suite 102, Carson City, NV 89701–5405. (775) 687–5751, ext. 250, 24 hours: (775) 688–2830.	SAME.
NEW HAMPSHIRE	Lieutenant Nathan Boothby, Bureau Commander, Highway Patrol and Enforcement Bureau, New Hampshire Department of Safety, James H. Hayes Building, 23 Hazen Drive, Concord, NH 03305. (603) 271–2091, 24 hours: (603) 271–3636.	SAME.
NEW JERSEY	Kent Tosch, Chief, Bureau of Nuclear Engineering, Department of Environmental Protection, P.O. Box 415, Trenton, NJ 08625–0415. (609) 984–7700, 24 hours: (609) 658–3072.	SAME.
NEW MEXICO	Don Shainin, Hazards Materials Coordinator, New Mexico Department of Public Safety, Office of Emergency Management, P.O. Box 1628, Santa Fe, NM 87504–1628. (505) 476–9681, 24 hours: (505) 476–9635.	SAME.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
NEW YORK	John R. Gibb, Director, New York State Emergency Management Office, 1220 Washington Avenue, Building 22—Suite 101, Albany, NY 12226–2251. (518) 292–2300, 24 hours: (518) 292–2200.	SAME.
NORTH CAROLINA	Lieutenant Mark Dalton, Hazardous Materials Coordinator, North Carolina Highway Patrol Headquarters North, 1142 SE Maynard Road, Cary, NC 27699–4702. (919) 319–1523, 24 hours: (919) 733–3861.	SAME.
NORTH DAKOTA	Terry L. O'Clair, Director, Division of Air Quality, North Dakota Department of Health, 918 East Divide Avenue—2nd Floor, Bismarck, ND 58501–1947. (701) 328–5188, 24 hours: (701) 328–9921.	SAME.
OHIO	Carol A. O'Claire, Chief, Radiological Branch, Ohio Emergency Management Agency, 2855 West Dublin Granville Road, Columbus, OH 43235–2206. (614) 799–3915, 24 hours: (614) 889–7150.	SAME.
OKLAHOMA	Commissioner Kevin L. Ward, Oklahoma Department of Public Safety, P.O. Box 11415, Oklahoma City, OK 73136–0145. (405) 425–2001, 24 hours: (405) 425–2323.	SAME.
OREGON	Ken Niles, Assistant Director, Nuclear Safety & Energy Siting Division, Oregon Department of Energy, 625 Marion Street, NE, Salem, OR 97301–3737. (503) 378–4906, 24 hours: (503) 378–6377.	SAME.
PENNSYLVANIA	John Bahnweg, Director of Operations and Training, Pennsylvania Emergency Management Agency, 2605 Interstate Drive, Harrisburg, PA 17110–3321. (717) 651–2120, 24 hours: (717) 651–2001.	SAME.
RHODE ISLAND	Terrence Mercer, Associate Administrator, Motor Carriers Section, Division of Public Utilities and Carriers, 89 Jefferson Boulevard, Warwick, RI 02888. (401) 941–4500, ext. 150, 24 hours: (401) 444–1183.	SAME.
SOUTH CAROLINA	Henry J. Porter, Assistant Director, Division of Waste Management, Bureau of Land and Waste Management, Department of Health & Environmental Control, 2600 Bull Street, Columbia, SC 29201. (803) 896–4245, 24 hours: (803) 253–6488.	SAME.
SOUTH DAKOTA	Kristi Turman, Director of Operations, Emergency Management Agency, 118 W. Capitol Avenue, Pierre, SD 57501–5070. (605) 773–3231.	SAME.
TENNESSEE	Elgan Usrey, Manager, Preparedness and Mitigation Division, Tennessee Emergency Management Agency, 3041 Sidco Drive, Nashville, TN 37204–1502. (615) 741–2879. After hours: (Inside TN) 1–800–262–3400, (Outside TN) 1–800–258–3300.	SAME.
TEXAS	Richard A. Ratliff, Chief, Texas Department of State Health Services, 1100 West 49th Street, Austin, TX 78756–3189. (512) 834–6679, 24 hours: (512) 458–7460..	Colonel Thomas A. Davis, Director, Texas Department of Public Safety, Attn: EMS Preparedness Section, P.O. Box 4087, Austin, TX 78773–0223. (512) 424–7771, 24 hours: (512) 424–2208.
UTAH	Dane Finerfrock, Director, Division of Radiation Control, Department of Environmental Quality, 168 North 1950 West, P.O. Box 144850, Salt Lake City, UT 84114–4850. (801) 536–4257 After hours: (801) 536–4123.	SAME.
VERMONT	Kerry L. Sleeper, Commissioner, Department of Public Safety, Division of State Police, 103 South Main Street, Waterbury, VT 05671–2101. (802) 244–8718, 24 hours: (802) 244–8727.	SAME.
VIRGINIA	Brett A. Burdick, Director, Technological Hazards Division, Virginia Department of Emergency Management, 10501 Trade Court, Richmond, VA 23236. (804) 897–6500, ext. 6569, 24 hours: (804) 674–2400.	SAME.
WASHINGTON	Daniel Eikum, Assistant State Fire Marshal, Washington State Patrol Fire Protection Bureau, P.O. Box 42600, Olympia, WA 98504–2600. (360) 570–3119, 24 hours: 1–800–409–4755.	SAME.
WEST VIRGINIA	Colonel D. L. Lemmon, Superintendent, West Virginia State Police, 725 Jefferson Road, South Charleston, WV 25309. (304) 746–2111.	SAME.
WISCONSIN	Johnnie L. Smith, Administrator, Wisconsin Emergency Management, P.O. Box 7865, Madison, WI 53707–7865. 608–242–3210, 24 hour: (608) 242–3232.	SAME.
WYOMING	Captain Vernon Poage, Support Services Officer, Commercial Carriers, Wyoming Highway Patrol, 5300 Bishop Boulevard, Cheyenne, WY 82009–3340. (307) 777–4317, 24 hours: (307) 777–4321.	SAME.
DISTRICT OF COLUMBIA.	Gregory B. Talley, Program Manager, Radiation Protection Division, Bureau of Food, Drug & Radiation Protection, Department of Health, 51 N Street, NE., Room 6005, Washington, DC 20002. (202) 535–2320, 24 hours: (202) 727–1000.	SAME.
PUERTO RICO	Dr. Rosa Perez-Perdomo, Secretary of Health, P.O. Box 70184, San Juan, PR 00936–8184. (787) 274–7629.	SAME.
GUAM	Randel L. Sablan, Acting Administrator, Guam Environmental Protection Agency, P.O. Box 22439—Guam Main Facility, Barrigada, Guam 96921. (671) 457–1620, Fax: (671) 457–9402, 24 hours: (671) 635–9500.	SAME.
VIRGIN ISLANDS	Dean C. Plaskett, Esq., Commissioner, Department of Planning and Natural Resources, Cyril E. King Airport, Terminal Building—Second Floor, St. Thomas, Virgin Islands 00802. (340) 774–3320, 24 hours: (340) 774–5138.	SAME.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
AMERICAN SAMOA.	Pati Faiai, Government Ecologist, American Samoa Environmental Protection Agency, Office of the Governor, Pago Pago, American Samoa 96799. (684) 633–2304, 24 hours: (684) 622–7106.	SAME.
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.	Thomas B. Pangelinan, Secretary, Department of Lands & Natural Resources, Commonwealth of Northern Mariana Islands Government, P.O. Box 501304, Saipan, MP 96950, (670) 322–9830.	SAME.

[FR Doc. 06–5898 Filed 6–29–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54038; File No. SR–CTA/CQ–2006–01]

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Eighth and Ninth Substantive Amendments to the Second Restatement of the Consolidated Tape Association Plan and the Sixth Substantive Amendment to the Restated Consolidated Quotation Plan

June 23, 2006.

Pursuant to section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 thereunder,[2] notice is hereby given that on June 16, 2006, the Consolidated Tape Association (''CTA'') Plan and Consolidated Quotation (''CQ'') Plan participants (''Participants'')[3] submitted to the Securities and Exchange Commission (''Commission'') proposals to amend the CTA and CQ Plans (collectively, the ''Plans'').[4] The proposals represent the eighth substantive amendment made to the Second Restatement of the CTA Plan (''Eighth Amendment to the CTA Plan''), the ninth substantive Amendment to the Second Restatement of the CTA Plan (''Ninth Amendment to the CTA Plan'') and the sixth substantive amendment to the Restated CQ Plan (''Sixth Amendment to the CQ Plan''), and reflect changes unanimously adopted by the Participants. The Eighth Amendment to the CTA Plan would modify the procedures that apply to the Processor's recommencement of dissemination of the last sale price information in a security after the security's listing market declares the end to a regulatory halt in the security. The Ninth Amendment to the CTA Plan and the Sixth Amendment to the CQ Plan would add International Securities Exchange, Inc. (''ISE'') and the Nasdaq Stock Market LLC (''Nasdaq'') as new Participants to the Plans. In addition, these amendments would perform a ''housekeeping'' function of incorporating into the text of the Plans changes to the corporate names and addresses of some Participants.

Pursuant to Rule 608(b)(3)(ii) under the Act,[5] the Participants designated the Eighth Amendment to the CTA Plan as concerned solely with technical or ministerial matters and designated the Ninth Amendment to the CTA Plan and the Sixth Amendment to the CQ Plan as concerned solely with the administration of the Plans. As a result, all three amendments have become effective upon filing with the Commission. At any time within 60 days of the filing of the amendments, the Commission may summarily abrogate the amendments and require that such amendments be refiled in accordance with paragraph (a)(1) of Rule 608 and reviewed in accordance with paragraph (b)(2) of Rule 608, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act. The Commission is publishing this notice to solicit comments from interested persons.

I. Description and Purpose of the Proposed Amendments

A. Application of Listing Market Regulatory Halt Procedures

The Eighth Amendment to the CTA Plan proposes to modify the procedures that apply to the Processor's recommencement of dissemination of last sale price information in a security after the security's listing market declares the end to a regulatory halt in the security.

Currently, the CTA Plan prescribes procedures for re-opening trading in a security after the end of a regulatory trading halt. The Participants propose to remove those procedures from the CTA Plan and to replace them with a cross reference to the procedures governing the reopening of a security after a regulatory halt as set forth in the rules of the listing market for the security. Therefore, the reopening procedures set forth in the rules of the security's listing market, rather than the procedures set forth in the CTA Plan, would govern the security's reopening after a regulatory halt. In the case of a security that is listed simultaneously on more than one market, the reopening procedures of the market on which the security was first listed would apply.

The Participants believe that the change is necessary because the reopening procedures of listing markets have come to diverge from one another and from those set forth in the CTA Plan. (*See, e.g.*, NYSE Rule 123D (''Openings and Halts in Trading'') and AMEX Rule 119 (''Indications, Openings and Reopenings'')). The amendment removes any inconsistency between reopening procedures under the CTA Plan and reopening procedures under the rules of the listing market.

The Participants also propose to replace references to primary market in Section XI(a) of the CTA Plan with references to listed market.

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] Each Participant executed the proposed amendments. The current Participants are the American Stock Exchange LLC (''Amex''); Boston Stock Exchange, Inc. (''BSE''); Chicago Board Options Exchange, Inc. (''CBOE''); Chicago Stock Exchange, Inc. (''CHX''); National Association of Securities Dealers, Inc. (''NASD''); National Stock Exchange (''NSX''); New York Stock Exchange, LLC. (''NYSE''); NYSE Arca, Inc. (''NYSE Arca''); and Philadelphia Stock Exchange, Inc. (''Phlx'').

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (order approving CTA Plan); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (order temporarily approving CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (order permanently approving CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 240.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 240.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is also a ''national market system plan'' under Rule 608 under the Act, 17 CFR 240.608.

[5] 17 CFR 242.608(b)(3)(ii).

Proposed deletions are in brackets, proposed new language is *italicized*:

Section XI. Operational Matters

* * * * *

[Ten minutes after the primary market notification to the Processor of adequate publication or disclosure of information, provided that the primary market has during such 10 minute period caused the Processor to include on the consolidated tape an indication of interest relating to the affected Eligible Security, the Processor shall again commence to disseminate on a current and continuous basis the last sale price information received by it from any Participant or other reporting party after the passage of such 10 minute period.

In the event that the primary market does not cause the Processor to include on the consolidated tape an indication of interest relating to the Eligible Security which is the subject of the Regulatory Halt during the 10 minute time period following the primary market's notification to the Processor of adequate publication or disclosure of information, then the primary market shall cause the Processor to include on the consolidated tape, within 5 minutes after the passage of such 10 minute time period, an administrative message. Such administrative message shall:

(i) Signify a continuation of the Regulatory Halt (such an administrative message shall include the ticker symbol of the affected Eligible Security, the last sale price of such Security as most recently disseminated by the Processor prior to the commencement of the Regulatory Halt, and the reason for the continuation of the Regulatory Halt, such as, ''news pending'' or ''news dissemination''), or

(ii) Announce that a market condition which relates to the trading of the affected Eligible Security in the primary market exists (*e.g.*, a heavy influx or imbalance of orders), in which event the Regulatory Halt shall terminate 5 minutes after the printing of such administrative message on the consolidated tape and thereafter the Processor shall again commence to disseminate on a current and continuous basis last sale price information received by it from any Participant or other reporting party after the termination of the Regulatory Halt.]

The Processor shall again commence to disseminate on a current and continuous basis the last sale price information received by it from any Participant or other reporting party in the affected Eligible Security in accordance with the re-opening procedures applicable to Regulatory Halts set forth in the rules of the Eligible Security's listing market. (See, for example, NYSE Rule 123D (''Openings and Halts in Trading'') and AMEX Rule 119 (''Indications, Openings and Reopenings'')).

* * * * *

[For the purposes of this Section XI, the ''primary market'' for any Eligible Security shall be that exchange Participant in whose market the greatest number of transactions in such Eligible Security reported on the consolidated tape during the preceding six month period (or such shorter period as the Security has been reported on the consolidated tape if it has not been so reported for a full six month period) has taken place.]

For the purposes of this Section XI, the ''listing market'' for any Eligible Security shall be that exchange Participant on which the Eligible Security is listed. If an Eligible Security is dually listed, ''listing market'' shall be that exchange Participant on which the Eligible Security was originally listed.

* * * * *

B. Adding New Participants

The Ninth Amendment to the CTA Plan and the Sixth Amendment to the CQ Plan propose to add the ISE and Nasdaq as new Participants to each Plan.

C. Name and Address Change

The Ninth Amendment to the CTA Plan and the Sixth Amendment to the CQ Plan propose to reflect the name changes from the New York Stock Exchange, Inc. to New York Stock Exchange LLC and from Pacific Exchange, Inc. to NYSE Arca, Inc. In addition, these amendments propose to reflect changes to addresses of BSE and NYSE Arca.

D. Additional Information Required by Rule 608(a)

1. Governing or Constituent Documents

Not applicable.

2. Implementation of Amendments

The Participants have manifested their approval of the proposed amendments by means of their execution of the amendments. The amendments have become effective upon filing.[6]

3. Development and Implementation Phases

Not applicable.

4. Analysis of Impact on Competition

The Participants believe that the proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Participants do not believe that the proposed amendments introduce terms that are unreasonably discriminatory for the purposes of section 11A(c)(1)(D) of the Act.

5. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

6. Approval by Sponsors in Accordance With Plan

Each of the Participants has approved the amendments in accordance with Section IV(b) of the CTA Plan and Section IV(c) of the CQ Plan, as applicable.

7. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

8. Terms and Conditions of Access

Not applicable.

9. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable.

10. Method of Frequency of Processor Evaluation

Not applicable.

11. Dispute Resolution

Not applicable.

E. Additional Information Required by Rule 601(a) (Solely With Respect to the Amendments to the CTA Plan)

1. Reporting Requirements

Not applicable.

2. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

3. Manner of Consolidation

Not applicable.

4. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

5. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

6. Terms of Access to Transaction Reports

Not applicable.

[6] *See id.*

7. Identification of Marketplace of Execution

Not Applicable.

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Plans amendments are 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 No. SR–CTA/CQ–2006–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CTA/CQ–2006–01. 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 Plan amendment that are filed with the Commission, and all written communications relating to the proposed Plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the CTA. 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 No. SR-CTA/CQ–2006–01 and should be submitted on or before July 21, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. 06–5905 Filed 6–29–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54042; File No. SR–Amex–2006–59]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to its Options Marketing Fee Program

June 26, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 15, 2006, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Amex under section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend its fee schedule and marketing fee program to assess a marketing fee of $0.75 per contract on options on the Nasdaq–100 Index ("NDX") and on the Russell 2000 Index ("RUT"). The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to amend its fee schedule and marketing fee program to assess a marketing fee of $0.75 per contract on options on the NDX and on the RUT. This fee would apply to specialists and Registered Options Traders ("ROTs").[5]

The Exchange represents that its current marketing fee of $0.75 is assessed upon specialists and ROTs for all equity options classes; exchange-traded fund share options, including options on the Nasdaq 100 Tracking Stock ("QQQQ"), and excluding options on the Standard & Poor's Depositary Receipts ("SPY"); and Trust Issued Receipt ("HOLDR") options.[6] Prior to the filing of the proposed rule change, the marketing fee did not apply to index options, including options on the Mini-Nasdaq 100 Index ("MNX"), NDX, or RUT options.[7] In addition, a marketing fee of $1.00 is assessed upon specialists and ROTs [8] for all SPY options. The marketing fee does not apply to firms, non-member market makers, broker/dealers and customers.

The Exchange asserts that the proposal is equitable as required by section 6(b)(4) of the Act.[9]

---

[7] 17 CFR 200.30–3(a)(27).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The Exchange states that it has proposed these changes to its marketing fees in order to remain competitive with other options exchanges and to attract order flow. Telephone conference between Hong-Anh Tran, Special Counsel, Division of Market Regulation ("Division"), Commission, and Nyieri Nazarian, Assistant General Counsel, Exchange, on June 20, 2006.

[6] *See* Securities Exchange Act Release No. 53341 (February 21, 2006), 71 FR 10085 (February 28, 2006) (SR–Amex–2006–15).

[7] Telephone conference between Hong-Anh Tran, Special Counsel, Division, Commission, and Nyieri Nazarian, Assistant General Counsel, Exchange, on June 20, 2006. As noted above, under the proposed rule change, a marketing fee of $0.75 per contract now will be assessed on NDX and RUT options.

[8] The marketing fee applies to specialists and ROTs. Telephone conference between Hong-Anh Tran, Special Counsel, Division, Commission, and Nyieri Nazarian, Assistant General Counsel, Exchange, on June 20, 2006.

[9] Section 6(b)(4) of the Act states that the rules of a national securities exchange should provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[10] in general, and furthers the objectives of section 6(b)(4) of the Act,[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Amex members and other persons using Amex facilities.

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

The Exchange neither solicited nor received comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2006–59 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–59. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–59 and should be submitted on or before July 21, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. 06–5904 Filed 6–29–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54039; File No. SR–Amex–2006–58]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change Relating to an Amendment to Amex Rule 27

June 23, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Amex. 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 Amex Rule 27 to revise the number and composition of the Allocation Committee (the ''Allocations Committee'' or the ''Committee'').

The text of the proposed rule change is available on the Amex's Web site (*http://www.amex.com*), the Office of the Secretary, Amex, and at the Commission's Public Reference Room.

The text of the proposed rule change also appears below. Proposed new language is *italicized;* proposed deletions are in [brackets].

Rule 27. Allocations Committee

(a) The Allocations Committee allocates equity securities of operating companies, equity options admitted to dealings on the Exchange and all other securities to be admitted for trading on the Exchange. It consists of [six] *eight* persons drawn from a roster of approximately 75 persons and is comprised as follows: the Chief Executive Officer (or his or her designee), a representative of an upstairs member firm and either (i) [four (4)] *six (6)* brokers for equities and other securities admitted to trading on the Exchange except for Exchange Traded Funds and options; (ii) [two (2)] *three (3)* brokers and [two (2)] *three (3)* Registered Traders for Exchange Traded Funds; or (iii) [two (2)] *three (3)* brokers and [two (2)] *three (3)* Registered

and other persons using its facilities. *See* 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Options Traders for options. The Allocations Committee is chaired by the Chief Executive Officer (or his or her designee) who does not vote except to make or break a tie. In the absence of the Chief Executive Officer (or his or her designee), a Floor Governor or a Senior Floor Official may chair the Committee. The minimum quorum for the transaction of business by the Allocations Committee shall be four persons. The upstairs member firm representative may attend meetings by telephone.

(b) through (i) No Change.

Commentary * * *

.01 through .05 No Change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the number and composition of the Allocation Committee from six (6) to eight (8) members. Currently, the Committee consists of the Chief Executive Officer (or his or her designee), a representative of an upstairs member firm and either: (i) Four (4) brokers for equities and other securities admitted to trading on the Exchange except for Exchange Traded Funds and options; (ii) two (2) brokers and two (2) Registered Traders for Exchange Traded Funds; or (iii) two (2) brokers and two (2) Registered Options Traders for options. The Exchange proposes an amendment to Amex Rule 27 to revise the number and composition of the Allocations Committee so that the Committee consists of the Chief Executive Officer of the Exchange (or his or her designee), a representative of an upstairs member firm and either: (i) Six (6) brokers for equities and other securities admitted to trading on the Exchange except for Exchange Traded Funds and options; (ii) three (3) brokers and three (3) Registered Traders for Exchange Traded Funds; or (iii) three (3) brokers and three (3) Registered Options Traders for options. The minimum quorum requirement would remain at four (4) persons.[3]

Article II, Section 3 of the Amex Constitution provides the Board of Governors (''Board'') with the authority to allocate and reallocate the equity securities of operating companies (''equities''), options and other securities listed on the Exchange. The Board, in connection with the allocation and reallocation of equities, Exchange Traded Funds, options and other securities admitted to trading on the Exchange, has delegated this authority to the Allocations Committee.[4] In October 2005, the Commission approved an Exchange proposal to combine the separate Equities Allocation Committee, Options Allocation Committee and Special Allocation Committee into one (1) Allocations Committee.[5] Pursuant to the Approval Order, the number and composition of the Allocations Committee was changed from eleven (11) to the current six (6) members.

The Exchange states that the experience of the Exchange to date has revealed that due to the smaller number of members of the Allocations Committee, the minimum quorum requirement of four (4) persons to conduct business has become overly burdensome. In many cases, the Allocations Committee fails to meet the minimum quorum requirement to transact business. Accordingly, the Exchange believes that this proposal to increase the number of Allocations Committee Members from the current six (6) to eight (8) will provide greater flexibility and efficiency in the securities allocation process.

The Exchange believes that this proposal is necessary because of the difficulty in meeting the minimum quorum requirement with a reduced number of Committee members adopted in October 2005. Accordingly, the Exchange believes that the proposed change to the number and composition of the Allocations Committee is needed to ensure that the Allocations Committee is better able to meet the minimum quorum requirement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b) of the Act,[6] in general, and with section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange did not receive any written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2006–58 on the subject line.

[3] The Commission notes that the Allocations Committee is chaired by the Chief Executive Officer (or his or her designee) who does not vote except to make or break a tie. *See* Amex Rule 27(a).

[4] *See* Amex Rule 27(a).

[5] *See* Securities Exchange Act Release No. 52646 (October 20, 2005), 70 FR 61854 (October 26, 2005) (''Approval Order'').

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–58. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–58 and should be submitted on or before July 21, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. 06–5906 Filed 6–29–06; 8:45 am]

BILLING CODE 8010–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54040; File No. SR–Amex–2006–41]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change and Amendment No. 1 and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Relating to the Listing and Trading of Shares of the ProShares Trust

June 23, 2006.

I. Introduction

On April 28, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') a proposed rule change to list and trade of shares (''Index Fund Shares'') based on the following four (4) new funds of the ProShares Trust (the ''Trust''): Ultra Short 500 Fund; Ultra Short 100 Fund; Ultra Short 30 Fund; and the Ultra Short Mid-Cap 400 Fund (the ''Funds''). On May 5, 2006, the Amex submitted Amendment No. 1 to the proposed rule change.[2] The proposed rule change, as amended by Amendment No. 1 thereto, was published for comment in the **Federal Register** on May 17, 2006.[3] The Commission received no comments on the proposal. On June 23, 2006, the Amex submitted Amendment No. 2 to the proposed rule change.[4] This order approves the proposed rule change, as amended. Simultaneously, the Commission provides notice of Amendment No. 2, grants accelerated approval of Amendment No. 2, and solicits comments from interested persons on Amendment No. 2.

[1] 15 U.S.C. 78s(b)(1).

[2] Amendment No. 1 (''Amendment No. 1'') replaced the original filing in its entirety.

[3] *See* Securities Exchange Act Release No. 53784 (May 10, 2006), 71 FR 28721 (''Notice'').

[4] In Amendment No. 2 (''Amendment No. 2''), the Exchange states that the Advisor (as defined below) has informed the Exchange that: (1) The net asset value (''NAV'') for the Funds will be made available to all market participants at the same time; (2) if the NAV is not disseminated to all market participants at the same time, the Exchange will halt trading in the shares of the Funds; and (3) if the Fund temporarily does not disseminate the NAV to all market participants at the same time, the Exchange will immediately contact the Commission staff to discuss measures that may be appropriate under the circumstances.

II. Description of the Proposed Rule Change

The Exchange, pursuant to Amex Rule 1000A(b)(2), proposes to list and trade the Funds that seek to provide investment results that correspond to twice (or two times) the inverse or opposite (−200%) of the index's performance.

Amex Rules 1000A *et seq.* provide standards for the listing of Index Fund Shares, which are securities issued by an open-end management investment company for exchange trading. These securities are registered under the Investment Company Act of 1940 (''1940 Act''), as well as under the Act. Index Fund Shares are defined in Amex Rule 1000A(b)(1) as securities based on a portfolio of stocks or fixed income securities that seek to provide investment results that correspond generally to the price and yield of a specified foreign or domestic stock index or fixed income securities index.

Recent amendments adopting Amex Rule 1000A(b)(2) now permit the Exchange to list and trade, upon Commission approval, Index Fund Shares that seek to provide investment results that exceed the performance of an underlying securities index by a specified multiple or that seek to provide investment results that correspond to a specified multiple of the inverse or opposite of the index's performance, if the Exchange files separate proposals under section 19(b)[5] of the Act, before listing and trading. Accordingly, consistent with Amex Rule 1000A(b)(2), the Exchange now proposes to list and trade Index Fund Shares seeking investment results that correspond to twice the inverse of the underlying index's performance.

The Commission recently approved the listing and trading on Amex of the Bullish and Bearish Funds (Ultra500 Fund; Ultra100 Fund; Ultra30 Fund; Ultra Mid-Cap 400 Fund; Short500Fund; Short100 Fund; Short30 Fund; and Short Mid-Cap 400 Fund).[6] In particular, the Original Order provides that the Bearish Funds seek to provide investment results that correspond to the inverse of the relevant underlying index's performance. The Exchange's proposal seeks to expand the Bearish Fund offerings by permitting certain Index Fund Shares to such investments results that are two (2) times the inverse of the index.

The Exchange proposes to list under Amex Rule 1000A, the shares of the

[5] 15 U.S.C. 78s(b).

[6] *See* Securities Exchange Act Release No. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (''Original Order'').

Funds. The Funds seek daily investment results, before fees and expenses, that correspond to twice the inverse (−200%) of the daily performance of the Standard and Poor's 500® Index (''S&P 500''), the Nasdaq-100® Index (''Nasdaq 100''), the Dow Jones Industrial Average℠ (''DJIA'') and the S&P MidCap400™ Index (''S&P MidCap''), respectively. (These indexes are referred to herein as ''Underlying Indexes''.) [7] If each of these Funds is successful in meeting its objective, the NAV [8] of shares of each Fund should increase approximately twice as much, on a percentage basis, as the respective Underlying Index loses when the prices of the securities in the Index decline on a given day, or should decrease approximately twice as much as the respective Underlying Index gains when the prices of the securities in the index rise on a given day.

ProShare Advisors LLC is the investment advisor (the ''Advisor'') to each Fund. The Advisor is registered under the Investment Advisers Act of 1940.[9] While the Advisor will manage each Fund, the Trust's Board of Trustees (the ''Board'') will have overall responsibility for the Funds' operations. The composition of the Board is, and will be, in compliance with the requirements of section 10 of the 1940 Act.

SEI Investments Distribution Company (the ''Distributor''), a broker-dealer registered under the Act, will act as the distributor and principal underwriter of the Shares. JPMorgan Chase Bank will act as the index receipt agent (''Index Receipt Agent''), for which it will receive fees. The Index Receipt Agent will be responsible for transmitting the Deposit List to the National Securities Clearing Corporation (''NSCC'') and for the processing, clearance, and settlement of purchase and redemption orders through the facilities of the Depository Trust Company (''DTC'') and NSCC on behalf of the Trust. The Index Receipt Agent will also be responsible for the coordination and transmission of files and purchase and redemption orders between the Distributor and the NSCC.

Shares of the Funds issued by the Trust will be a class of exchange-traded securities that represent an interest in the portfolio of a particular Fund (the ''Shares'').[10] Shares will be registered in book-entry form only, and the Trust will not issue individual share certificates. The DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

Investment Objective and Techniques of the Funds

The Funds will seek daily investment results, before fees and expenses, of double the inverse or opposite (−200%) of the Underlying Index. Each Fund will not invest directly in the component securities of the relevant Underlying Index, but instead, will create short exposure to such Index. Each Fund will rely on establishing positions in financial instruments (as defined below) that provide, on a daily basis, double the inverse or opposite of the investment results of the relevant Underlying Index. Normally 100% of the value of the portfolios of each Fund will be devoted to such financial instruments and money market instruments, including U.S. government securities and repurchase agreements [11] (the ''Money Market Instruments'').

The financial instruments to be held by any of the Funds may include stock index futures contracts, options on futures contracts,[12] options on securities and indices, equity caps, collars and floors as well as swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the ''Financial Instruments''), and Money Market Instruments.

Each Fund may enter into swap agreements and forward contracts for the purposes of attempting to gain exposure to the equity securities of its Underlying Index without actually transacting such securities. The Exchange states that counterparties to the swap agreements and/or forward contracts will be major broker-dealers and banks. The creditworthiness of each potential counterparty is assessed by the Advisor's credit committee pursuant to guidelines approved by the Board. Existing counterparties are reviewed periodically by the Board. Each Fund may also enter into repurchase and reverse repurchase agreements with terms of less than one year and will only enter into such agreements with (i) members of the Federal Reserve System, (ii) primary dealers in U.S. government securities, or (iii) major broker-dealers.[13] Each Fund may also invest in Money Market Instruments, in pursuit of its investment objectives, as ''cover'' for Financial Investments, as required by the 1940 Act, or to earn interest. Additional details about the funds' investment techniques, including additional regulatory requirements, are described in the Notice.

While the Advisor will attempt to minimize any ''tracking error'' between the investment results of a particular Fund and the inverse performance (and specified multiple thereof) of its Underlying Index, certain factors may tend to cause the investment results of a Fund to vary from such relevant Underlying Index or specified multiple thereof.[14] The Exchange states that the Funds are expected to be highly inversely correlated to each Underlying Index and investment objective (−.95 or greater).[15] In each case, the Funds are expected to have a daily tracking error of less than 5% (500 basis points) relative to the specified (inverse)

---

[7] Exchange-traded funds (''ETFs'') based on each of the Underlying Indexes are listed and traded on the Exchange. *See* Securities Exchange Act Release Nos. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (S&P 500 SPDR); 39143 (September 29, 1997), 62 FR 51917 (October 3, 1997) (DIAMONDS); 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (QQQ); and 35689 (May 8, 1995), 60 FR 26057 (May 16, 1995) (S&P MidCap 400). The Statement of Additional Information (''SAI'') for the Funds discloses that each Fund reserves the right to substitute a different Index. In the event a Fund substitutes a different index, the Exchange will file a new Rule 19b–4 filing with the Commission, which the Commission would have to approve to permit continued trading of the product based on a substitute index. Telephone Conversation between Jeffrey P. Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, on May 10, 2006.

[8] The NAV of each Fund is calculated and determined each business day at the close of regular trading, typically 4 p.m. Eastern Time (''ET''). The Advisor has informed the Exchange that the NAV for each Fund will be calculated and disseminated at the same time to all market participants. *See* Amendment No. 2.

[9] The Trust, Advisor and Distributor (''Applicants'') have filed with the Commission an Application for an Order under sections 6(c) and 17(b) of the 1940 Act (the ''Application'') for the purpose of exempting the Funds of the Trust from various provisions of the 1940 Act. (File No. 812–12354).

[10] The Fund is also registered as a business trust under the Delaware Corporate Code.

[11] Repurchase agreements held by the Funds will be consistent with Rule 2a–7 under the 1940 Act, *i.e.*, remaining maturities of 397 days or less and rated investment-grade.

[12] Each Fund may engage in transactions in futures contracts on designated contract markets where such contracts trade and will only purchase and sell futures contracts traded on a U.S. futures exchange or board of trade.

[13] Telephone Conversation between Jeffrey P. Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission, on May 10, 2006 (as to insertion of term ''major'' in describing broker-dealer counterparties).

[14] Factors that may cause a Fund to vary from the relevant Underlying Index and investment objective are described in the Original Order and Notice.

[15] Correlation is the strength of the relationship between (1) the change in a Fund's NAV and (2) the change in the benchmark index (investment objective). The statistical measure of correlation is known as the correlation coefficient. A correlation coefficient of +1 indicates a high direct correlation while a value of −1 indicates a strong inverse correlation. A value of zero would mean that there is no correlation between the two variables.

multiple of the performance of the relevant Underlying Index.

The Portfolio Investment Methodology

The Advisor will seek to establish an investment exposure in each portfolio corresponding to each Fund's investment objective based upon its Portfolio Investment Methodology (''Methodology'').

The Methodology takes into account a variety of specified criteria and data (the ''Inputs''), the most important of which are: (1) Net assets (taking into account creations and redemptions) in each Fund's portfolio at the end of each trading day, (2) the amount of required exposure to the Underlying Index, and (3) the positions in Financial Instruments and/or Money Market Instruments at the beginning of each trading day. The Advisor pursuant to the methodology will then mathematically determine the end-of-day positions to establish the required amount of exposure to the Underlying Index (the ''Solution''), which will consist of Financial Instruments and Money Market Instruments. The difference between the start-of-day positions and the required end-of-day positions is the actual amount of Financial Instruments and/or Money Market Instruments that must be bought or sold for the day. The Solution represents the required exposure and, when necessary, is converted into an order or orders to be filled that same day.

Generally, portfolio trades effected pursuant to the Solution are reflected in the NAV on the first business day (T+1) after the date the relevant trade is made. Therefore, the NAV calculated for a Fund on a given day should reflect the trades executed pursuant to the prior day's Solution. For example, trades pursuant to the Solution calculated on a Monday afternoon are executed on behalf of the Fund in question on that day. These trades will then be reflected in the NAV for that Fund that is calculated as of 4 p.m. ET on Tuesday.

The timeline for the Methodology is as follows. Authorized Participants (''APs'' or ''Authorized Participants'') have a 3 p.m. ET cut-off for orders submitted by telephone, facsimile, and other electronic means of communication and a 4 p.m. ET cut-off for orders received via mail. AP orders by mail are exceedingly rare. Orders are received by the distributor, SEI Corporation (''SEI'') and relayed to the Advisor within ten (10) minutes. The Advisor will know by 3:10 p.m. ET the number of creation/redemption orders by APs for that day. Orders are then placed at approximately 3:40 p.m. ET as market-on-close (MOC) orders. At 4 p.m. ET, the Advisor will again look at the exposure to make sure that the orders placed are consistent with the Solution, and as described above, the Advisor will execute any other transactions in Financial Instruments to assure that the Fund's exposure is consistent with the Solution.

Availability of Information About the Shares and Underlying Indexes

The Trust's Web site (*http://www.proshares.com*) and/or that of the Exchange (*http://www.amex.com*), which is and will be publicly accessible at no charge, will contain the following information for each Fund's Shares: (a) The prior business day's closing NAV, the reported closing price, and a calculation of the premium or discount of such price in relation to the closing NAV; (b) data for a period covering at least the four previous calendar quarters (or the life of a Fund, if shorter) indicating how frequently each Fund's Shares traded at a premium or discount to NAV based on the daily closing price and the closing NAV, and the magnitude of such premiums and discounts, (c) its Prospectus and Product Description and (d) other quantitative information such as daily trading volume. The Prospectus and/or Product Description for each Fund will inform investors that the Trust's Web site has information about the premiums and discounts at which the Fund's Shares have traded.[16]

The Amex will disseminate for each Fund on a daily basis by means of Consolidated Tape Association (''CTA'') and CQ High Speed Lines information with respect to an Indicative Intra-Day Value (the ''IIV'') (as defined and discussed below under ''Dissemination of Indicative Intra-Day Value (IIV)''), recent NAV, shares outstanding, estimated cash amount and total cash amount per Creation Unit. The Exchange will make available on its Web site daily trading volume, closing price, the NAV and final dividend amounts to be paid for each Fund.

Each Fund's total portfolio composition will be disclosed on the Web site of the Trust (*http://www.proshares.com*).[17] The Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the specific types of Financial Instruments and characteristics of such instruments, cash equivalents and amount of cash held in the portfolio of each Fund. This public Web site disclosure of the portfolio composition of each Fund will coincide with the disclosure by the Advisor of the ''IIV File'' (described below). Therefore, the same portfolio information (including accrued expenses and dividends) will be provided on the public Web site, as well as in the IIV File provided to Authorized Participants. The format of the public Web site disclosure and the IIV File will differ because the public Web site will list all portfolio holdings while the IIV File will similarly provide the portfolio holdings but in a format appropriate for Authorized Participants, *i.e.*, the exact components of a Creation Unit[18] Accordingly, each investor will have access to the current portfolio composition of each Fund through the Trust Web site at *http://www.proshares.com*.[19]

Beneficial owners of Shares (''Beneficial Owners'') will receive all of the statements, notices, and reports required under the 1940 Act and other applicable laws. They will receive, for example, annual and semi-annual fund reports, written statements accompanying dividend payments, proxy statements, annual notifications detailing the tax status of fund distributions, and Form 1099-DIVs. Some of these documents will be provided to Beneficial Owners by their brokers, while others will be provided by the Fund through the brokers.

The daily closing index value and the percentage change in the daily closing index value for each Underlying Index will be publicly available on various Web sites, *e.g.*, *http://www.bloomberg.com*. Data regarding each Underlying Index is also available from the respective index provider to subscribers. Several independent data

[16] *See* ''Prospectus Delivery'' below regarding the Product Description. The Application requests relief from section 24(d) of the 1940 Act, which would permit dealers to sell Shares in the secondary market unaccompanied by a statutory prospectus when prospectus delivery is not required by the Securities Act of 1933. Additionally, Commentary .03 of Amex Rule 1000A requires that Amex members and member organizations provide to all purchasers of a series of Index Fund Shares a written description of the terms and characteristics of such securities, in a form prepared by the open-end management investment company issuing such securities, not later than the time of confirmation of the first transaction in such series is delivered to such purchaser. Furthermore, any sales material will reference the availability of such circular and the prospectus.

[17] Telephone Conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and David Hsu, Special Counsel, Division, Commission, on June 13, 2006.

[18] The composition will be used to calculate the NAV later that day.

[19] *See supra* note 17. Telephone Conversation between Jeffrey Burn, Vice President and Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission, on June 23, 2006 (confirming Web site disclosures).

vendors also package and disseminate index data in various value-added formats (including vendors displaying both securities and index levels and vendors displaying index levels only). The value of each Underlying Index will be updated intra-day on a real time basis as its individual component securities change in price. These intra-day values of each Underlying Index will be disseminated at least every 15 seconds throughout the trading day by the Amex or another major market data vendor authorized by the relevant Underlying Index provider.

Creation and Redemption of Shares

Each Fund will issue and redeem Shares only in initial aggregations of at least 50,000 (''Creation Units''). Purchasers of Creation Units will be able to separate the Units into individual Shares. Once the number of Shares in a Creation Unit is determined, it will not change thereafter (except in the event of a stock split or similar revaluation). The initial value of a Share for each of the Funds is expected to be in the range of $50–$250.

Because the NSCC's system for the receipt and dissemination to its participants of a Portfolio Composition File (''PCF'') is not currently capable of processing information with respect to Financial Instruments, the Advisor has developed an ''IIV File,'' which it will use to disclose the Funds'' holdings of Financial Instruments.[20] The IIV File will contain, for each Fund, information sufficient for market participants to calculate a Fund's IIV and effectively arbitrage the Fund.

For example, the following information would be provided in the IIV File for a Fund holding swaps and futures contracts: (A) The notional value of the swaps held by such Fund (together with an indication of the index on which such swap is based and whether the Fund's position is long or short), (B) the most recent valuation of the swaps held by the Fund, (C) the notional value of any futures contracts (together with an indication of the index on which such contract is based, whether the Fund's position is long or short and the contact's expiration date), (D) the number of futures contracts held by the Fund (together with an indication of the index on which such contract is based, whether the Fund's position is long or short and the contact's expiration date), (E) the most recent valuation of the futures contracts held by the Fund, (F) the Fund's total assets and total shares outstanding, and (G) a ''net other assets'' figure reflecting expenses and income of the Fund to be accrued during and through the following business day and accumulated gains or losses on the Fund's Financial Instruments through the end of the business day immediately preceding the publication of the IIV File. To the extent that any Bearish Fund holds cash or cash equivalents, information regarding such Fund's cash and cash equivalent positions will be disclosed in the IIV File for such Fund.

The information in the IIV File will be sufficient for participants in the NSCC system to calculate the IIV for the Funds during such next business day. The IIV File will also be the basis for the next business day's NAV calculation.

Under normal circumstances, the Shares of the Funds will be created and redeemed entirely for cash (''All-Cash Payments''). The IIV File published before the opening of business on a business day will, however, permit NSCC participants to calculate (by means of calculating the IIV) the amount of cash required to create a Creation Unit Aggregation, and the amount of cash that will be paid upon redemption of a Creation Unit Aggregation, for each Fund for that business day. The use of an All-Cash Payment for the purchase and redemption of Creation Unit Aggregations of the Funds is due to the limited transferability of Financial Instruments.

As noted below in ''Dissemination of Indicative Intra-Day Value (IIV),'' the Exchange will disseminate through the facilities of the CTA, at regular 15 second intervals during the Exchange's regular trading hours, the IIV on a per Fund Share basis.

The Exchange believes that Shares will not trade at a material discount or premium to the underlying portfolio assets [21] held by a Fund based on potential arbitrage opportunities. The arbitrage process, which provides the opportunity to profit from differences in prices of the same or similar securities, increases the efficiency of the markets and serves to prevent potentially manipulative efforts. If the price of a Share deviates enough from the Creation Unit, on a per share basis, to create a material discount or premium, an arbitrage opportunity is created allowing the arbitrageur to either buy Shares at a discount, immediately cancel them in exchange for the Creation Unit and sell the underlying portfolio assets in the cash market at a profit, or sell Shares short at a premium and buy the Creation Unit in exchange for the Shares to deliver against the short position. In both instances the arbitrageur locks in a profit and the markets move back into line.[22]

Placement of Creation Unit Aggregation Purchase and Redemption Orders

Creation Unit Aggregations of the Funds will be purchased and redeemed only for cash at NAV plus a transaction fee. The purchaser will make a cash payment by 12 p.m. ET on the third business day following the date on which the request was made (T+3).

Creation Unit Aggregations of the Funds will be redeemable for an All-Cash Payment equal to the NAV, less the transaction fee, generally on a T+3 basis.

Dividends

Dividends, if any, from net investment income will be declared and paid at least annually by each Fund in the same manner as by other open-end investment companies. Certain Funds may pay dividends on a semi-annual or more frequent basis. Distributions of realized securities gains, if any, generally will be declared and paid once a year.

Dividends and other distributions on the Shares of each Fund will be distributed, on a pro rata basis, to Beneficial Owners of such Shares. Dividend payments will be made through the Depository and the DTC Participants to Beneficial Owners then of record with proceeds received from each Fund.

The Trust will not make the DTC book-entry Dividend Reinvestment Service (the ''Dividend Reinvestment Service'') available for use by Beneficial Owners for reinvestment of their cash proceeds but certain individual brokers

[20] The Trust or the Advisor will post the IIV File to a password-protected Web site before the opening of business on each business day, and all Authorized Participants who are also NSCC participants and the Exchange will have access to the password and the Web site containing the IIV File. However, the Fund will disclose each business day to the public identical information, but in a format appropriate to public investors, at the same time the Fund discloses the IIV and PCF files to industry participants.

[21] Telephone Conversation between Jeffrey Burn, Vice President and Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission, on June 23, 2006 (clarifying arbitrage description).

[22] In their 1940 Act Application, the Applicants stated that they do not believe that All-Cash Payments will affect arbitrage efficiency. This is because Applicants believe it makes little difference to an arbitrageur whether Creation Unit Aggregations are purchased in exchange for a basket of securities or cash. The important function of the arbitrageur is to bid the share price of any Fund up or down until it converges with the NAV. Applicants note that this can occur regardless of whether the arbitrageur is allowed to create in cash or with a Deposit Basket. In either case, the arbitrageur can effectively hedge a position in a Fund in a variety of ways, including the use of market-on-close contracts to buy or sell the Financial Instruments.

may make a Dividend Reinvestment Service available to Beneficial Owners. The SAI will inform investors of this fact and direct interested investors to contact such investor's broker to ascertain the availability and a description of such a service through such broker. The SAI will also caution interested Beneficial Owners that they should note that each broker may require investors to adhere to specific procedures and timetables in order to participate in the service, and such investors should ascertain from their broker such necessary details. Shares acquired pursuant to such service will be held by the Beneficial Owners in the same manner, and subject to the same terms and conditions, as for original ownership of Shares. Brokerage commissions charges and other costs, if any, incurred in purchasing Shares in the secondary market with the cash from the distributions generally will be an expense borne by the individual beneficial owners participating in reinvestment through such service.

Dissemination of Indicative Intra-Day Value (IIV)

In order to provide updated information relating to each Fund for use by investors, professionals and persons wishing to create or redeem Shares, the Exchange will disseminate through the facilities of the CTA: (i) Continuously throughout the trading day, the market value of a Share, and (ii) at least every 15 seconds throughout the trading day, a calculation of the Indicative Intra-Day Value or ''IIV'' [23] as calculated by a third party calculator (the ''IIV Calculator'').[24] Comparing these two figures helps an investor to determine whether, and to what extent, the Shares may be selling at a premium or a discount to NAV.

The IIV Calculator will calculate an IIV for each Fund in the manner discussed below. The IIV is designed to provide investors with a reference value that can be used in connection with other related market information. The IIV does not necessarily reflect the precise composition of the current portfolio held by each Fund at a particular point in time. Therefore, the IIV on a per Share basis disseminated during Amex trading hours should not be viewed as a real time update of the NAV of a particular Fund, which is calculated only once a day. While the IIV that will be disseminated by the Amex is expected to be close to the most recently calculated Fund NAV on a per share basis, it is possible that the value of the portfolio held by a Fund may diverge from the IIV during any trading day. In such case, the IIV will not precisely reflect the value of the Fund portfolio.

IIV Calculation for the Funds

The IIV Calculator will disseminate the IIV throughout the trading day for the Funds. The IIV Calculator will determine such IIV by: (i) Calculating the mark-to-market gains or losses from the Fund's total return equity swap exposure based on the percentage change to the Underlying Index and the previous day's notional values of the swap contracts, if any, held by such Fund (which previous day's notional value will be provided by the Trust), (ii) calculating the mark-to-market gains or losses from futures, options and other Financial Instrument positions by taking the difference between the current value of those positions held by the Fund, if any (as provided by the Trust), and the previous day's value of such positions, (iii) adding the values from (i) and (ii) above to an estimated cash amount provided by the Trust (which cash amount will include the swap costs), to arrive at a value and (iv) dividing that value by the total shares outstanding (as provided by the Trust) to obtain current IIV.

Criteria for Initial and Continued Listing

The Shares are subject to the criteria for initial and continued listing of Index Fund Shares in Amex Rule 1002A. A minimum of two Creation Units (at least 100,000 Shares) will be required to be outstanding at the start of trading.[25] This minimum number of Shares required to be outstanding at the start of trading will be comparable to requirements that have been applied to previously listed series of Portfolio Depositary Receipts and Index Fund Shares. The Exchange believes that the proposed minimum number of Shares outstanding at the start of trading is sufficient to provide market liquidity.

The Exchange represents the Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the ProShares.

Original and Annual Listing Fees

The Amex original listing fee applicable to the listing of the Funds is $5,000 for each Fund. In addition, the annual listing fee applicable to the Funds under Section 141 of the Amex *Company Guide* will be based upon the year-end aggregate number of outstanding shares in all Funds of the Trust listed on the Exchange.

Stop and Stop Limit Orders

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Amex Rule 950—ANTE (f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c) (i–v). The Exchange has designated Index Fund Shares, including the Shares, as eligible for this treatment.[26]

Amex Rule 190

Amex Rule 190, Commentary .04 applies to Index Fund Shares listed on the Exchange, including the Shares. Commentary .04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.

Prospectus Delivery

The Exchange, in an Information Circular to Exchange members and member organizations, prior to the commencement of trading, will inform members and member organizations, regarding the application of Commentary .03 to Amex Rule 1000A to the Funds. The Circular will further inform members and member organizations of the prospectus and/or Product Description delivery requirements that apply to the Funds. The Application included a request that the exemptive order also grant relief from section 24(d) of the 1940 Act. Any Product Description used in reliance on section 24(d) exemptive relief will comply with all representations and conditions set forth in the Application.

---

[23] The IIV is also referred to by other issuers as an ''Estimated NAV,'' ''Underlying Trading Value,'' ''Indicative Optimized Portfolio Value (IOPV),'' and ''Intraday Value'' in various places such as the prospectus and marketing materials for different exchange-traded funds.

[24] The Exchange will calculate the IIV for each Fund.

[25] Telephone Conversation between Nyieri Nazarian, Assistant General Counsel, Amex, and David Hsu, Special Counsel, Division, Commission, on June 13, 2006.

[26] *See* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) at note 9, regarding the Exchange's designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

Trading Halts

In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Fund Shares. These factors would include, but are not limited to, (1) the extent to which trading is not occurring in securities comprising an Underlying Index and/or the Financial Instruments of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. (*See* Amex Rule 918C). In the case of the Financial Instruments held by a Fund, the Exchange represents that a notification procedure will be implemented so that timely notice from the Advisor is received by the Exchange when a particular Financial Instrument is in default or shortly to be in default. Notification from the Advisor will be made by phone, facsimile, or e-mail. The Exchange would then determine on a case-by-case basis whether a default of a particular Financial Instrument justifies a trading halt of the Shares. Trading in shares of the Funds will also be halted if the circuit breaker parameters under Amex Rule 117 have been reached. If the NAV is not disseminated to all market participants at the same time, the Exchange will halt trading in the Shares of the Funds.[27]

Suitability

Prior to commencement of trading, the Exchange will issue an Information Circular to its members and member organizations providing guidance with regard to member firm compliance responsibilities (including suitability obligations) when effecting transactions in the Shares and highlighting the special risks and characteristics of the Funds and Shares as well as applicable Exchange rules.

This Information Circular will set forth the requirements relating to Commentary .05 to Amex Rule 411 (Duty to Know and Approve Customers). Specifically, the Information Circular will remind members of their obligations in recommending transactions in the Shares so that members have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member; and (2) that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment. In connection with the suitability obligation, the Information Circular will also provide that members make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

Purchases and Redemptions in Creation Unit Size

In the Information Circular referenced above, members and member organizations will be informed that procedures for purchases and redemptions of Shares in Creation Unit Size are described in each Fund's prospectus and SAI, and that Shares are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares. Specifically, the Amex will rely on its existing surveillance procedures governing Index Fund Shares, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Hours of Trading/Minimum Price Variation

The Funds will trade on the Amex until 4:15 p.m. ET each business day. Shares will trade with a minimum price variation of $.01.

III. Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with section 6 of the Act,[28] and the rules and regulations thereunder, applicable to a national securities exchange.[29] The Commission believes that the Exchange's proposed listing standards, trading rules, suitability and disclosure rules for the Funds are consistent with the Act.

A. Surveillance

The Commission believes that because the Underlying Indexes are broad-based and are composed of securities having significant trading volumes and market capitalization, improper trading practices in the Shares and the ability to use the Shares to manipulate the underlying securities will be limited. Moreover, the issuers of the securities comprising the Underlying Indexes are subject to reporting requirements under the Act, and all of the component stocks are either listed or traded on, or traded through the facilities of, U.S. securities markets, and thus subject to real-time transaction reporting, which should further deter manipulation.

B. Dissemination of Information about the Shares

In approving the Funds for trading on the Amex, the Commission notes that the Underlying Indexes are broad-based, widely-disseminated indexes, which underlie numerous listed products. These index values are widely-disseminated on a real-time basis at least every 15 seconds throughout the trading day during the period in which the Shares will trade on Amex. Additionally, the Commission notes that the Exchange will disseminate through the facilities of CTA at least every 15 seconds a calculation of the IIV, along with an updated market value of the Shares. Comparing these two figures will help investors to determine whether, and to what extent, the Shares may be selling at a premium or discount to NAV and thus will facilitate arbitrage of the Shares in relation to the Index component securities.

The Commission also notes that the Trust's or Advisor's Web site and/or that of the Exchange, which is and will be publicly accessible at no charge, will contain the Shares' prior business day NAV, the reported closing price, and a calculation of the premium or discount of such price in relation to the closing NAV.

The Funds' NAV and total portfolio composition will be disclosed to all market participants at the same time on the Web site of the Trust (*http://www.proshares.com*). The Commission believes that such disclosure is reasonably designed to facilitate a functional arbitrage mechanism and mitigate the risks of improper market activity that could arise from inconsistent disclosure of information.

C. Listing and Trading

The Commission finds that the Exchange's proposed rules and

[27] *See* Amendment No. 2. However, if the Fund temporarily does not disseminate the NAV to all market participants at the same time, the Exchange will immediately contact Commission staff to discuss measures that may be appropriate under the circumstances. *Id.*

[28] 15 U.S.C. 78f(b).

[29] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

procedures for the listing and trading of the Shares are consistent with the Act. Shares will trade as equity securities subject to Amex rules including, among others, rules governing trading halts, specialist activities, stop and stop limit orders, prospectus delivery, and customer suitability requirements. In addition, the Shares will be subject to Amex listing and delisting/suspension rules and procedures governing the trading of Index Fund Shares on the Exchange. The Commission believes that listing and delisting criteria for the Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Shares. Finally, the Commission believes that the information circular the Exchange will distribute will inform members and member organizations about the terms, characteristics, and risks in trading the Shares.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the amendment is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2006–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–41. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–41 and should be submitted on or before July 21, 2006.

V. Accelerated Approval

The changes proposed by Amendment No. 2 are designed to ensure that certain material information—*i.e.*, the NAV for the Trust—is made available to all market participants at the same time. The Commission believes that these proposed changes strengthen the proposed rule change and do not raise any new regulatory issues. Therefore, the Commission finds good cause to approve Amendment No. 2 to the proposed rule change prior to the 30th day after the amendment is published for comment in the **Federal Register**.

VI. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change, as amended, (SR–Amex–2006–41) is hereby approved, and that Amendment No. 2 to the proposed rule change be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Nancy M. Morris,

Secretary.

[FR Doc. 06–5907 Filed 6–29–06; 8:45 am]

BILLING CODE 8010–01–P

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Grant Acquired Property Release at Orangeburg Municipal Airport, Orangeburg, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the City of Orangeburg to waive the requirement that approximately .34-acres of airport property, located at the Orangeburg Municipal Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before July 31, 2006.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Paul Lo, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Durwood E. Bowden, Public Works Director of the City of Orangeburg at the following address: City of Orangeburg, Post Office Drawer 387, Orangeburg, SC 29116.

FOR FURTHER INFORMATION CONTACT: Paul Lo, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747, (404) 305–7145. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: the FAA is reviewing a request by the City of Orangeburg to release approximately .34 acres of airport property at the Orangeburg Municipal Airport. The property consists of one parcel roughly located on the East side of the airport directly adjacent to the West side of the Orangeburg County Industrial Park. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the proposed use of this property is compatible with airport operations. The Cit will ultimately sell the property for future industrial use with proceeds of the sale providing funding for future airport development.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Orangeburg Municipal Airport.

Issued in Atlanta, Georgia, on June 22, 2006.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 06–5924 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–M

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 that was submitted for McClellan-Palomar Airport under the provisions of 49 U.S.C. 47501 *et seq.* (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR Part 150 by the County of San Diego. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR Part 150 for McClellan-Palomar Airport were in compliance with applicable requirements, effective April 26, 2005, which was published in the **Federal Register**, Volume 70, No. 89, page 24671, on May 10, 2005. The proposed noise compatibility program will be approved or disapproved on or before December 17, 2006.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is June 20, 2006. The public comment period ends August 21, 2006.

FOR FURTHER INFORMATION CONTACT: Peter Ciesla, Federal Aviation Administration, Western-Pacific Region, Airports Division, P.O. Box 92007, Los Angeles, California, 90009–2007, Telephone: (310) 725–3633. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for McClellan-Palomar Airport, which will be approved or disapproved on or before December 17, 2006. 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 for McClellan-Palomar Airport, effective on June 20, 2006. 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 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 December 17, 2006.

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 are available for examination at the following locations:

Federal Aviation Administration, Western-Pacific Region, Airports Division, Room 3024, 15000 Aviation Boulevard, Hawthorne, California 90261.

Mr. Peter Drinkwater, Airports Director, Department of Public Works, County Airports, 1960 Joe Crosson Drive, El Cajon, California 92020.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California, on June 20, 2006.

Mark A. McClardy,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 06–5925 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2006–24508]

Final General Conformity Determination for Proposed Operations of Southwest Airlines Co. at Denver International Airport, Denver, CO

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

ACTION: Notice of Availability of Final General Conformity Determination.

SUMMARY: Pursuant to Section 176(c) of the Clean Air Act Amendments of 1990, the FAA announces the availability of the Final General Conformity Determination for Operations of Southwest Airlines Co. (Southwest) at Denver International Airport (DEN). FAA has determined that emissions from Southwest's operations at DEN conform to the Colorado State Implementation Plan (SIP).

In accordance with the requirements of 40 CFR 93.156 (b), the Draft Conformity Determination, Proposed Operations of Southwest Airlines Co. at Denver International Airport, Denver, CO was made available for public review beginning April 21, 2006. Notice of the draft determination was published in the Rocky Mountain News, Denver, Colorado on April 21, 2006, and copies of the draft determination were made available at DEN. The Notice of Draft General Conformity Determination was published in the **Federal 1Register** on April 27, 2006 (71 FR 24903).

No comments were submitted during the public comment period, which ended on May 30, 2006. Consequently, the Final General Conformity Determination consists of the Draft General Conformity Determination, with the following typographical corrections. The corrections are needed to clarify terms describing aircraft operations and to correct the reference to the maximum foreseeable aircraft activity used to predict aircraft emissions, as documented in Table 1.

1. Page 24903, last sentence on this page under **SUPPLEMENTARY INFORMATION** shall be revised to read: ''At that time Southwest indicated an interest in increasing service to as many as 50 or 60 daily landing/take-off cycles (LTOs) at DEN, but agreed to maintain * * *''

2. Page 24904, second sentence of the last paragraph under **SUPPLEMENTARY INFORMATION** shall be revised to read: ''This General Conformity Determination addresses FAA's proposed Federal action to amend

Southwest's operation specifications (OpSpecs) to accommodate future aircraft activity as high as 60 daily LTOs at DEN * * *''

3. Page 24904, fourth sentence of the 1st paragraph under Aircraft and Supporting Equipment Emissions shall be revised to read: ''Under the Proposed Action scenario, aircraft emissions were quantified based on this maximum foreseeable level and conservatively assumed to occur every day of the year for a total of 21,900 LTOs per year.''

Note: The above corrections do not impact the analysis or the results. This Notice of Availability of this Final General Conformity determination will also be published in the Rocky Mountain News, Denver, Colorado. Also, the Final Conformity Determination will be available at DEN.

FOR TECHNICAL INFORMATION CONTACT: Ms. Joan Seward, All Weather Operations Program Manager, ASW–230.1, FAA SW Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone (817) 222–5278, e-mail: *Joan.M.Seward@faa.gov.*

Issued in Washington, DC, on June 26, 2006.

John M. Allen,

Acting Director, Flight Standards Service.

[FR Doc. 06–5888 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–21]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemptions received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains summaries of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 20, 2006.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Jan Thor (425–227–2127), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave., SW., Renton, WA 98055–4056; or John Linsenmeyer (202–267–5174), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on June 23, 2006.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2006–25156.

Petitioner: Raytheon Aircraft Company.

Section of 14 CFR Affected: 14 CFR 25.981.

Description of Relief Sought: Raytheon Aircraft Company is seeking a two-year time-limited exemption for compliance with Amendment 25–102 to 14 CFR 25.981 for the Model 4000 type certification program. This program is nearly complete, but will slightly exceed the five-year timeframe established by 14 CFR 21.17. Amendment 25–102 is one of the 14 CFR part 25 rule changes issued since the type certification application date that would now need to be incorporated into the design. The time-limited exemption allows Raytheon Aircraft Company sufficient time to complete analysis, and if required, developed any design changes and retrofit the Model 4000 fleet.

Docket No.: FAA–2006–25155.

Petitioner: Raytheon Aircraft Company.

Section of 14 CFR Affected: 14 CFR 25.1435.

Description of Relief Sought: Raytheon Aircraft Company is seeking a twelve (12) month time limited exemption to 14 CFR 25.1435(a)(1), Amendment 104 for the Model 4000 type certification program. This program is nearly complete, however will slightly exceed the 5 year timeframe established by 14 CFR 21.17. Amendment 104 is one of the 14 CFR part 25 rule changes issued since the type certification application date that would now need to be incorporated into the design. The time-limited exemption will allow Raytheon Aircraft Company sufficient time to complete analysis, testing, and if required, develop any design changes and retrofit the Model 4000 fleet.

[FR Doc. 06–5881 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Highway Administration

Environmental Impact Statement: City and County of Denver, CO

AGENCIES: Federal Transit Administration (FTA), Federal Highway Administration, Department of Transportation (DOT).

ACTION: Revised Notice of Intent.

SUMMARY: The FTA and FHWA are jointly issuing this Revised Notice of Intent to advise the public that the joint Environmental Impact Statement/Section 4(f) Evaluation (EIS/4(f)) for transit and highway improvements in the City and County of Denver, Adams County, and the City of Aurora, Colorado will be revised to create two separate environmental documents. Previously, the transit and highway improvements were being evaluated as part of a combined highway and transit study. Recently, the agencies working on the combined project decided to prepare separate EISs for the different highway and transit project elements. This Revised Notice of Intent provides notice for the separate transit and highway EIS/4(f)s that are being prepared.

FOR FURTHER INFORMATION CONTACT: For transit: Dave Beckhouse, Community Planner, FTA, 12300 West Dakota Avenue, Suite 310, Denver, CO, 80228, Telephone: (720) 963–3306.

Mike Turner, Regional Transportation District, 1560 Broadway, Suite 700, Denver, CO, 80202, Telephone: (303) 299–2366.

For highway: Chris Horn, Senior Operations Engineer, FHWA, 12300 West Dakota Avenue, Suite 180, Lakewood, Colorado 80228, Telephone 720 963 3017. Sharon Lipp Colorado Department of Transportation, Region 6, 3840 York Street, Suite 130, Denver, Colorado 80205, Telephone 303 294 9300.

SUPPLEMENTARY INFORMATION: On August 19, 2003, the FTA and FHWA, in cooperation with the Regional Transportation District (RTD), Colorado Department of Transportation (CDOT), and City and County of Denver published a Notice of Intent to prepare an Environmental Impact Statement for proposed transportation improvements in the City and County of Denver, Adams County and the City of Aurora. FTA will now prepare an Environmental Impact Statement/ Section 4(f) Evaluation (EIS/4(f) for transit improvements proposed in the East Corridor between downtown Denver and Denver International Airport (DIA). FHWA will now prepare an Environmental Impact Statement/4(f) Evaluation (EIS/4(f) for highway improvements on Interstate 70 (I–70) between Interstate 25 (I–25) and Tower Road. The purpose of the proposed actions is to improve safety, mobility, and access, and decrease congestion. Currently downtown Denver is the center for rail and bus transit in the region. DIA is a critical link in the regional and national transportation network. The I–70 East Corridor is one of the mot heavily traveled and congested corridors in the region and state. Highway safety issues revolve around the age and design features of the interchanges and roadway.

Project scoping was conducted in 2003 as part of the joint project between FHWA, CDOT, FTA, RTD, and Denver. However, since that time the FTA and FHWA have decided to prepare separate EISs for the transit and highway elements.

Scoping included various coordination activities with affected parties, stakeholders, organization, Federal, State and local agencies; agency scoping meetings; and through community outreach and public meetings in the project corridor. In addition, a variety of grassroots outreach techniques have been used including a door-to-door campaign for some of the neighborhoods, flyers, block and neighborhood meetings, and business and community-organization outreach meetings. To be placed on the public mailing list to receive additional project information, contact Mike Turner (RTD) and/or Sharon Lipp (CDOT) at the address previously provided.

Comments or questions concerning these proposed actions and the EIS Section 4(f) Evaluations should be directed to Dave Beckhouse (FTA) and/ or Chris Horn (FHWA) at the addresses previously provided.

The EIS/Section 4(f) Evaluations will evaluate improvement alternatives and the Non-action alternative based on the Purpose and Need developed for the corridor. alternatives have been developed thorough an extensive agency and community outreach process. A full range of potential alignments and corridors were considered for both transit and highway alternatives.

The East Corridor EIS will result in a decision concerning transit improvements, if any, to be built to improve mobility in the corridor. The I–70 East EIS will result in a decision about which highway improvements, if any, will be built to improve safety and address congestion.

East Corridor EIS

The alternatives evaluated in the Draft EIS (DEIS) and Section 4(f) Evaluation will include, but not be limited to, bus and rail technologies. Rail transit along the Union Pacific Railroad corridor from downtown Denver to DIA and enhancements to the existing transit system to connect to the East Corridor will also be evaluated. As part of the transit evaluations, station locations will be identified and studied as appropriate.

FTA will analyze social, economic, and environmental impacts of the various alternatives. Other major issues to be evaluated include air quality, noise, vibration, community cohesion impacts, and possible disruption of neighborhoods and business and commercial activities.

The DEIS will be available for public and agency review and comment. Information concerning the availability of the DEIS will be published at a later date.

I–70 East EIS

The alternatives evaluated in the Draft EIS (DEIS) and Section 4(f) Evaluation will include, but not be limited to, variations of the horizontal and vertical alignment of I–70 as well as capacity and safety improvements. Existing and future interchanges will also be evaluated.

FHWA will evaluate social, economic, and environmental impacts of the various alternatives. A major concern is environmental justice. I–70 passes through three older communities that have been affected by several actions on I–70 beginning with the initial construction of I–70 in the 1960s and subsequent actions including reconstruction of the I–70 viaduct and roadway widening on the western segment of the Corridor. Other major issues to be evaluated include air quality, noise, aesthetics, community cohesion impacts, and possible disruption of neighborhoods and business and commercial activities.

The DEIS will be available for public and agency review and comment. Information concerning the availability of the DEIS will be published at a later date.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Lee O. Waddleton,

Regional Administrator, Federal Transit Administration, 12300 W. Dakota Ave. Suite 310, Lakewood, Colorado 80228–2583.

David Nicol,

Division Administrator, Federal Transit Administration, 12300 W. Dakota Ave. Suite 180, Lakewood, Colorado 80228–2583.

[FR Doc. 06–5879 Filed 6–29–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2006, and ending on December 31, 2006, the prompt payment interest rate is 5¾ per centum per annum.

ADDRESS: Comments or inquiries may be mailed to Trina R. Cook, Team Leader, Borrowings Accounting Team, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328. A copy of this Notice will be available to download from *http://www.publicdebt.treas.gov.*

DATES: This notice announces the applicable interest rate for the July 1, 2006, to December 31, 2006, period.

FOR FURTHER INFORMATION CONTACT: Stephanie Brown, Director, Division of

Accounting Operations, Office of Public Debt Account, Bureau of the Publicly Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–5181; Trina R. Cook, Team Leader, Borrowings Account Team, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 480–5166; Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–8692; or Brenda L. Hoffman, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Pubic Debt, (202) 504–3706.

SUPPLEMENTARY INFORMATION: Although the Renegotiation Board is no longer in existence, other Federal Agencies are required to use interest rates computed under the criteria established by the Renegotiation Act of 1971 Sec. 2, Public Law 92–41, 85 Stat. 97. For example, the Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and, indirectly, the Prompt Payment Act of 1982, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at a rate established by the Secretary of the Treasury for the Renegotiation board under Public Law 92–41.

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable, for the period beginning July 1, 2006, and ending on December 31, 2006, is 5¾ per centum per annum. This rate is determined pursuant to the above-mentioned sections for the purpose of said sections.

Dated: June 27, 2006.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 06–5933 Filed 6–29–06; 8:45 am]

BILLING CODE 4810–39–M

Federal Register

Friday,
June 30, 2006

Part II

Department of Agriculture

Forest Service
36 CFR Part 242

Department of the Interior

Fish and Wildlife Service
50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska; 2006–2007 Subsistence Taking of Fish and Wildlife Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AT98

Subsistence Management Regulations for Public Lands in Alaska; 2006–2007 Subsistence Taking of Fish and Wildlife Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses in Alaska during the 2006–2007 regulatory year. The rulemaking is necessary because the regulations governing the subsistence harvest of wildlife in Alaska are subject to an annual public review cycle. This rulemaking replaces the wildlife regulations that expire on June 30, 2006. This rule also amends the regulations that establish which Alaska residents are eligible to take specific species for subsistence uses.

DATES: Sections ____.24(a)(1) and ____.25 are effective July 1, 2006. Section ____.26 is effective July 1, 2006, through June 30, 2007.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region, (907) 786–3888.

SUPPLEMENTARY INFORMATION:

Background

In Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), Congress found that ''the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses * * *'' and that ''continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened * * *'' As a result, Title VIII requires, among other things, that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in sections 803, 804, and 805 of ANILCA.

The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* required the State to delete the rural preference from its subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990. As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114).

As a result of this joint process between Interior and Agriculture, these regulations can be found in both Code of Federal Regulations (CFR) title 36, ''Parks, Forests, and Public Property,'' and title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subparts A, B, and C of these regulations, as revised December 27, 2005 (70 FR 76400), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participated in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (2002) and 50 CFR 100.11 (2002), and for the purposes identified therein, we divide Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents, who have personal knowledge of local conditions and resource requirements, to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

Current Rule

Because the Subpart D regulations, which establish seasons and harvest limits and methods and means, are subject to an annual cycle, they require development of an entire new rule each year. Customary and traditional use determinations (Subpart C) are also subject to an annual review process providing for modification each year. Section____.24 (Customary and traditional use determinations) was originally published in the **Federal Register** (57 FR 22940) on May 29, 1992. The regulations at 36 CFR 242.4 and 50 CFR 100.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation'.'' Since that time, the Board has made a number of Customary and Traditional Use Determinations at the request of impacted subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

MODIFICATIONS TO § ____.24

Federal Registration citation	Date of publication	Rule made changes to the following provisions of ____.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 1276	January 8, 1999	Fish/Shellfish.
64 FR 35776	July 1, 1999	Wildlife.
65 FR 40730	June 30, 2000	Wildlife.
66 FR 10142	February 13, 2001	Fish/Shellfish.
66 FR 33744	June 25, 2001	Wildlife.
67 FR 5890	February 7, 2002	Fish/Shellfish.
67 FR 43710	June 28, 2002	Wildlife.
68 FR 7276	February 12, 2003	Fish/Shellfish.
During its May 20–22, 2003, meeting, the Board did not make any additional customary and traditional use determinations.		
69 FR 5018	February 3, 2004	Fish/Shellfish.
69 FR 40174	July 1, 2004	Wildlife.
70 FR 13377	March 21, 2005	Fish/Shellfish.
70 FR 36268	June 22, 2005	Wildlife.
71 FR 15569	March 29, 2006	Fish/Shellfish.

The Departments of the Interior and Agriculture published a proposed rule on August 11, 2005 (70 FR 46795), to amend Subparts C and D of 36 CFR 242 and 50 CFR 100. The proposed rule opened a comment period, which closed on October 21, 2005. The Departments advertised the proposed rule by mail, radio, and newspaper. During that period, the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. The Board received a total of 69 proposals for changes to Subparts C and D. After the proposal period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The booklet was also made available online. The public then had an additional 30 days in which to comment on the proposals for changes to the regulations. The 10 Regional Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Regional Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representatives, presented each Council's recommendations at the Board meeting of May 16–18, 2006. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. The public has had extensive opportunity to review and comment on all changes. Of the 69 proposals, the Board adopted 29 plus part of 1 other and rejected 24 plus part of 1 other. The Board took no action on another six proposals due to action that they had taken on other similar proposals. Thirteen proposals were deferred or tabled to allow collection of additional information. Two proposals had been withdrawn by the proponent prior to the meeting. Additional details on the recent Board modifications are contained below in Analysis of Proposals Adopted by the Board.

Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 apply to regulations found in this subpart.

Analysis of Proposals Rejected by the Board

The Board rejected or took no action on 25 proposals and part of 1 other.

One proposal requested restriction on the sale and purchase of handicrafts made from the claws of bears. The Board rejected this proposal because there are no conservation concerns that warrant the action, no demonstrated abuses on the sale of claws by Federally qualified users, and the restriction would be an unnecessary restriction on subsistence users.

The Board rejected, as contrary to the principles of wildlife conservation, two proposals that would have revised the use of harvest tickets for deer in southeastern Alaska.

The Board took no action on one proposal that requested changes in the area closed for the harvest of deer by non-Federally qualified users in part of Unit 2 because of Board action taken on another similar proposal for the Southeastern Alaska Region.

Based on the recommendation of the Southeast Alaska Regional Council, the Board took no action on one proposal that requested establishment of a subsistence hunting season for elk in Unit 3.

The Board took no action on a proposal requesting the use of a Federal registration permit for moose in part of Unit 1C because revisions in State permit requirements rendered the issue of concern moot.

The Board took no action on one proposal that requested eliminating the closure of goat harvest by non-Federally qualified users in part of Unit 6D because of Board action taken on another similar proposal for the Southcentral Alaska Region.

The Board rejected a proposal that would have expanded the moose season and allowed harvest of cows in a portion of Unit 7 because there are significant conservation concerns.

Based on the recommendation of the Southcentral Alaska Regional Council, the Board rejected a proposal that would have allowed moose hunting in a portion of Unit 6D the same day after being airborne.

The Board rejected a proposal that would have allowed the ceremonial harvest of a moose in a portion of Unit 6 because the proposed harvest area was outside the normal hunting area of the requesting village and would have been detrimental to satisfaction of the subsistence priority of the local users.

The Board took no action on one proposal that requested eliminating the closure for moose hunting by non-Federally qualified users in part of Unit 7 because of Board action taken on another similar proposal for the Southcentral Alaska Region.

The Board rejected one proposal that requested a closure for moose hunting by non-Federally qualified users in parts of Unit 9 because there are no conservation concerns that warrant the action.

The Board rejected one proposal that requested revising the harvest limit for caribou in Unit 9D and for the closure to non-Federally qualified users because of Board action taken on another similar proposal for the Southcentral Alaska Region.

One proposal for Unit 9E requested the cutting of antlers from moose or separation from the skull plate. The Board rejected this proposal as an unnecessary restriction on subsistence users.

The Board rejected three proposals relating to forfeiture of moose and caribou antlers, revised antler restrictions for moose, and in-person reporting of moose harvest in southcentral Alaska because no conservation concerns warrant the actions, no demonstrated abuses by Federally qualified users exist, and the restrictions would be an unnecessary restriction on subsistence users.

The Board rejected one proposal that would extend the wolf hunting season for Units 12, 20, and 25, because it is contrary to sound principles of wildlife management and will not contribute to the satisfaction of subsistence needs.

The Board rejected a proposal that would have established a controlled use area limiting the use of aircraft during moose season in a portion of Unit 18 because there are no conservation concerns that warrant the action, no demonstrated abuses by Federally qualified users, and the restriction would be an unnecessary restriction on subsistence users.

The Board deferred one proposal that requested removal of a closure for moose hunting by non-Federally qualified users in part of Unit 18 in order to provide an opportunity for extensive local education and dialog to promote the continued success of moose management in the lower Yukon River area.

The Board rejected one proposal requesting the establishment of a Federal registration permit requirement for caribou for Units 20E, 20F, and 25C as being unnecessarily duplicative of the State permit system and an unnecessary restriction on subsistence users.

The Board rejected one proposal requesting the closure of the moose season for moose for a portion of Unit 20C because there are no conservation concerns that warrant the action and it would constitute an unnecessary restriction on subsistence users.

The Board took no action on one proposal that requested changes in the moose season in Unit 21B because of Board action taken on another similar proposal for the Western Interior Region.

At the request of the Seward Peninsula Regional Council Chair, the Board deferred action on 11 proposals requesting establishment of seasons and harvest limits for various furbearers and small game in Unit 22.

At the request of the Seward Peninsula Regional Council Chair, the Board tabled action on a proposal related to the use of a snowmachine to take wolves in Unit 22.

The Board rejected one proposal that would have removed the closure for moose hunting by non-Federally qualified users in part of Unit 25 because of lack of substantial information supporting the proposal.

The Board rejected one proposal that would have revised the customary and traditional use determination for moose for Unit 26C because of lack of substantial information supporting the proposal.

Summary of Proposals Adopted by the Board

The Board adopted 29 proposals and part of 1 other. Some of these proposals were adopted as submitted. Others were adopted with modifications suggested by the respective Regional Council, modifications developed during the analysis process, or modifications developed during the Board's public deliberations.

All of the adopted proposals were recommended for adoption by at least one of the Regional Councils, although further modifications may have been made during Board discussions, and were based on meeting customary and traditional uses or harvest practices, or on protecting wildlife populations. Detailed information relating to justification for the action on each proposal may be found in the Board meeting transcripts, available for review at the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska, or on the Office of Subsistence Management Web site (*http://alaska.fws.gov/asm/home.html*). Additional minor modifications have been made by changing titles of officials delegated to close seasons or set harvest restrictions. This was necessary because of office reorganizations and internal agency changes in official geographic responsibilities.

Multiple Regions

The Board adopted one proposal affecting residents of multiple Regions, resulting in the following change in the regulations found in § ____.25.

- Provided for the sale of handicrafts made from the nonedible byproducts of most subsistence harvested wildlife and created definitions for ''big game'' and ''trophy.''

Southeast Region

The Board adopted one proposal and part of another affecting residents of the Southeast Region, resulting in the following changes to the regulations found in § ____.26.

- Eliminated the closure to non-Federally qualified users on Federal lands in a portion of Unit 2 for hunting deer.
- Increased the harvest limit for deer in Unit 2 and authorized the Forest Supervisor to reduce the harvest limit based on conservation concerns.

Southcentral Region

The Board adopted two proposals and took an additional action affecting residents in the Southcentral Region, resulting in the following changes to the regulations found in § ____.26.

- Eliminated the closure to non-Federally qualified users on Federal lands in a portion of Unit 6D for hunting mountain goats.
- Closed Federal lands in a portion of Unit 7 to moose hunting by all users.
- Added an additional moose harvest season in Units 15B and 15C.

Kodiak/Aleutians Region

The Board adopted two proposals affecting residents in the Kodiak/Aleutians Region, resulting in the following changes to the regulations found in § ____.26.

- Extended the antlerless deer season in Unit 8.
- Restricted the harvest of caribou in Unit 9D to bulls only.

Bristol Bay Region

The Board adopted three proposals affecting residents in the Bristol Bay Region, resulting in the following changes to the regulations found in § ____.26.

• Closed the caribou season in Unit 9E and a portion of 9C.
• Expanded the sheep season and reduced the horn size restriction in a portion of Unit 9B.
• Eliminated the cow moose harvest in a portion of Unit 9C.

Yukon-Kuskokwim Delta Region

The Board adopted two proposals affecting residents in the Yukon-Kuskokwim Delta Region, resulting in the following changes to the regulations found in §§ ____.25 and ____.26.
• Replaced the winter ''to be announced'' moose hunt with a set season for a portion of Unit 18.
• Allowed the harvest of a calf during the winter hunt in a portion of Unit 18, created a definition for ''calf,'' and provided for closure authority by the refuge manager.

Western Interior Region

The Board adopted four proposals affecting residents of the Western Interior Region, resulting in the following change to the regulations found in § ____.26.
• Revised the boundaries of a controlled use area in Unit 19D.
• Revised the hunt areas and seasons for moose in portion of Unit 21 and the hunt areas for caribou in a portion of Unit 21.
• Revised the hunt areas and seasons for sheep in Unit 24.
• Revised the hunt areas and seasons for moose in portions of Unit 24.

Additionally, the Board by special action in June 2006 revised the moose seasons and harvest limits in Units 19A and 19B.

Seward Peninsula Region

The Board adopted five proposals affecting residents of the Seward Peninsula Region, resulting in the following changes to the regulations found in § ____.26.
• Closed the summer season for both caribou in portions of Unit 22.
• Shifted the winter season for moose in a portion of Unit 22A.
• Closed the Federal moose season in a portion of Unit 22A.
• Shortened the moose season in portions of Units 22B and 22D.
• Provided for a designated hunter system for muskox in portions of Unit 22.

Northwest Arctic Region

The Board adopted two proposals affecting residents in the Northwest Arctic Region, resulting in the following changes to the regulations found in § ____.26.
• Prohibit harvest of moose calves in Unit 23.
• Provided for a designated hunter system for muskox in a portion of Unit 23.

Eastern Interior Region

The Board adopted five proposals affecting residents of the Eastern Interior Region, resulting in the following change to the regulations found in §§ ____.24 and ____.26.
• Revised the customary and traditional use determination for moose in portions of Unit 12.
• Revised the hunt areas for moose in portions of Unit 12.
• Revised the seasons and antler restrictions for moose for a portion of Unit 12.
• Established a hunting season for muskrat in portions of Units 20E, 25B, and 25C.
• Allowed the use of bait to hunt wolves on FWS and BLM lands in Units 12, 20, and 25.

North Slope Region

The Board adopted two proposals affecting residents of the North Slope Region, resulting in the following change to the regulations found in § ____.26.
• Eliminated the closure to non-Federally qualified users on Federal lands in a portion of Unit 26A for hunting caribou.
• Eliminated the closure to non-Federally qualified users on Federal lands in a portion of Unit 26A for hunting moose.

Additionally, the U.S. Fish and Wildlife Service's Office of Subsistence Management used its delegated authority to adjust lynx seasons and harvest limits consistent with the ADF&G Lynx Harvest Management Strategy. The Office of Subsistence Management, in June 2006, exercised this authority and added or adjusted lynx hunting seasons in Units 6, 11, 13, 14C, and 16 and trapping seasons in Units 11, 13, 14C, and 16.

These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. All Board members have reviewed this rule and agree with its substance. Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board finds that additional public notice under the Administrative Procedure Act (APA) for this final rule is unnecessary, and contrary to the public interest. The Board has provided extensive opportunity for public input and involvement in excess of standard APA requirements, including participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change. Over the 15 years the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the regulations. A lapse in regulatory control could seriously affect the continued viability of wildlife populations and adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d) to make this rule effective less than 30 days after publication.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analyses and examined the environmental consequences of four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comments received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C, implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule	"Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the **Federal Register**.
64 FR 1276	January 8, 1999	Final Rule	Amended to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified Secretaries'' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Final Rule	In response to comments to the June 12, 2001, interim rule, amended the operating regulations. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	This rule clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Received no adverse comments on the direct final rule (67 FR 30559). Adopted direct final rule.
69 FR 60957	October 14, 2004	Final Rule	This rule clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of "regulatory year" from Subpart A to Subpart D of the regulations.
70 FR 76400	December 27, 2005	Final Rule	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available from the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction did not constitute a major Federal action significantly affecting the human environment, and has, therefore, signed a Finding of No Significant Impact.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

This rule does not contain any new information collection requirements that need Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule applies to the use of public lands in Alaska. The information collection requirements described in this rule are already approved by OMB and have been assigned control number 1018–0075, which expires August 31, 2006. On March 2, 2006, we published in the **Federal Register** (71 FR 10698) a notice of our intent to request OMB approval of a 3-year renewal of this information collection. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

Other Requirements

Economic Effects—This rule is not a significant rule subject to OMB review under Executive Order 12866. This rulemaking will impose no significant costs on small entities; this rule does not restrict any existing sport or commercial fishery on the public lands, and subsistence fisheries will continue at essentially the same levels as they presently occur. The number of businesses and the amount of trade that will result from this Federal land-related activity is unknown but expected to be insignificant.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of regulatory flexibility analyses for rules that will have a significant economic effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as sporting goods, ammunition, and gasoline dealers. The number of small entities affected is unknown; however, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

This rule benefits those participants who engage in the subsistence harvest of wildlife in Alaska in two identifiable ways: first, participants get the consumptive value of the food harvested, and second, participants get the cultural benefit associated with the maintenance of a subsistence lifestyle. We can estimate the consumptive value for wildlife harvested under this rule but can place no dollar value on the maintenance of a subsistence lifestyle. However, we estimate that 8.7 million pounds of wildlife are harvested by the local subsistence users annually and, if based on a replacement value of $5.00 per pound, would equate to $43.5 million in food value Statewide. The cultural benefits of maintaining a subsistence lifestyle can also be of considerable value to the participants.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential implications for takings of private property as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless the State's program is compliant with the requirements of that Title.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

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

Drafting Information—William Knauer drafted these regulations under the guidance of Pete Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Dennis Tol, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Alaska Regional Office, Bureau of Indian Affairs; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; and Steve Kessler, Alaska Regional Office, USDA—Forest Service, provided additional guidance.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ___—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR Part 242 and 50 CFR Part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, § __.24(a)(1) is revised to read as follows:

§ ___.24 Customary and traditional use determinations.

(a) * * *

(1) *Wildlife determinations.* The rural Alaska residents of the listed communities and areas have a customary and traditional use of the specified species on Federal public lands within the listed areas:

Area	Species	Determination
Unit 1C	Black Bear	Residents of Units 1C, 1D, 3, Hoonah, Pelican, Point Baker, Sitka, and Tenakee Springs.
1A	Brown Bear	Residents of Unit 1A, except no subsistence for residents of Hyder.
1B	Brown Bear	Residents of Unit 1A, Petersburg, and Wrangell, except no subsistence for residents of Hyder.
1C	Brown Bear	Residents of Unit 1C, Haines, Hoonah, Kake, Klukwan, Skagway, and Wrangell, except no subsistence for residents of Gustavus.
1D	Brown Bear	Residents of 1D.
1A	Deer	Residents of Units 1A and 2.
1B	Deer	Residents of Units 1A, 1B, 2, and 3.

Area	Species	Determination
1C	Deer	Residents of 1C, 1D, Hoonah, Kake, and Petersburg.
1D	Deer	No Federal subsistence priority.
1B	Goat	Residents of Units 1B and 3.
1C	Goat	Residents of Haines, Kake, Klukwan, Petersburg, and Hoonah.
1B	Moose	Residents of Units 1, 2, 3, and 4.
1C Berner's Bay	Moose	No Federal subsistence priority.
1D	Moose	Residents of Unit 1D.
Unit 2	Deer	Residents of Units 1A, 2, and 3.
Unit 3	Deer	Residents of Units 1B, 3, Port Alexander, Port Protection, Pt. Baker, and Meyer's Chuck.
3, Wrangell and Mitkof Islands	Moose	Residents of Units 1B, 2, and 3.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
4	Deer	Residents of Unit 4, Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, Wrangell, and Yakutat.
4	Goat	Residents of Sitka, Hoonah, Tenakee, Pelican, Funter Bay, Angoon, Port Alexander, and Elfin Cove.
Unit 5	Black Bear	Residents of Unit 5A.
5	Brown Bear	Residents of Yakutat.
5	Deer	Residents of Yakutat.
5	Goat	Residents of Unit 5A.
5	Moose	Residents of Unit 5A.
5	Wolf	Residents of Unit 5A.
Unit 6A	Black Bear	Residents of Yakutat and Units 6C and 6D, except no subsistence for Whittier.
6, remainder	Black Bear	Residents of Units 6C and 6D, except no subsistence for Whittier.
6	Brown Bear	No Federal subsistence priority.
6A	Goat	Residents of Units 5A, and 6C, Chenega Bay, and Tatitlek.
6C and D	Goat	Residents of Units 6C and D.
6A	Moose	Residents of Units 5A, 6A, 6B and 6C.
6B and C	Moose	Residents of Units 6A, 6B and 6C.
6D	Moose	No Federal subsistence priority.
6A	Wolf	Residents of Units 5A, 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
6, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 7	Brown Bear	No Federal subsistence priority.
7	Caribou	No Federal subsistence priority.
7, Brown Mountain hunt area	Goat	Residents of Port Graham and Nanwalek.
7, that portion draining into Kings Bay	Moose	Residents of Chenega Bay and Tatitlek.
7, remainder	Moose	No Federal subsistence priority.
7	Sheep	No Federal subsistence priority.
7	Ruffed Grouse	No Federal subsistence priority.
Unit 8	Brown Bear	Residents of Old Harbor, Akhiok, Larsen Bay, Karluk, Ouzinkie, and Port Lions.
8	Deer	Residents of Unit 8.
8	Elk	Residents of Unit 8.
8	Goat	No Federal subsistence priority.
Unit 9D	Bison	No Federal subsistence priority.
9A and 9B	Black Bear	Residents of Units 9A, 9B, 17A, 17B, and 17C.
9A	Brown Bear	Residents of Pedro Bay.
9B	Brown Bear	Residents of Unit 9B.
9C	Brown Bear	Residents of Unit 9C.
9D	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
9E	Brown Bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, and Port Heiden/Meshik.
9A and B	Caribou	Residents of Units 9B, 9C, and 17.
9C	Caribou	Residents of Units 9B, 9C, 17, and Egegik.
9D	Caribou	Residents of Unit 9D, Akutan, and False Pass.
9E	Caribou	Residents of Units 9B, 9C, 9E, 17, Nelson Lagoon and Sand Point.
9A, B, C and E	Moose	Residents of Units 9A, 9B, 9C, and 9E.
9D	Moose	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
9B	Sheep	Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and residents of Lake Clark Natonal Park and Preserve within Unit 9B.
9, remainder	Sheep	No determination.
9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.

Area	Species	Determination
9A, B, C, & E	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 10 Unimak Island	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
Unit 10 Unimak Island	Caribou	Residents of Akutan, False Pass, King Cove, and Sand Point.
10, remainder	Caribou	No determination.
10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 11	Bison	No Federal subsistence priority.
11, north of the Sanford River	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
11, remainder	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Unit 11.
11, north of the Sanford River	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
11, remainder	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11.
11, north of the Sanford River	Caribou	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
11, remainder	Caribou	Residents of Units 11, 13A–D, and Chickaloon.
11	Goat	Residents of Unit 11, Chitina, Chistochina, Copper Center, Gakona, Glennallen, Gulkana, Mentasta Lake, Slana, Tazlina, Tonsina, and Dot Lake
11, north of the Sanford River	Moose	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
11, remainder	Moose	Residents of Units 11, 13A–D, and Chickaloon.
11, north of the Sanford River	Sheep	Residents of Unit 12, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
11, remainder	Sheep	Residents of Chisana, Chistochina, Chitina, Copper Center, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Tok Cutoff—Milepost 79–110 (Mentasta Pass), residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
11	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
11	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
Unit 12	Brown Bear	Residents of Unit 12, Dot Lake, Chistochina, Gakona, Mentasta Lake, and Slana.
12	Caribou	Residents of Unit 12, Dot Lake, Healy Lake, and Mentasta Lake.
12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake.	Moose	Residents of Units 12, 13C, Dot Lake, and Healy Lake.
12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border.	Moose	Residents of Units 12, 13C, and Healy Lake.
12, remainder	Moose	Residents of Unit 11 north of 62nd parallel, Units 12, 13A–D and the residents of Chickaloon, Dot Lake, and Healy Lake.
12	Sheep	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 13	Brown Bear	Residents of Unit 13 and Slana.
13B	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, residents of Unit 20D except Fort Greely, and the residents of Chickaloon.

Area	Species	Determination
13C	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13 Chickaloon, Dot Lake and Healy Lake.
13A and D	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon.
13E	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, Chickaloon, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239 (except no subsistence for residents of Denali National Park headquarters).
13D	Goat	No Federal subsistence priority.
13A and D	Moose	Residents of Unit 13, Chickaloon, and Slana.
13B	Moose	Residents of Units 13, 20D except Fort Greely, and the residents of Chickaloon and Slana.
13C	Moose	Residents of Units 12, 12, and the residents of Chickaloon, Healy Lake, Dot Lake and Slana.
13E	Moose	Residents of Unit 13, Chickaloon, McKinley Village, Slana, and the area along the Parks Highway between mileposts 216 and 239 (except no subsistence for residents of Denali National Park headquarters).
13D	Sheep	No Federal subsistence priority.
13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
13	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
13	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
Unit 14C	Brown Bear	No Federal subsistence priority.
14	Goat	No Federal subsistence priority.
14	Moose	No Federal subsistence priority.
14A and C	Sheep	No Federal subsistence priority.
Unit 15C	Black Bear	Residents of Port Graham and Nanwalek only.
15, remainder	Black Bear	No Federal subsistence priority.
15	Brown Bear	No Federal subsistence priority.
15	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15	Sheep	No Federal subsistence priority.
15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Unit 15.
15	Grouse (Spruce)	Residents of Unit 15.
15	Grouse (Ruffed)	No Federal subsistence priority.
Unit 16B	Black Bear	Residents of Unit 16B.
16	Brown Bear	No Federal subsistence priority.
16A	Moose	No Federal subsistence priority.
16B	Moose	Residents of Unit 16B.
16	Sheep	No Federal subsistence priority.
16	Wolf	Residents of Units 6, 19, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
16	Grouse (Spruce and Ruffed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
16	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon 15, 16, 20D, 22 and 23.
Unit 17A and that portion of 17B draining into Nuyakuk Lake and Tikchik Lake.	Black Bear	Residents of Units 9A and B, 17, Akiak, and Akiachak.
17, remainder	Black Bear	Residents of Units 9A and B, and 17.
17A	Brown Bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
17A and B, those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Kwethluk.
17B, that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown Bear	Residents of Akiak and Akiachak.
17B and C	Brown Bear	Residents of Unit 17.
17	Caribou	Residents of Units 9B, 17, Lime Village, and Stony River.
Unit 17A, that portion west of the Izavieknik River, Upper togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Akiak, Akiachak, and Tuluksak.

Area	Species	Determination
17A and B, those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Kwethluk.
Unit 17B, that portion of Togiak National Wildlife Refuge within Unit 17B.	Caribou	Residents of Bethel, Goodnews Bay, Platinum, quinhagak, Eek, Akiak, Akiachak, Tuluksak, Tuntutuliak, and Napakiak.
17A and B, those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Moose	Residents of Kwethluk.
17A	Moose	Residents of Unit 17, Goodnews Bay and Platinum; however, no subsistence for residents of Akiachak, Akiak and Quinhagak.
17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Moose	Residents of Akiak, Akiachak.
Unit 17B, that portion within the Togiak National Wildlife Refuge.	Moose	Residents of Akiak, Akiachak.
17B and C	Moose	Residents of Unit 17, Nondalton, Levelock, Goodnews Bay, and Platinum.
17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
17	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 18	Black Bear	Residents of Unit 18, Unit 19A living downstream of the Holokuk River, Holy Cross, Stebbins, St. Michael, Twin Hills, and Togiak.
18	Brown Bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mt. Village, Napaskiak, Platinum, Quinhagak, St. Marys, and Tuluksak.
18	Caribou	Residents of Unit 18, Manokotak, Stebbins, St. Michael, Togiak, Twin Hills, and Upper Kalskag.
18, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of, but not including, the Tuluksak River drainage.	Moose	Residents of Unit 18, Upper Kalskag, Aniak, and Chuathbaluk.
18, remainder	Moose	Residents of Unit 18, Upper Kalskag, and Lower Kalskag.
18	Muskox	No Federal subsistence priority.
18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 19C and D	Bison	No Federal subsistence priority.
19A and B	Brown Bear	Residents of Units 19 and 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River.
19C	Brown Bear	No Federal subsistence priority.
19D	Brown Bear	Residents of Units 19A and D, Tuluksak and Lower Kalskag.
19A and B	Caribou	Residents of Units 19A and 19B, Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River, and residents of St. Marys, Marshall, Pilot Station, Russian Mission.
19C	Caribou	Residents of Unit 19C, Lime Village, McGrath, Nikolai, and Telida.
19D	Caribou	Residents of Unit 19D, Lime Village, Sleetmute, and Stony River.
19A and B	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and residents of Unit 19.
Unit 19B, west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.
19C	Moose	Residents of Unit 19.
19D	Moose	Residents of Unit 19 and Lake Minchumina.
19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 20D	Bison	No Federal subsistence priority.
20F	Black Bear	Residents of Unit 20F, Stevens Village, and Manley.
20E	Brown Bear	Residents of Unit 12 and Dot Lake.
20F	Brown Bear	Residents of Unit 20F, Stevens Village, and Manley.

Area	Species	Determination
20A	Caribou	Residents of Cantwell, Nenana, and those demociled between mileposts 216 and 239 of the Parks Highway. No subsistence priority for residents of households of the Denali National Park Headquarters.
20B	Caribou	Residents of Unit 20B, Nenana, and Tanana.
20C	Caribou	Residents of Unit 20C living east of the Teklanika River, residents of Cantwell, Lake Minchumina, Manley Hot Springs, Minto, Nenana, Nikolai, Tanana, Talida, and those domiciled between mileposts 216 and 239 of the Parks Highway and between mileposts 300 and 309. No subsistence priority for residents of households of the Denali National Park Headquarters.
20D and E	Caribou	Residents of 20D, 20E and Unit 12 north of the Wrangell-St. Elias National Park and Preserve.
20F	Caribou	Residents of 20F, 25D, and Manley.
20A	Moose	Residents of Cantwell, Minto, Nenana, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, except no subsistence for residents of households of the Denali National Park Headquarters.
20B, Minto Flats Management Area	Moose	Residents of Minto and Nenana.
20B, remainder	Moose	Residents of Unit 20b, Nenana, and Tanana.
20C	Moose	Residents of Unit 20C (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), Cantwell, Manley, Minto, Nenana, those domiciled between mileposts 300 and 309 of the Parks Highway, Nikolai, Tanana, Telida, McKinely Village, and the area along the Parks Highway between mileposts 216 and 239. No subsistence for residents of households of the Denali National Park Headquarters.
20D	Moose	Residents of Unit 20D and residents of Tanacross.
20E	Moose	Residents of Unit 20E, Unit 12 north of the Wrangell-St. Elias National Preserve, Circle, Centrl, Dot Lake, Healy Lake, and Mentasta Lake.
20F	Moose	Residents of Unit 20F, Manley, Minto, and Stevens Village.
20F	Wolf	Residents of Unit 20F, Stevens Village, and Manley.
20, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
20D	Grouse, (Spruce, Ruffed and Sharp-tailed).	Residents of Units 11, 13, and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
20D	Ptarmigan (Rock and Willow).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
Unit 21	Brown Bear	Residents of Units 21 and 23.
21A	Caribou	Residents of Units 21A, 21D, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21B and C	Caribou	Residents of Units 21B, 21C, 21D, and Tanana.
21D	Caribou	Residents of Units 21B, 21C, 21D, and Huslia.
21E	Caribou	Residents of Units 21A, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21A	Moose	Residents of Units 21A, 21E, Takotna, McGrath, Aniak, and Crooked Creek.
21B and C	Moose	Residents of Units 21B, 21C, Tanana, Ruby, and Galena.
21D	Moose	Residents of Units 21D, Huslia, and Ruby.
21E	Moose	Residents of Unit 21E and Russian Mission.
21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 22A	Black Bear	Residents of Unit 22A and Koyuk.
22B	Black Bear	Residents of Unit 22B.
22C, D, and E	Black Bear	No Federal subsistence priority.
22	Brown Bear	Residents of Unit 22.
22A	Caribou	Residents of Unit 21D west of the Koyukuk and Yukon Rivers, 22 (except residents of St. Lawrence Island), 23, 24, Kotlik, Emmonak, Hooper Bay, Scammon Bay, Chevak, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Marys, Nunam Iqua, and Alakanuk.
22, remainder	Caribou	Residents of Unit 21D west of the Koyukuk and Yukon Rivers, 22 (except residents of St. Lawrence Island), 23 and 24.
22	Moose	Residents of Unit 22.

Area	Species	Determination
22B, west of the Darby Mountains	Muskox	Residents of Unit 22B and 22C.
22B, remainder	Muskox	Residents of Unit 22B.
22C	Muskox	Residents of Unit 22C.
Unit 22D, that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages.	Muskox	Residents of Unit 22C, White Mountain, and unit 22D excluding St. Lawrence Island.
22D, remainder	Muskox	Residents of Unit 22D excluding St. Lawrence Island.
22E	Muskox	Residents of Unit 22E excluding Little Diomede Island.
22	Wolf	Residents of Units 23, 22, 21D north and west of the Yukon River, and Kotlik.
22	Grouse (Spruce)	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
22	Ptarmigan (Rock and Willow).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22 and 23.
Unit 23	Black Bear	Residents of Unit 23, Alatna, Allakaket, Bettles, Evansville, Galena, Hughes, Huslia, and Koyukuk.
23	Brown Bear	Residents of Units 21 and 23.
23	Caribou	Residents of Unit 21D west of the Koyukuk and Yukon Rivers, Galena, 22, 23, 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and 26A.
23	Moose	Residents of Unit 23.
23, south of Kotzebue Sound and west of and including the Buckland River drainage.	Muskox	Residents of Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage.
23, remainder	Muskox	Residents of Unit 23 east and north of the Buckland River drainage.
23	Sheep	Residents of Point Lay and Unit 23 north of the Arctic Circle.
23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
23	Grouse (Spruce and Ruffed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
23	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20D, 22, and 23.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Black Bear	Residents of Stevens Village, Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, remainder	Black Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Brown Bear	Residents of Stevens Village and residents of Unit 24.
24, remainder	Brown Bear	Residents of Unit 24.
24	Caribou	Residents of Unit 24, Galena, Kobuk, Koyukuk, Stevens Village, and Tanana.
24	Moose	Residents of Unit 24, Koyukuk, and Galena.
24	Sheep	Residents of Unit 24 residing north of the Arctic Circle, Allakaket, Alatna, Hughes, and Huslia.
24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 25D	Black Bear	Residents of Unit 25D.
25D	Brown Bear	Residents of Unit 25D.
25, remainder	Brown Bear	Residents of Unit 25 and Eagle.
25D	Caribou	Residents of 20F, 25D, and Manley.
25A	Moose	Residents of Units 25A and 25D.
25D, west	Moose	Residents of Unit 25D West.
25D, remainder	Moose	Residents of remainder of Unit 25.
25A	Sheep	Residents of Arctic Village, Chalkyitsik, Fort Yukon, Kaktovik, and Venetie.
25B and C	Sheep	No Federal subsistence priority.
25D	Wolf	Residents of Unit 25D.
25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 26	Brown Bear	Residents of Unit 26 (except the Prudhoe Bay-Deadhorse Industrial Complex), Anaktuvuk Pass, and Point Hope.
26A and C	Caribou	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
26B	Caribou	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and residents of Unit 24 within the Dalton Highway Corridor Management Area.
26	Moose	Residents of Unit 26 (except the Prudhoe Bay-Deadhorse Industrial Complex), Point Hope, and Anaktuvuk Pass.

Area	Species	Determination
26A	Muskox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
26B	Muskox	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
26C	Muskox	Residents Kaktovik.
26A	Sheep	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
26B	Sheep	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
26C	Sheep	Residents of Unit 26, Anaktuvuk Pass, Arctic Village, Chalkyitsik, Fort Yukon, Point Hope, and Venetie.
26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.

* * * * *

Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. In Subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.25 is revised to read as follows:

§ ____.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) *Definitions.* The following definitions shall apply to all regulations contained in this part:

Abalone iron means a flat device which is used for taking abalone and which is more than 1 inch (24 mm) in width and less than 24 inches (610 mm) in length, with all prying edges rounded and smooth.

ADF&G means the Alaska Department of Fish and Game.

Airborne means transported by aircraft.

Aircraft means any kind of airplane, glider, or other device used to transport people or equipment through the air, excluding helicopters.

Airport means an airport listed in the Federal Aviation Administration's Alaska Airman's Guide and chart supplement.

Anchor means a device used to hold a fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor, or being secured to another vessel or net that is anchored.

Animal means those species with a vertebral column (backbone).

Antler means one or more solid, horn-like appendages protruding from the head of a caribou, deer, elk, or moose.

Antlered means any caribou, deer, elk, or moose having at least one visible antler.

Antlerless means any caribou, deer, elk, or moose not having visible antlers attached to the skull.

Bait means any material excluding a scent lure that is placed to attract an animal by its sense of smell or taste; however, those parts of legally taken animals that are not required to be salvaged and which are left at the kill site are not considered bait.

Beach seine means a floating net which is designed to surround fish and is set from and hauled to the beach.

Bear means black bear, or brown or grizzly bear.

Big game means black bear, brown bear, bison, caribou, Sitka black-tailed deer, elk, mountain goat, moose, musk-ox, Dall sheep, wolf, and wolverine.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow or any bow equipped with a mechanical device that holds arrows at full draw.

Broadhead means an arrowhead that is not barbed and has two or more steel cutting edges having a minimum cutting diameter of not less than seven-eighths of an inch.

Brow tine means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

Buck means any male deer.

Bull means any male moose, caribou, elk, or musk-oxen.

Calf means a moose, caribou, elk, musk-ox, or bison less than 12 months old.

Cast net means a circular net with a mesh size of no more than 12 inches and weights attached to the perimeter, which, when thrown, surrounds the fish and closes at the bottom when retrieved.

Char means the following species: Arctic char (*Salvelinus alpinis*), lake trout (*Salvelinus namaycush*), brook trout (*Salvelinus fontinalis*), and Dolly Varden (*Salvelinus malma*).

Closed season means the time when fish, wildlife, or shellfish may not be taken.

Crab means the following species: red king crab (*Paralithodes camshatica*), blue king crab (*Paralithodes platypus*), brown king crab (*Lithodes aequispina*), scarlet king crab *Lithodes couesi*, all species of tanner or snow crab (*Chionoecetes* spp.), and Dungeness crab (*Cancer magister*).

Cub bear means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Depth of net means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed.

Designated hunter or fisherman means a Federally qualified hunter or fisherman who may take all or a portion of another Federally qualified hunter's or fisherman's harvest limit(s) only under situations approved by the Board.

Dip net means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed 5 feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Diving gear means any type of hard hat or skin diving equipment, including SCUBA equipment; a tethered, umbilical, surface-supplied unit; or snorkel.

Drainage means all of the lands and waters comprising a watershed, including tributary rivers, streams, sloughs, ponds, and lakes, which contribute to the water supply of the watershed.

Drift gillnet means a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed in one place.

Edible meat means the breast meat of ptarmigan and grouse, and, those parts of caribou, deer, elk, mountain goat, moose, musk-oxen, and Dall sheep that are typically used for human consumption, which are: The meat of the ribs, neck, brisket, front quarters as far as the distal (bottom) joint of the radius-ulna (knee), hindquarters as far as the distal joint (bottom) of the tibia-fibula (hock) and that portion of the animal between the front and hindquarters; however, *edible meat* of species listed in this definition does not include: meat of the head, meat that has been damaged and made inedible by the method of taking, bones, sinew, and incidental meat reasonably lost as a result of boning or close trimming of the bones, or viscera. For black bear, brown and grizzly bear, ''edible meat'' means the meat of the front quarter and hindquarters and meat along the backbone (backstrap).

Federally-qualified subsistence user means a rural Alaska resident qualified to harvest fish or wildlife on Federal public lands in accordance with the Federal Subsistence Management Regulations in this part.

Field means an area outside of established year-round dwellings, businesses, or other developments usually associated with a city, town, or village; *field* does not include permanent hotels or roadhouses on the State road system or at State or Federally maintained airports.

Fifty-inch (50-inch) moose means a bull moose with an antler spread of 50 inches or more.

Fish wheel means a fixed, rotating device, with no more than four baskets on a single axle, for catching fish, which is driven by river current or other means.

Fresh water of streams and rivers means the line at which fresh water is separated from salt water at the mouth of streams and rivers by a line drawn headland to headland across the mouth as the waters flow into the sea.

Full curl horn means the horn of a Dall sheep ram; the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken, or that the sheep is at least 8 years of age as determined by horn growth annuli.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, red squirrel, flying squirrel, ground squirrel, marmot, wolf, or wolverine.

Fyke net means a fixed, funneling (fyke) device used to entrap fish.

Gear means any type of fishing apparatus.

Gillnet means a net primarily designed to catch fish by entanglement in a mesh that consists of a single sheet of webbing which hangs between cork line and lead line, and which is fished from the surface of the water.

Grappling hook means a hooked device with flukes or claws, which is attached to a line and operated by hand.

Groundfish or *bottomfish* means any marine fish except halibut, osmerids, herring and salmonids.

Grouse collectively refers to all species found in Alaska, including spruce grouse, ruffed grouse, blue grouse, and sharp-tailed grouse.

Hand purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

Handicraft means a finished product made by a rural Alaskan resident from the nonedible byproducts of fish or wildlife and is composed wholly or in some significant respect of natural materials. The shape and appearance of the natural material must be substantially changed by the skillful use of hands, such as sewing, weaving, drilling, lacing, beading, carving, etching, scrimshawing, painting, or other means, and incorporated into a work of art, regalia, clothing, or other creative expression, and can be either traditional or contemporary in design. The handicraft must have substantially greater monetary and aesthetic value than the unaltered natural material alone.

Handline means a hand-held and operated line, with one or more hooks attached.

Hare or hares collectively refers to all species of hares (commonly called rabbits) in Alaska and includes snowshoe hare and tundra hare.

Harvest limit means the number of any one species permitted to be taken by any one person or designated group, per specified time period, in a Unit or portion of a Unit in which the taking occurs even if part or all of the harvest is preserved. A fish, when landed and killed by means of rod and reel, becomes part of the harvest limit of the person originally hooking it.

Herring pound means an enclosure used primarily to contain live herring over extended periods of time.

Highway means the drivable surface of any constructed road.

Household means that group of people residing in the same residence.

Hung measure means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

Hunting means the taking of wildlife within established hunting seasons with archery equipment or firearms, and as authorized by a required hunting license.

Hydraulic clam digger means a device using water or a combination of air and water used to harvest clams.

Jigging gear means a line or lines with lures or baited hooks, drawn through the water by hand, and which are operated during periods of ice cover from holes cut in the ice, or from shore ice and which are drawn through the water by hand.

Lead means either a length of net employed for guiding fish into a seine, set gillnet, or other length of net, or a length of fencing employed for guiding fish into a fish wheel, fyke net, or dip net.

Legal limit of fishing gear means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district, or section.

Long line means either a stationary, buoyed, or anchored line, or a floating, free-drifting line with lures or baited hooks attached.

Marmot collectively refers to all species of marmot that occur in Alaska, including the hoary marmot, Alaska marmot, and the woodchuck.

Mechanical clam digger means a mechanical device used or capable of being used for the taking of clams.

Mechanical jigging machine means a mechanical device with line and hooks used to jig for halibut and bottomfish, but does not include hand gurdies or rods with reels.

Mile means a nautical mile when used in reference to marine waters or a statute mile when used in reference to fresh water.

Motorized vehicle means a motor-driven land, air, or water conveyance.

Open season means the time when wildlife may be taken by hunting or trapping; an open season includes the first and last days of the prescribed season period.

Otter means river or land otter only, excluding sea otter.

Permit hunt means a hunt for which State or Federal permits are issued by registration or other means.

Poison means any substance that is toxic or poisonous upon contact or ingestion.

Possession means having direct physical control of wildlife at a given time or having both the power and intention to exercise dominion or control of wildlife either directly or through another person or persons.

Possession limit means the maximum number of fish, grouse, or ptarmigan a person or designated group may have in possession if the they have not been canned, salted, frozen, smoked, dried, or otherwise preserved so as to be fit for human consumption after a 15-day period.

Pot means a portable structure designed and constructed to capture and retain live fish and shellfish in the water.

Ptarmigan collectively refers to all species found in Alaska, including white-tailed ptarmigan, rock ptarmigan, and willow ptarmigan.

Purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

Ram means a male Dall sheep.

Registration permit means a permit that authorizes hunting and is issued to a person who agrees to the specified hunting conditions. Hunting permitted by a registration permit begins on an announced date and continues throughout the open season, or until the season is closed by Board action. Registration permits are issued in the order applications are received and/or are based on priorities as determined by 50 CFR 100.17 and 36 CFR 242.17.

Regulatory year means July 1 through June 30, except for fish and shellfish, for which it means April 1 through March 31.

Ring net means a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that free movement of fish or shellfish across the top of the net is not prohibited when the net is employed.

Rockfish means all species of the genus *Sebastes*.

Rod and reel means either a device upon which a line is stored on a fixed or revolving spool and is deployed through guides mounted on a flexible pole, or a line that is attached to a pole. In either case, bait or an artificial fly or lure is used as terminal tackle. This definition does not include the use of rod and reel gear for snagging.

Salmon means the following species: pink salmon (*Oncorhynchus gorbuscha*); sockeye salmon (*Oncorhynchus nerka*); Chinook salmon (*Oncorhynchus tshawytscha*); coho salmon (*Oncorhynchus kisutch*); and chum salmon (*Oncorhynchus keta*).

Salmon stream means any stream used by salmon for spawning, rearing, or for traveling to a spawning or rearing area.

Salvage means to transport the edible meat, skull, or hide, as required by regulation, of a regulated fish, wildlife, or shellfish to the location where the edible meat will be consumed by humans or processed for human consumption in a manner which saves or prevents the edible meat from waste, and preserves the skull or hide for human use.

Scallop dredge means a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor.

Sea urchin rake means a hand-held implement, no longer than 4 feet, equipped with projecting prongs used to gather sea urchins.

Sealing means placing a mark or tag on a portion of a harvested animal by an authorized representative of the ADF&G; *sealing* includes collecting and recording information about the conditions under which the animal was harvested, and measurements of the specimen submitted for sealing or surrendering a specific portion of the animal for biological information.

Set gillnet means a gillnet that has been intentionally set, staked, anchored, or otherwise fixed.

Seven-eighths curl horn means the horn of a male Dall sheep, the tip of which has grown through seven-eights (315 degrees) of a circle, described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Shovel means a hand-operated implement for digging clams.

Skin, hide, pelt, or fur means any tanned or untanned external covering of an animal's body. However, for bear, the skin, hide, pelt, or fur means the external covering with claws attached.

Snagging means hooking or attempting to hook a fish elsewhere than in the mouth.

Spear means a shaft with a sharp point or fork-like implement attached to one end, which is used to thrust through the water to impale or retrieve fish, and which is operated by hand.

Spike-fork moose means a bull moose with only one or two tines on either antler; male calves are not spike-fork bulls.

Stretched measure means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under 5-pound weight.

Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.

Take or *Taking* means to fish, pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Tine or *antler point* refers to any point on an antler, the length of which is greater than its width and is at least one inch.

To operate fishing gear means any of the following: To deploy gear in the water; to remove gear from the water; to remove fish or shellfish from the gear during an open season or period; or to possess a gillnet containing fish during an open fishing period, except that a gillnet which is completely clear of the water is not considered to be operating for the purposes of minimum distance requirement.

Transportation means to ship, convey, carry, or transport by any means whatever and deliver or receive for such shipment, conveyance, carriage, or transportation.

Trapping means the taking of furbearers within established trapping seasons and with a required trapping license.

Trawl means a bag-shaped net towed through the water to capture fish or shellfish, and includes beam, otter, or pelagic trawl.

Troll gear means a power gurdy troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water by a power gurdy; hand troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing, or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical, or other assisting device or attachment; or dinglebar troll gear consisting of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

Trophy means a mount of a big game animal, including the skin of the head (cape) or the entire skin, in a lifelike representation of the animal, including a lifelike representation made from any part of a big game animal; "trophy" also includes a "European mount" in which the horns or antlers and the skull or a portion of the skull are mounted for display.

Trout means the following species: cutthroat trout (*Oncorhynchus clarki*) and rainbow/steelhead trout (*Oncorhynchus mykiss*).

Unclassified wildlife or unclassified species means all species of animals not otherwise classified by the definitions in this paragraph (a), or regulated under other Federal law as listed in paragraph (i) of this section.

Ungulate means any species of hoofed mammal, including deer, caribou, elk, moose, mountain goat, Dall sheep, and musk oxen.

Unit and *Subunit* mean one of the geographical areas in the State of Alaska known as Game Management Units, or GMUs, as defined in the codified Alaska Department of Fish and Game regulations found in Title 5 of the Alaska Administrative Code and collectively listed in this part as Units or Subunits.

Wildlife means any hare (rabbit), ptarmigan, grouse, ungulate, bear, furbearer, or unclassified species and includes any part, product, egg, or offspring thereof, or carcass or part thereof.

(b) Taking fish, wildlife, or shellfish for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting, trapping, or fishing during a closed season or in an area closed by this part is prohibited. You may not take for subsistence fish, wildlife, or shellfish outside established Unit or Area seasons, or in excess of the established Unit or Area harvest limits, unless otherwise provided for by the Board. You may take fish, wildlife, or shellfish under State regulations on public lands, except as otherwise restricted at §§ ____.26 through ____.28. Unit/Area-specific restrictions or allowances for subsistence taking of fish, wildlife, or shellfish are identified at §§ ____.26 through ____.28.

(c) *Harvest limits.* (1) Harvest limits authorized by this section and harvest limits established in State regulations may not be accumulated.

(2) Fish, wildlife, or shellfish taken by a designated individual for another person pursuant to § ____.10(d)(5)(ii) count toward the individual harvest limit of the person for whom the fish, wildlife, or shellfish is taken.

(3) A harvest limit applies to the number of fish, wildlife, or shellfish that can be taken during a regulatory year; however, harvest limits for grouse, ptarmigan, and caribou (in some Units) are regulated by the number that may be taken per day. Harvest limits of grouse and ptarmigan are also regulated by the number that can be held in possession.

(4) Unless otherwise provided, any person who gives or receives fish, wildlife, or shellfish shall furnish, upon a request made by a Federal or State agent, a signed statement describing the following: names and addresses of persons who gave and received fish, wildlife, or shellfish; the time and place that the fish, wildlife, or shellfish was taken; and identification of species transferred. Where a qualified subsistence user has designated another qualified subsistence user to take fish, wildlife, or shellfish on his or her behalf in accordance with § ____.10(d)(5)(ii), the permit shall be furnished in place of a signed statement.

(d) *Fishing by designated harvest permit.* (1) Any species of fish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user, you (beneficiary) may designate another Federally-qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated fishing permit when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.

(4) The designated fisherman may not fish with more than one legal limit of gear.

(5) You may not designate more than one person to take or attempt to take fish on your behalf at one time. You may not personally take or attempt to take fish at the same time that a designated fisherman is taking or attempting to take fish on your behalf.

(e) *Hunting by designated harvest permit.* In Units 1–8, 9D, 10–16, and 18–26, if you are a Federally qualified subsistence user (recipient), you may designate another Federally qualified subsistence user to take deer, moose and caribou on your behalf unless you are a member of a community operating under a community harvest system or unless Unit-specific regulations in Section ____.26 preclude or modify the use of the designated hunter system or allow the harvest of additional species by a designated hunter. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time, unless otherwise specified in unit-specific regulations in § ____.26.

(f) A rural Alaska resident who has been designated to take fish, wildlife, or shellfish on behalf of another rural Alaska resident in accordance with § ____.10(d)(5)(ii) shall promptly deliver the fish, wildlife, or shellfish to that rural Alaska resident and may not charge the recipient for his/her services in taking the fish, wildlife, or shellfish or claim for themselves the meat or any part of the harvested fish, wildlife, or shellfish.

(g) [Reserved].

(h) *Permits.* If a subsistence fishing or hunting permit is required by this part, the following permit conditions apply unless otherwise specified in this section:

(1) You may not take more fish, wildlife, or shellfish for subsistence use than the limits set out in the permit;

(2) You must obtain the permit prior to fishing or hunting;

(3) You must have the permit in your possession and readily available for inspection while fishing, hunting, or transporting subsistence-taken fish, wildlife, or shellfish;

(4) If specified on the permit, you shall keep accurate daily records of the harvest, showing the number of fish, wildlife, or shellfish taken, by species, location and date of harvest, and other such information as may be required for management or conservation purposes; and

(5) If the return of harvest information necessary for management and conservation purposes is required by a permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances.

(i) You may not possess, transport, give, receive, or barter fish, wildlife, or shellfish that was taken in violation of Federal or State statutes or a regulation promulgated hereunder.

(j) *Utilization of fish, wildlife, or shellfish.* (1) You may not use wildlife as food for a dog or furbearer, or as bait, except as allowed for in § ____.26, § ____.27, or § ____.28, or except for the following:

(i) The hide, skin, viscera, head, or bones of wildlife;

(ii) The skinned carcass of a furbearer;

(iii) Squirrels, hares (rabbits), grouse, or ptarmigan; however, you may not use the breast meat of grouse and ptarmigan as animal food or bait;

(iv) Unclassified wildlife.

(2) If you take wildlife for subsistence, you must salvage the following parts for human use:

(i) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel, or otter;

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in Units 5, 9B, 17, 18, portions of 19A and 19B, 21D, 22, 23, 24, and 26A need not be salvaged;

(iii) The hide and edible meat of a black bear;

(iv) The hide or meat of squirrels, hares (rabbits), marmots, beaver, muskrats, or unclassified wildlife.

(3) You must salvage the edible meat of ungulates, bear, grouse, and ptarmigan.

(4) You may not intentionally waste or destroy any subsistence-caught fish or shellfish; however, you may use for bait or other purposes whitefish, herring, and species for which bag limits, seasons, or other regulatory methods and means are not provided in this section, as well as the head, tail, fins, and viscera of legally taken subsistence fish.

(5) Failure to salvage the edible meat may not be a violation if such failure is caused by circumstances beyond the control of a person, including theft of the harvested fish, wildlife, or shellfish, unanticipated weather conditions, or unavoidable loss to another animal.

(6) If you are a Federally-qualified subsistence user, you may sell handicraft articles made from the skin, hide, pelt, or fur, including claws, of a black bear.

(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a black bear taken from Units 1, 2, 3, or 5.

(ii) [Reserved].

(7) If you are a Federally-qualified subsistence user, you may sell handicraft articles made from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1–5, 9A–C, 9E, 12, 17, 20, or 25.

(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, or 5.

(ii) [Reserved].

(8) If you are a Federally-qualified subsistence user, you may sell the raw fur or tanned pelt with or without claws attached from legally harvested furbearers.

(9) If you are a Federally-qualified subsistence user, you may sell handicraft articles made from the nonedible byproducts (including, but not limited to, skin, shell, fins, and bones) of subsistence-harvested fish or shellfish.

(10) If you are a Federally qualified subsistence user, you may sell handicraft articles made from nonedible byproducts of wildlife harvested for subsistence uses (excluding bear), to include; skin, hide, pelt, fur, claws, bones (except skulls of moose, caribou, elk, deer, sheep, goat and muskox), teeth, sinew, antlers and/or horns (if not attached to any part of the skull or made to represent a big game trophy) and hooves.

(11) The sale of handicrafts made from the nonedible byproducts of wildlife, when authorized in this part, may not constitute a significant commercial enterprise.

(k) The regulations found in this part do not apply to the subsistence taking and use of fish, wildlife, or shellfish regulated pursuant to the Fur Seal Act of 1966 (80 Stat. 1091, 16 U.S.C. 1187); the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531–1543); the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407); and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), or to any amendments to these Acts. The taking and use of fish, wildlife, or shellfish, covered by these Acts, will conform to the specific provisions contained in these Acts, as amended, and any implementing regulations.

(l) Rural residents, nonrural residents, and nonresidents not specifically prohibited by Federal regulations from fishing, hunting, or trapping on public lands in an area may fish, hunt, or trap on public lands in accordance with the appropriate State regulations.

■ 4. In subpart D of 36 CFR part 242 and 50 CFR part 100, § ___.26 is added effective July 1, 2006, through June 30, 2007, to read as follows:

§ ___.26 Subsistence taking of wildlife.

(a) You may take wildlife for subsistence uses by any method, except as prohibited in this section or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this part is prohibited.

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

(1) Shooting from, on, or across a highway;

(2) Using any poison;

(3) Using a helicopter in any manner, including transportation of individuals, equipment, or wildlife; however, this prohibition does not apply to transportation of an individual, gear, or wildlife during an emergency rescue operation in a life-threatening situation;

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased;

(5) Using a motorized vehicle to drive, herd, or molest wildlife;

(6) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge;

(7) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle, or pistol using center-firing cartridges, for the taking of ungulates, bear, wolves, or wolverine, except that—

(i) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine;

(ii) Only a muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, elk, moose, musk oxen, and mountain goat;

(8) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over 9 inches, or conibear style trap with a jaw spread over 11 inches;

(9) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and, individuals in possession of a valid trapping license may use snares to take furbearers;

(10) Using a trap to take ungulates or bear;

(11) Using hooks to physically snag, impale, or otherwise take wildlife; however, hooks may be used as a trap drag;

(12) Using a crossbow to take ungulates, bear, wolf, or wolverine in any area restricted to hunting by bow and arrow only;

(13) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting a ⅞ inch wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least 1 ounce (437.5 grains);

(14) Using bait for taking ungulates, bear, wolf, or wolverine; except, you may use bait to take wolves and wolverine with a trapping license, and you may use bait to take black bears with a hunting license as authorized in Unit-specific regulations at paragraphs (n)(1) through (26) of this section. Baiting of black bears is subject to the following restrictions:

(i) Before establishing a black bear bait station, you must register the site with ADF&G;

(ii) When using bait, you must clearly mark the site with a sign reading "black bear bait station" that also displays your hunting license number and

ADF&aves\rules.xmlamp;G-assigned number;

(iii) You may use only biodegradable materials for bait; you may use only the head, bones, viscera, or skin of legally harvested fish and wildlife for bait;

(iv) You may not use bait within ¼ mile of a publicly maintained road or trail;

(v) You may not use bait within 1 mile of a house or other permanent dwelling, or within 1 mile of a developed campground or developed recreational facility;

(vi) When using bait, you must remove litter and equipment from the bait station site when done hunting;

(vii) You may not give or receive payment for the use of a bait station, including barter or exchange of goods;

(viii) You may not have more than two bait stations with bait present at any one time;

(15) Taking swimming ungulates, bears, wolves, or wolverine;

(16) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft); however, this restriction does not apply to subsistence taking of deer, the setting of snares or traps, or the removal of furbearers from traps or snares;

(17) Taking a bear cub or a sow accompanied by cub(s).

(c) Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(d) The following methods and means of trapping furbearers for subsistence uses pursuant to the requirements of a trapping license are prohibited, in addition to the prohibitions listed at paragraph (b) of this section:

(1) Disturbing or destroying a den, except that you may disturb a muskrat pushup or feeding house in the course of trapping;

(2) Disturbing or destroying any beaver house;

(3) Taking beaver by any means other than a steel trap or snare, except that you may use firearms in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(4) Taking otter with a steel trap having a jaw spread of less than 5⅞ inches during any closed mink and marten season in the same Unit;

(5) Using a net or fish trap (except a blackfish or fyke trap);

(6) Taking or assisting in the taking of furbearers by firearm before 3:00 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare.

(e) *Possession and transportation of wildlife.* (1) Except as specified in paragraph (e)(2) or (f)(1) of this section, or as otherwise provided, you may not take a species of wildlife in any unit, or portion of a unit, if your total take of that species already obtained anywhere in the State under Federal and State regulations equals or exceeds the harvest limit in that unit.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § ____.10(d)(5)(iii) or as otherwise provided for by this Part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

(f) *Harvest limits.* (1) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that if you have taken a harvest limit for a particular species under a trapping season, you may take additional animals under the harvest limit specified for a hunting season or vice versa.

(2) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of ''one brown/grizzly bear per year'' counts against a ''one brown/grizzly bear every four regulatory years'' harvest limit in other Units. You may not take more than one brown/grizzly bear in a regulatory year.

(3) The Assistant Regional Director for Subsistence Management, FWS, is authorized to open, close, or adjust Federal subsistence lynx seasons and to set harvest and possession limits for lynx in Units 6, 7, 11, 12, 13, 14, 15, 16, 20A, 20B, 20C east of the Teklanika River, 20D, and 20E, with a maximum season of November 1–February 28. This delegation may be exercised only when it is necessary to conserve lynx populations or to continue subsistence uses, only within guidelines listed within the ADF&G Lynx Harvest Management Strategy, and only after staff analysis of the potential action, consultation with the appropriate Regional Council Chairs, and Interagency Staff Committee concurrence.

(g) *Evidence of sex and identity.* (1) If subsistence take of Dall sheep is restricted to a ram, you may not possess or transport a harvested sheep unless both horns accompany the animal.

(2) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, you may not possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal, except that in Units 1–5 antlers are also considered proof of sex for deer if the antlers are naturally attached to an entire carcass, with or without the viscera; and except in Units 11, 13, 19, 21, and 24, where you may possess either sufficient portions of the external sex organs (still attached to a portion of the carcass) or the head (with or without antlers attached; however, the antler stumps must remain attached) to indicate the sex of the harvested moose; however, this paragraph (g)(2) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(3) If a moose harvest limit requires an antlered bull, an antler size, or configuration restriction, you may not possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. If you possess a set of antlers with less than the required number of brow tines on one antler, you must leave the antlers naturally attached to the unbroken, uncut skull plate; however, this paragraph (g)(3) does not apply to a moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(h) *Removing harvest from the field.* You must leave all edible meat on the bones of the front quarters and hind quarters of caribou and moose harvested in Units 9B, 17, 18, and 19B prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of moose harvested in Unit 21 prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 24 prior to October 1 until you remove the meat from the field or process it for human consumption. Meat of the front quarters, hind quarters, or ribs from a harvested moose or caribou may be processed for human consumption and consumed in the field; however, meat may not be removed from the bones for purposes of transport out of the field.

(i) *Returning of tags, marks, or collars.* If you take an animal that has been marked or tagged for scientific studies, you must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker when and where the animal was taken. You also must retain any ear tag, collar, radio, tattoo, or other identification with the hide until it is sealed, if sealing is required; in all cases, you must return any identification equipment to the ADF&G or to an agency identified on such equipment.

(j) *Sealing of bear skins and skulls.* (1) Sealing requirements for bear shall apply to brown bears taken in all Units, except as specified in this paragraph, and black bears of all color phases taken in Units 1–7, 11–17, and 20.

(2) You may not possess or transport from Alaska the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A need not be sealed unless removed from the area.

(3) You must keep a bear skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision shall not apply to brown bears taken within Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A which are not removed from the Unit.

(i) In areas where sealing is required by Federal regulations, you may not possess or transport the hide of a bear that does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in Units 9B, 17, 18, and 19A and 19B downstream of and including the Aniak River drainage is removed from the area, you must first have it sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iii) If you remove the skin or skull of a bear taken in Units 21D, 22, 23, 24, and 26A from the area or present it for commercial tanning within the area, you must first have it sealed by an ADF&G representative in Barrow, Galena, Nome, or Kotzebue; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iv) If you remove the skin or skull of a bear taken in Unit 5 from the area, you must first have it sealed by an ADF&G representative in Yakutat; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(v) If you remove the skin or skull of a bear taken in Unit 9E from Unit 9, you must first have it sealed by an authorized sealing representative. At the time of sealing, the representative shall remove and retain the skin of the skull and front claws of the bear.

(4) You may not falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(k) *Sealing of beaver, lynx, marten, otter, wolf, and wolverine.* You may not possess or transport from Alaska the untanned skin of a marten taken in Units 1–5, 7, 13E, or 14–16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the State, unless the skin has been sealed by an authorized representative in accordance with State or Federal regulations. In Unit 18, you must obtain an ADF&G seal for beaver skins only if they are to be sold or commercially tanned.

(1) You must seal any wolf taken in Unit 2 on or before the 30th day after the date of taking.

(2) You must leave the radius and ulna of the left foreleg naturally attached to the hide of any wolf taken in Units 1–5 until the hide is sealed.

(l) If you take a species listed in paragraph (k) of this section but are unable to present the skin in person, you must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in paragraph (k) of this section.

(m) You may take wildlife, outside of established season or harvest limits, for food in traditional religious ceremonies, that are part of a funerary or mortuary cycle, including memorial potlatches, under the following provisions:

(1) The harvest does not violate recognized principles of wildlife conservation and uses the methods and means allowable for the particular species published in the applicable Federal regulations. The appropriate Federal land manager will establish the number, species, sex, or location of harvest, if necessary, for conservation purposes. Other regulations relating to ceremonial harvest may be found in the unit-specific regulations in § ____.26(n).

(2) No permit or harvest ticket is required for harvesting under this section; however, the harvester must be a Federally qualified subsistence user with customary and traditional use in the area where the harvesting will occur.

(3) In Units 1–26 (except for Koyukon/Gwich'in potlatch ceremonies in Units 20F, 21, 24, or 25):

(i) A tribal chief, village or tribal council president, or the chief's or president's designee for the village in which the religious/cultural ceremony will be held, or a Federally qualified subsistence user outside of a village or tribal-organized ceremony, must notify the nearest Federal land manager that a wildlife harvest will take place. The notification must include the species, harvest location, and number of animals expected to be taken.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president or designee, or other Federally qualified subsistence user must create a list of the successful hunters and maintain these records, including the name of the decedent for whom the ceremony will be held. If requested, this information must be available to an authorized representative of the Federal land manager.

(iii) The tribal chief, village or tribal council president or designee, or other Federally qualified subsistence user outside of the village in which the religious/cultural ceremony will be held must report to the Federal land manager the harvest location, species, sex, and number of animals taken as soon as practicable, but not more than 15 days after the wildlife is taken.

(4) In Units 20F, 21, 24, and 25 (for Koyukon/Gwich'in potlatch ceremonies only):

(i) Taking wildlife outside of established season and harvest limits is authorized if it is for food for the traditional Koyukon/Gwich'in Potlatch Funerary or Mortuary ceremony and if it is consistent with conservation of healthy populations.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president, or the chief's or president's designee for the village in which the religious ceremony will be held must create a list of the successful hunters and maintain these records. The list must be made available, after the harvest is completed, to a Federal land manager upon request.

(iii) As soon as practical, but not more than 15 days after the harvest, the tribal chief, village council president, or designee must notify the Federal land manager about the harvest location, species, sex, and number of animals taken.

(n) *Unit regulations.* You may take for subsistence unclassified wildlife, all squirrel species, and marmots in all Units, without harvest limits, for the period of July 1–June 30. Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (n)(1) through (26) of this section.

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1A consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound;

(ii) Unit 1B consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound, and Seward Passage;

(iii) Unit 1C consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay;

(iv) Unit 1D consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay;

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1A—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1B—the Anan Creek drainage within one mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a one mile radius from the mouth of Anan Creek Lagoon, is closed to the taking of bear;

(D) Unit 1C:

(*1*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area;

(*2*) You may not take mountain goat in the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier;

(vi) You may not trap furbearers for subsistence uses in Unit 1C, Juneau area, on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail;

(vii) Unit-specific regulations:

(A) You may hunt black bear with bait in Units 1A, 1B, and 1D between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear: 1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1A–4 antlered deer	Aug. 1–Dec. 31.
Unit 1B–2 antlered deer	Aug. 1–Dec. 31.
Unit 1C–4 deer; however, antlerless deer may be taken only from Sept. 15—Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1A—Revillagigedo Island only	No open season.
Unit 1B—that portion north of LeConte Bay. 1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1A and 1B, that portion on the Cleveland Peninsula south of the divide between Yes Bay and Santa Anna Inlet	No open season.
Unit 1A and 1B—remainder—2 goats; a State registration permit will be required for the taking of the first goat and a Federal registration permit for the taking of a second goat. The taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1C—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River, and all drainages of the Chilkat Range south of the Endicott River—1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1C—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier.	No open season.
Unit 1C—remainder—1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1D—that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sept. 15–Nov. 30.
Unit 1D—that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Unit 1D—remainder—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1A–1 antlered bull by Federal registration permit	Sept. 5–Oct. 15.

Harvest limits	Open season
Unit 1B–1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1C—that portion south of Point Hobart including all Port Houghton drainages—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1C—remainder, excluding drainages of Berners Bay—1 antlered bull by State registration permit only	Sept. 15–Oct. 15.
Unit 1D.	No open season.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: Unit 1A, B, and C—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(2) *Unit 2.* Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the westernmost point on Warren Island.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
5 deer; however, no more than one may be an antlerless deer. Antlerless deer may be taken only during the period Oct. 15–Dec. 31. You are required to report all harvests using a joint Federal/State harvest report. The Forest Supervisor is authorized to reduce the harvest to 4 deer based on conservation concerns, in consultation with ADF&G and the Chair of the Southeast Alaska Subsistence Regional Advisory Council.	July 24–Dec. 31.
The Federal public lands on Prince of Wales Island, excluding the southeast portion (lands south of the West Arm of Cholmondeley Sound draining into Cholmondeley Sound or draining eastward into Clarence Strait), are closed to hunting of deer from Aug. 1 to Aug. 15, except by Federally-qualified subsistence users hunting under these regulations	
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves. The Forest Supervisor (or designee) may close the Federal hunting and trapping season in consultation with ADF&G and the Chair of the Southeast Alaska Subsistence Regional Advisory Council, when the combined Federal-State harvest quota is reached.	Sept. 1–Mar. 31.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 15–Mar. 15.
Wolverine: No limit	Nov. 10–Apr. 30.

(3) *Unit 3.* (i) Unit 3 consists of all islands west of Unit 1B, north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevarof, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground;

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island;

(C) You may not hunt in the Blind Slough draining into Wrangell Narrows and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
Unit 3—Mitkof, Woewodski, and Butterworth Islands—1 antlered deer	Oct. 15–Oct. 31.
Unit 3—remainder—2 antlered deer	Aug. 1–Nov. 30.
Moose: 1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler by State registration permit only.	Sept. 15–Oct. 15.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 3—Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(4) *Unit 4.* (i) Unit 4 consists of all islands south and west of Unit 1C and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take brown bears in the Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands;

(B) You may not take brown bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay;

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock);

(D) You may not use any motorized land vehicle for brown bear hunting in the Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwest point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay.

(iii) Unit-specific regulations:

(A) You may shoot ungulates from a boat. You may not shoot bear, wolves, or wolverine from a boat, unless you are certified as disabled;

(B) Five Federal registration permits will be issued by the Sitka or Hoonah District Ranger for the taking of brown bear for educational purposes associated with teaching customary and traditional subsistence harvest and use practices. Any bear taken under an educational permit does not count in an individual's one bear every four regulatory years limit.

Harvest limits	Open season
Hunting	
Brown Bear:	

Harvest limits	Open season
Unit 4—Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136° 21′ W. long.) to Rodgers Point (57° 35′ N. lat., 135° 33′ W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57° 34′ N. lat., 135° 25′ W. long.) to the entrance of Gut Bay (56° 44′ N. lat. 134° 38′ W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only.	Sept. 15–Dec. 31. Mar. 15–May 31.
Unit 4—remainder—1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 20.
Deer: 6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31	Aug. 1–Jan. 31.
Goat: 1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote: 2 coyotes.	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 4—that portion east of Chatham Strait—No limit	Dec. 1–May 15.
Remainder of Unit 4	No open season.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit.	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(5) *Unit 5.* (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5A consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(B) Unit 5B consists of the remainder of Unit 5.

(ii) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B)You may not shoot ungulates, bears, wolves, or wolverine from a boat, unless you are certified as disabled;

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag; if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear: 1 bear by Federal registration permit only	Sept. 1–May 31.
Deer:	
Unit 5A–1 buck	Nov. 1–Nov. 30.
Unit 5B	No open season.
Goat:	
Unit 5A—that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord—1 goat by Federal registration permit. The Yakutat District Ranger and ADF&G will jointly announce the harvest quota prior to the season. A minimum of two goats in the harvest quota will be reserved for Federally qualified subsistence users. The season will be closed by local announcement from the Yakutat District Ranger when the quota has been taken. The harvest quota and season announcements will be made in consultation with NPS and local residents.	Aug. 1–Jan. 31.
Unit 5A—remainder—1 goat by Federal registration permit. The Yakutat District Ranger and ADF&G will jointly announce the harvest quota prior to the season. A minimum of four goats in the harvest quota will be reserved for Federally qualified subsistence users. The season will be closed by local announcement when the quota has been taken. The harvest quota and season announcements will be made in consultation with NPS and local residents.	Aug. 1–Jan. 31.
Unit 5B–1 goat by Federal registration permit only	Aug. 1–Jan. 31.
Moose:	
Unit 5A, Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench.	Nov. 15–Feb. 15.

Harvest limits	Open season
Unit 5A, except Nunatak Bench—1 bull by joint State/Federal registration permit only. The season will be closed when 60 bulls have been taken from the Unit. The season will be closed in that portion west of the Dangerous River when 30 bulls have been taken in that area. From Oct. 8–Oct. 21, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Oct. 8–Nov. 15.
Unit 5B–1 antlered bull by State registration permit only. The season will be closed when 25 antlered bulls have been taken from the entirety of Unit 5B.	Sept. 1–Dec. 15.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Nov. 10–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Nov. 10–Feb. 15.
Mink and Weasel: No limit	Nov. 10–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Nov. 10–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(6) *Unit 6.* (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6A consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6B consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6C consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6D consists of the remainder of Unit 6.

(ii) For the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take mountain goat in the Goat Mountain goat observation area, which consists of that portion of Unit 6B bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River;

(B) You may not take mountain goat in the Heney Range goat observation area, which consists of that portion of Unit 6C south of the Copper River Highway and west of the Eyak River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may take coyotes in Units 6B and 6C with the aid of artificial lights;

(C) One permit will be issued by the Cordova District Ranger to the Native Village of Eyak to take one bull moose from Federal lands in Units 6B or C for their annual Memorial/Sobriety Day potlatch;

(D) A Federally-qualified subsistence user (recipient) who is either blind, 65 years of age or older, at least 70 percent disabled, or temporarily disabled may designate another Federally-qualified subsistence user to take any moose, deer, black bear and beaver on his or her behalf in Unit 6, unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than one harvest limit in his or her possession at any one time;

(E) A hunter younger than 10 years old at the start of the hunt may not be issued a Federal subsistence permit to harvest black bear, deer, goat, moose, wolf, and wolverine;

(F) A hunter younger than 10 years old may harvest black bear, deer, goat, moose, wolf, and wolverine under the direct, immediate supervision of a licensed adult, at least 18 years old. The animal taken is counted against the adult's harvest limit. The adult is responsible for ensuring that all legal requirements are met.

Harvest limits	Open season
Hunting	
Black Bear: 1 bear	Sept. 1–June 30.
Deer: 4 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31	Aug. 1–Dec. 31.
Goats:	
Unit 6A and B—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6C	No open season.

Harvest limits	Open season
Unit 6D (subareas RG242, RG243, RG244, RG249, RG266 and RG252 only)—1 goat by Federal registration permit only. In each of the Unit 6D subareas, goat seasons will be closed by the Cordova District Ranger when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG243—4 goats, RG244—2 goats, RG249—4 goats, RG266—4 goats, RG252—1 goat.	Aug. 20–Jan. 31.
Moose:	
Unit 6C–1 cow by Federal registration permit only	Sept. 1–Oct. 31.
Unit 6C–1 bull by Federal registration permit only	Sept. 1–Dec. 31.
(In Unit 6C, only one moose permit may be issued per household. A household receiving a State permit for Unit 6C moose may not receive a Federal permit. The annual harvest quota will be announced by the U.S. Forest Service, Cordova Office, in consultation with ADF&G. The Federal harvest allocation will be 100% of the cow permits and 75% of the bull permits.)	
Unit 6—remainder	No open season.
Beaver: 1 beaver per day, 1 in possession	May 1–Oct. 31.
Coyote:	
Unit 6A and D—2 coyotes	Sept. 1–Apr. 30.
Unit 6B and 6C—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases)	No open season.
Hare (Snowshoe): no limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–Apr. 30.
Coyote:	
Unit 6C—south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Unit 6A, B, C remainder, and D—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(7) *Unit 7.* (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Kenai Fjords National Park;

(B) You may not hunt in the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek, and Byron Glacier; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15; except in the drainages of Resurrection Creek and its tributaries.

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: Unit 7—3 bears	July 1–June 30.
Moose:	
Unit 7—that portion draining into Kings Bay—Public lands are closed to the taking of moose by all users	No open season.
Unit 7—remainder	No open season.
Beaver: 1 beaver per day, 1 in possession	May 1–Oct. 10.
Coyote: No limit	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 7—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7—Remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 10 per day, 20 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.

Harvest limits	Open season
Trapping	
Beaver: 20 beaver per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(8) *Unit 8*. Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) If you have a trapping license, you may take beaver with a firearm in Unit 8 from Nov. 10–Apr. 30.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Brown Bear: 1 bear by Federal registration permit only. Up to 1 permit may be issued in Akhiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 2 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions. Permits will be issued by the Kodiak Refuge Manager.	Dec. 1–Dec. 15. Apr. 1–May 15.
Deer: Unit 8—all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—3 deer; however, antlerless deer may be taken only from Oct. 1–Jan. 31.	Aug. 1–Jan. 31.
Elk: Kodiak, Ban, Uganik, and Afognak Islands—1 elk per household by Federal registration permit only. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge when the combined Federal/State harvest reaches 15% of the herd.	Sept. 15–Nov. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: 30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Jan. 31.

(9) *Unit 9*. (i) Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9A consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve;

(B) Unit 9B consists of the Kvichak River drainage except those lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage;

(C) Unit 9C consists of the Alagnak (Branch) River drainage, the Naknek River drainage, lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage, and all land and water within Katmai National Park and Preserve;

(D) Unit 9D consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands;

(E) Unit 9E consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in Katmai National Park;

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts from Aug. 1 through Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9C within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, you may use a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 9B from April 1 through May 31 and in the remainder of Unit 9 from April 1 through April 30;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in Unit 9B, except that portion within the Lake Clark National Park and Preserve, if you have obtained a State registration permit prior to hunting.

(C) In Unit 9B, Lake Clark National Park and Preserve, residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth may hunt brown bear by Federal registration permit in lieu of a resident tag; ten permits will be available with at least one permit issued in each community; however, no more than five permits will be issued in a single community. The season will be closed when four females or ten bears have been taken, whichever occurs first. The permits will be issued and closure announcements made by the Superintendent Lake Clark National Park and Preserve;

(D) Residents of Newhalen, Nondalton, Iliamna, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9B for ceremonial purposes, under the terms of a Federal registration permit from July 1 through June 30. Permits will be issued to individuals only at the request of a local organization. This 10-moose limit is not cumulative with that permitted for potlatches by the State;

(E) For Units 9C and 9E only, a Federally-qualified subsistence user (recipient) of Units 9C and 9E may designate another Federally-qualified subsistence user of Units 9C and 9E to take bull caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report and turn over all meat to the recipient. There is no restriction on the number of possession limits the designated hunter may have in his/her possession at any one time;

(F) For Unit 9D, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time;

(G) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through May 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only;

(H) You may hunt brown bear in Unit 9E with a Federal registration permit in lieu of a State locking tag if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 9B—Lake Clark National Park and Preserve—Rural residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth only—1 bear by Federal registration permit only.	July 1–June 30.
Unit 9B, remainder—1 bear by State registration permit only	Sept. 1–May 31.
Unit 9E—1 bear by Federal registration permit	Sept. 25–Dec. 31. Apr. 15–May 25.
Caribou:	
Unit 9A—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Sept. 30 and no more than 1 caribou may be taken Oct. 1–Nov. 30.	Aug. 10–Mar. 31.
Unit 9B—5 caribou; however, no more than 1 bull may be taken from July 1–Nov. 30	July 1–Apr. 15.
Unit 9C, that portion within the Alagnak River drainage—1 caribou	Aug. 1–Mar. 31.
Unit 9C, remainder—Federal public lands are closed to the taking of caribou.	
Unit 9D—2 bulls by Federal registration permit	Aug. 1–Sept. 30.
Unit 9E—Federal public lands are closed to the taking of caribou	Nov. 15–Mar. 31.
Sheep:	
Unit 9B, that portion within Lake Clark National Park and Preserve—1 ram with ¾ curl or larger horn by Federal registration permit only. By announcement of the Lake Clark National Park and Preserve Superintendent, the summer/fall season will be closed when up to 5 sheep are taken and the winter season will be closed when up to 2 sheep are taken.	July 15–Oct. 15. Jan. 1–Apr. 1.
Unit 9B, remainder—1 ram with ⅞ curl or larger horn by Federal registration permit only	Aug. 10–Oct. 10.
Unit 9, remainder—1 ram with ⅞ curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 9A—1 bull	Sept. 1–Sept. 15.
Unit 9B—1 bull	Aug. 20–Sept. 15. Dec. 1–Jan. 15.
Unit 9C—that portion draining into the Naknek River from the north—1 bull	Sept. 1–Sept. 15. Dec. 1–Dec. 31.
Unit 9C—that portion draining into the Naknek River from the south—1 bull by Federal registration permit only. Public lands are closed during December for the hunting of moose, except by Federally qualified users hunting under these regulations.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Unit 9C—remainder—1 bull	Sept. 1–Sept. 15. Dec. 15–Jan. 15.
Unit 9D—1 bull by Federal registration permit. Federal public lands will be closed by announcement of the Izembek Refuge Manager to the harvest of moose when a total of 10 bulls have been harvested between State and Federal hunts.	Dec. 15–Jan. 20.
Unit 9E—1 bull	Aug. 20–Sept. 20. Dec. 1–Jan. 20.
Beaver: Unit 9B and 9E—2 beaver per day	Apr. 15–May 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White): No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.

Harvest limits	Open season
Trapping	
Beaver:	
No limit	Oct. 10–Mar. 31.
2 beaver per day; only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White): No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(10) *Unit 10.* (i) Unit 10 consists of the Aleutian Islands, Unimak Island, and the Pribilof Islands.

(ii) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

(iii) In Unit 10–Unimak Island only, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(iv) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through May 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

Harvest limits	Open season
Hunting	
Caribou:	
Unit 10—Unimak Island only—4 caribou by Federal registration permit only	Aug. 1–Sept. 30. Nov. 15–Mar. 31.
Unit 10—remainder—No limit	July 1–June 30.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 28.
Mink and Weasel: No limit.	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Sept. 21 through Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older;

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt;

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met;

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear	Aug. 10–June 15.
Caribou	No open season.
Sheep:	
1 sheep	Aug. 10–Sept. 20.
1 sheep by Federal registration permit only by persons 60 years of age or older	Sept. 21–Oct. 20.
Goat: Unit 11—that portion within the Wrangell-St. Elias National Park and Preserve—1 goat by Federal registration permit only. Federal public lands will be closed by announcement of the Superintendent, Wrangell-St. Elias National Park and Preserve to the harvest of goats when a total of 45 goats have been harvested between Federal and State hunts.	Aug. 25–Dec. 31.
Moose: 1 antlered bull by Federal registration permit only	Aug. 20–Sept. 20.
Beaver: 1 beaver per day, 1 in possession	June 1–Oct. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: 30 beaver per season	Nov. 10–Apr. 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Jan. 31.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; you may use bait to hunt wolves on FWS and BLM lands;

(B) You may not use a steel trap, or a snare using cable smaller than 3⁄32 inch diameter to trap coyotes or wolves in Unit 12 during April and October;

(C) One moose without calf may be taken from June 20 through July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Sept. 21–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older;

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt;

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met;

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear	Aug. 10–June 30.
Caribou:	
Unit 12—that portion of the Nabesna River drainage within the Wrangell-St. Elias National Park and Preserve and all Federal lands south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—All hunting of caribou is prohibited on Federal public lands.	No open season.
Unit 12—remainder—1 bull	Sept. 1–Sept. 20.

Harvest limits	Open season
Unit 12—remainder—1 caribou may be taken by a Federal registration permit during a winter season to be announced. Dates for a winter season to occur between Oct. 1 and Apr. 30 and sex of animal to be taken will be announced by Tetlin National Wildlife Refuge Manager in consultation with Wrangell-St. Elias National Park and Preserve Superintendent, Alaska Department of Fish and Game area biologists, and Chairs of the Eastern Interior Regional Advisory Council and Upper Tanana/Fortymile Fish and Game Advisory Committee.	Winter season to be announced.
Sheep:	
Unit 12—1 ram with full curl or larger horn	Aug. 10–Sept. 20.
Unit 12—that portion within Wrangell-St. Elias National Park and Preserve—1 ram with full curl horn or larger by Federal registration permit only by persons 60 years of age or older.	Sept. 21–Oct. 20.
Moose:	
Unit 12—that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake—1 antlered bull. The November season is open by Federal registration permit only.	Aug. 24–Aug. 28. Sept. 8–Sept. 17. Nov. 20–Nov. 30.
Unit 12—that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Aug. 24–Sept. 30.
Unit 12—remainder—1 antlered bull with spike/fork antlers	Aug. 15–Aug. 23.
Unit 12—remainder—1 antlered bull	Aug. 24–Aug. 28. Sept. 1–Sept. 17.
Beaver: Unit 12—Wrangell-Saint Elias National Park and Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sept. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Mar. 15.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: 15 beaver per season. Only firearms may be used during Sept. 20–Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1–Apr. 15. The total annual harvest limit for beaver is 15, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption.	Sept. 20–May 15.
Coyote: No limit	Oct. 15–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30	Nov. 1–Dec. 31.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Sept. 20–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(13) *Unit 13.* (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north and east bank of the Talkeetna River including the Talkeetna River to its confluence with Clear Creek, the eastside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeast shore of lake 4408, then southeast in a straight line to the northern most fork of the Chickaloon River; the drainages into the east bank of the Chickaloon River below the line from lake 4408; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13A consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(B) Unit 13B consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning;

(C) Unit 13C consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(D) Unit 13D consists of that portion of Unit 13 south of Unit 13(A);

(E) Unit 13E consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5 through Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River;

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Middle Fork trails, or other trails designated by the Board, you may not use motorized vehicles for subsistence hunting in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13B bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Middle Fork Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning;

(D) You may not use any motorized vehicle or pack animal for hunting, including the transportation of hunters, their hunting gear, and/or parts of game from July 26 through September 30 in the Tonsina Controlled Use Area. The Tonsina Controlled Use Area consists of that portion of Unit 13D bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) Upon written request by the Camp Director to the Glennallen Field Office, 2 caribou, sex to be determined by the Glennallen Field Office Manager of the BLM, may be taken from Aug. 10 through Sept. 30 or Oct. 21 through Mar. 31 by Federal registration permit for the Hudson Lake Residential Treatment Camp. Additionally, 1 bull moose may be taken Aug. 1 through Sept. 20. The animals may be taken by any Federally-qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted;

(C) Upon written request from the Ahtna Heritage Foundation to the Glennallen Field Office, either 1 bull moose or 2 caribou, sex to be determined by the Glennallen Field Office Manager of the Bureau of Land Management, may be taken from Aug. 1 through Sept. 20 for 1 moose or Aug. 10 through Sept. 20 for 2 caribou by Federal registration permit for the Ahtna Heritage Foundation's culture camp. The permit will expire on September 20 or when the camp closes, whichever comes first. No combination of caribou and moose is allowed. The animals may be taken by any Federally-qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
Caribou:.	
Unit 13A and 13B—2 caribou by Federal registration permit only. The sex of animals that may be taken will be announced by the Glennallen Field Office Manager of the Bureau of Land Management in consultation with the Alaska Department of Fish and Game area biologist and Chairs of the Eastern Interior Regional Advisory Council and the Southcentral Regional Advisory Council.	Aug. 10–Sept. 30. Oct. 21–Mar. 31.
Unit 13—remainder—2 bulls by Federal registration permit only	Aug. 10–Sept. 30. Oct. 21–Mar. 31
You may not hunt within the Trans-Alaska Oil Pipeline right-of-way. The right-of-way is the area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline.	
Sheep: Unit 13, excluding Unit 13D and the Tok Management Area and Delta Controlled Use Area—1 ram with $\frac{7}{8}$ curl or larger horn.	Aug. 10–Sept. 20.
Moose:	
Unit 13E—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household	Aug. 1–Sept. 20.
Unit 13—remainder—1 antlered bull moose by Federal registration permit only	Aug. 1–Sept. 20.
Beaver: 1 beaver per day, 1 in possession	June 15–Sept. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Sept. 25–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: Unit 13—No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Sept. 25–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Oct. 15–Apr. 30.
Wolverine: No limit	Nov. 10–Jan. 31.

(14) *Unit 14.* (i) Unit 14 consists of drainages into the north side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the north side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south and west bank of the Talkeetna River to its confluence with Clear Creek, the west side drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeast shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River:

(A) Unit 14A consists of drainages in Unit 14 bounded on the west by the east bank of the Susitna River, on the north by the north bank of Willow Creek and Peters Creek to its headwaters, then east along the hydrologic divide separating the Susitna River and Knik Arm drainages to the outlet creek at lake 4408, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the north side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14B consists of that portion of Unit 14 north of Unit 14A;

(C) Unit 14C consists of that portion of Unit 14 south of Unit 14A.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservation;

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

Harvest limits	Open season
Hunting	
Black Bear: Unit 14C—1 bear	July 1–June 30.
Beaver: Unit 14C—1 beaver per day, 1 in possession	May 15–Oct. 31.
Coyote: Unit 14C—2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): Unit 14C—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): Unit 14C—5 hares per day	Sept. 8–Apr. 30.
Lynx: Unit 14C—2 lynx	Dec. 1–Jan. 31.
Wolf: Unit 14C—5 wolves	Aug. 10–Apr. 30.
Wolverine: Unit 14C—1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): Unit 14C—5 per day, 10 in possession	Sept. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): Unit 14C—10 per day, 20 in possession	Sept. 8–Mar. 31.
Trapping	
Beaver: Unit 14C—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote: Unit 14C—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): Unit 14C—1 fox	Nov. 10–Feb. 28.
Lynx: Unit 14C—No limit	Dec. 15–Jan. 31.
Marten: Unit 14C—No limit	Nov. 10–Jan. 31.
Mink and Weasel: Unit 14C—No limit	Nov. 10–Jan. 31.
Muskrat: Unit 14C—No limit	Nov. 10–May 15.
Otter: Unit 14C—No limit	Nov. 10–Feb. 28.
Wolf: Unit 14C—No limit	Nov. 10–Feb. 28.
Wolverine: Unit 14C—No limit	Nov. 10–Feb. 28.

(15) *Unit 15.* (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet, and Turnagain Arm from Gore Point to the point where longitude line 150°00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150° 00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15A consists of that portion of Unit 15 north of the north bank of the Kenai River and the north shore of Skilak Lake;

(B) Unit 15B consists of that portion of Unit 15 south of the north bank of the Kenai River and the north shore of Skilak Lake, and north of the north bank of the Kasilof River, the north shore of Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15C consists of the remainder of Unit 15.

(ii) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1 through March 1 by bow and arrow only, in the Skilak Loop Management Area, which consists of that portion of Unit 15A bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area;

(C) You may not trap marten in that portion of Unit 15B east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier;

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare.

Harvest limits	Open season
Hunting	
Black Bear:	
Unit 15C—3 bears	July 1–June 30.
Unit 15—remainder	No open season.
Moose:	
Unit 15A—Skilak Loop Wildlife Management Area	No open season.
Unit 15A—remainder, 15B, and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more bROWtines on either antler, by Federal registration permit only.	Aug. 10–Sept. 20.
Units 15B and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more bROWtines on either antler, by Federal registration permit only. The Kenai NWR Refuge Manager is authorized to close the October/November season based on conservation concerns, in consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Oct. 20–Nov. 10.
Coyote: No limit	Sept. 1–Apr. 30.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 15—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 15—remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15A and 15B—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15C—20 per day, 40 in possession	Aug. 10–Dec. 31.
Unit 15C—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping	
Beaver: 20 Beaver per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): 1 Fox	Nov. 10–Feb. 28.
Marten:	
Unit 15B—that portion east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: Unit 15—No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: Unit 15B and C—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.* (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the west side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the west side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the south side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16A consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16B consists of the remainder of Unit 16.

(ii) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1—June 30.
Caribou: 1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16B—Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 bull	Sept. 1–Sept. 15.
Unit 16B—remainder—1 bull	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Coyote: 2 coyote Sept. 1–Apr. 30.	
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Dec. 1–Jan. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Oct. 10–May 15.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 15–Jan. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(17) *Unit 17.* (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17A consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17B consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage, and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17C consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bears, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1 through Nov. 1.

(B) [Reserved]

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting;

(C) For Federal registration permit caribou hunts for Unit 17A and 17C, that portion consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay, a Federally-qualified subsistence user may designate another Federally-qualified subsistence user to harvest caribou on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(D) If you have a trapping license, you may use a firearm to take beaver in Unit 17 from April 15 through May 31. You may not take beaver with a firearm under a trapping license on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears	Aug. 1–May 31.
Brown Bear: Unit 17—1 bear by State registration permit only	Sept.1–May 31.
Caribou:	
Unit 17A—all drainages west of Right Hand Point—5 caribou; however, no more than 1 bull may be taken from Aug. 1 through Nov. 30. The season may be closed and harvest limit reduced for the drainages between the Togiak River and Right Hand Point by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Mar. 31.

Harvest limits	Open season
Unit 17A and 17C—that portion of 17A and 17C consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—up to 2 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by the residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk hunting under these regulations. The harvest objective, harvest limit, and the number of permits available will be announced by the Togiak National Wildlife Refuge Manager after consultation with the Alaska Department of Fish and Game and the Nushagak Peninsula Caribou Planning Committee. Successful hunters must report their harvest to the Togiak National Wildlife Refuge within 24 hours after returning from the field. The season may be closed by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Sept. 30. Dec. 1–Mar. 31.
Unit 17B and 17C—that portion of 17C east of the Wood River and Wood River Lakes—5 caribou; however, no more than 1 bull may be taken from Aug. 1 through Nov. 30.	Aug. 1–Apr. 15.
Unit 17A—remainder and 17C—remainder—selected drainages; a harvest limit of up to 5 caribou will be determined at the time the season is announced.	Season to occur sometime within Aug. 1 through Mar. 31 timeframe; season, harvest limit, and hunt area to be announced by the Togiak National Wildlife Refuge Manager.
Sheep: 1 ram with full curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 17A—1 bull by State registration permit	Aug. 25–Sept. 20.
Unit 17A—that portion that includes the area east of the west shore of Nenevok Lake, east of the west bank of the Kemuk River, and east of the west bank of the Togiak River south from the confluence Togiak and Kemuk Rivers—1 antlered bull by State registration permit. Up to a 14-day season during the period Dec. 1–Jan. 31 may be opened or closed by the Togiak National Wildlife Refuge Manager after consultation with ADF&G and local users.	Winter season to be announced.
Unit 17B—that portion that includes all the Mulchatna River drainage upstream from and including the Chilchitna River drainage—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more bROWtines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Unit 17C—that portion that includes the Iowithla drainage and Sunshine Valley and all lands west of Wood River and south of Aleknagik Lake—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more bROWtines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Unit 17B—remainder and 17C—remainder—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more bROWtines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 17—No limit	Oct. 10–Mar. 31.
Unit 17—2 beaver per day. Only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: 2 muskrats	Nov. 10–Feb. 28.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(18) *Unit 18.* (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River.

(ii) In the Kalskag Controlled Use Area, which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag, you are not allowed to use aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 18 from Apr. 1 through Jun. 10;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting;

(C) You may take caribou from a boat moving under power in Unit 18.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear by State registration permit only	Sept. 1–May 31.
Caribou: 5 caribou	Aug. 1–Apr. 15.
Moose:	
Unit 18—that portion east of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the easternmost point of Takslesluk Lake, then along the Kuskokwim River drainage boundary to the Unit 18 border, and then north of and including the Eek River drainage.	No open season.
Unit 18—south of and including the Kanektok River drainages	No open season.
Unit 18—That portion north and west of a line from Cape Romanzof to Kusilvak Mountain to Mountain Village and excluding all Yukon River drainages upriver from Mountain Village—1 antlered bull.	Sept. 1–Sept. 30.
Unit 18—That portion north and west of a line from Cape Romanzof to Kusilvak Mountain to Mountain Village and excluding all Yukon River drainages upriver from Mountain Village—1 antlered bull or 1 calf. The Yukon Delta NWR Manager may restrict the harvest to only antlered bulls after consultation with the ADF&G.	Dec. 20–Jan. 10.
Unit 18—remainder—1 antlered bull	Sept. 1–Sept. 30. Dec. 20–Jan. 10.
Public lands in Unit 18 are closed to the hunting of moose, except by Federally-qualified users hunting under these regulations.	
Beaver: No limit	July 1–June 30.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Mar. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–May 30.
Trapping	
Beaver: No limit	July 1–June 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Mar. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 31.

(19) *Unit 19.* (i) Unit 19 consists of the Kuskokwim River drainage upstream from a straight line drawn between Lower Kalskag and Piamiut:

(A) Unit 19A consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19B;

(B) Unit 19B consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19C consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwest corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage;

(D) Unit 19D consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) In the Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19D upstream from the mouth of the Selatna River, but excluding the Selatna and Black River drainages, to a line extending from Dyckman Mountain on the northern Unit 19D boundary southeast to the 1,610 foot crest of Munsatli Ridge, then south along Munsatli Ridge to the 2,981 foot peak of Telida Mountain, then northeast to the intersection of the western boundary of Denali National Preserve with the Minchumina-Telida winter trail, then south along the western boundary of Denali National Preserve to the southern boundary of Unit 19D, you may not use aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in those portions of 19A and 19B downstream of and including the Aniak River drainage if you have obtained a State registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 19A and 19B—those portions which are downstream of and including the Aniak River drainage—1 bear by State registration permit.	Aug. 10–June 30.
Unit 19A—remainder, 19B—remainder, and Unit 19D—1 bear	Aug. 10–June 30.
Caribou:	
Unit 19A—north of Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 19A—south of the Kuskokwim River and Unit 19B (excluding rural Alaska residents of Lime Village)—5 caribou	Aug. 1–Apr. 15.
Unit 19C—1 caribou	Aug. 10–Oct. 10.
Unit 19D—south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Jan. 31.
Unit 19D—remainder—1 caribou	Aug. 10–Sept. 30.
Unit 19—Residents domiciled in Lime Village only—no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1 through Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep: 1 ram with ⅞ curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 19—Residents of Lime Village only—no individual harvest limit, but a village harvest quota of 28 bulls (including those taken under the State Tier II system). Reporting will be by a community reporting system.	July 1–June 30.
Unit 19A—North of the Kuskokwim River, upstream from but excluding the George River drainage, and south of the Kuskokwim River upstream from and including the Downey Creek drainage, not including the Lime Village Management Area.	No Federal open season.
Unit 19A—remainder—One antlered bull by Federal drawing permit or a State Tier II permit. Federal public lands are closed to the taking of moose except by residents of Tuluksak, Lower Kalskag, Kalskag, Aniak and Chuathbaluk hunting under these regulations. A total of 100 permits will be issued by the Refuge Manager of the Yukon Delta NWR in cooperation with BLM.	Sept. 1–Sept. 20.
Unit 19B—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side	Sept. 1–Sept. 20.
Unit 19C—1 antlered bull	Sept. 1–Sept. 20.
Unit 19C—1 bull by State registration permit	Jan. 15–Feb. 15.
Unit 19D—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sept. 1–Sept. 30.
Unit 19D—remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Unit 19D—remainder—1 antlered bull	Sept. 1–Sept. 30. Dec. 1–Dec. 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 19D—10 wolves per day	Aug. 10–Apr. 30.
Unit 19—remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–Jun. 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Mar. 31.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(20) *Unit 20.* (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages, and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20A consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River;

(B) Unit 20B consists of drainages into the north bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage;

(C) Unit 20C consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River;

(D) Unit 20D consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding, the Banner Creek drainage;

(E) Unit 20E consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage;

(F) Unit 20F consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5 through Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 of the Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(D) You may not use any motorized vehicle for hunting from August 5 through September 20 in the Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20E bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport;

(E) You may by permit hunt moose on the Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River 3 miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning;

(F) You may only hunt moose by bow and arrow in the Fairbanks Management Area. The Area consists of that portion of Unit 20B bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to Isberg Road, then northeasterly on Isberg Road to Cripple Creek Road, then northeasterly on Cripple Creek Road to the Parks Highway, then north on the Parks Highway to Alder Creek, then westerly to the middle fork of Rosie Creek through section 26 to the Parks Highway, then east along the Parks Highway to Alder Creek, then upstream along Alder Creek to its confluence with Emma Creek, then upstream along Emma Creek to its headwaters, then northerly along the hydrographic divide between Goldstream Creek drainages and Cripple Creek drainages to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to Sheep Creek Road, then north on Sheep Creek Road to Murphy Dome Road, then west on Murphy Dome Road to Old Murphy Dome Road, then east on Old Murphy Dome Road to the Elliot Highway, then south on the Elliot Highway to Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, Davidson Ditch, then southeasterly along the Davidson Ditch to its confluence with the tributary to Goldstream Creek in Section 29, then downstream along the tributary to its confluence with Goldstream Creek, then in a straight line to First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its confluence with Ruby Creek, then upstream along Ruby Creek to Esro Road, then south on Esro Road to Chena Hot Springs Road, then east on Chena

Hot Springs Road to Nordale Road, then south on Nordale Road to the Chena River, to its intersection with the Trans-Alaska Pipeline right of way, then southeasterly along the easterly edge of the Trans-Alaska Pipeline right of way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along the Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear from April 15 through June 30; you may use bait to hunt wolves on FWS and BLM lands;

(B) You may not use a steel trap, or a snare using cable smaller than 3/32 inch diameter to trap coyotes or wolves in Unit 20E during April and October;

(C) Residents of Unit 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals at the request of the Native Village of Tanana only. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 20A—1 bear	Sept. 1–May 31.
Unit 20E—1 bear	Aug. 10–June 30.
Unit 20—remainder—1 bear	Sept. 1–May 31.
Caribou:	
Unit 20E—1 caribou by joint State/Federal registration permit only. Up to 900 caribou may be taken under a State/Federal harvest quota. During the winter season, area closures or hunt restrictions may be announced when Nelchina caribou are present in a mix of more than 1 Nelchina caribou to 15 Fortymile caribou, except when the number of caribou present is low enough that less than 50 Nelchina caribou will be harvested regardless of the mixing ratio for the two herds. The season closures will be announced by the Eastern Interior Field Office Manager, Bureau of Land Management, after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 20F—north of the Yukon River–1 caribou	Aug. 10–Mar. 31.
Unit 20F—east of the Dalton Highway and south of the Yukon River–1 caribou; however, cow caribou may be taken only from Nov. 1 to March 31. During the November 1 through March 31 season, a State registration permit is required.	Aug. 10–Sept. 20. Nov. 1–Mar. 31.
Moose:	
Unit 20A—1 antlered bull	Sept. 1–Sept. 20.
Unit 20B—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sept. 1–Sept. 20. Jan. 10–Feb. 28.
Unit 20B—remainder—1 antlered bull	Sept. 1–Sept. 20.
Unit 20C—that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30. Nov. 15–Dec. 15.
Unit 20C—remainder—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30.
Unit 20E—that portion within Yukon Charley National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 20E—that portion drained by the Forty-mile River (all forks) from Mile 9½ to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 bull.	Aug. 24–Aug. 28. Sept. 1–Sept. 15.
Unit 20F—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sept. 1–Sept. 25.
Unit 20F—remainder—1 antlered bull	Sept. 1–Sept. 25. Dec. 1–Dec. 10.
Beaver: Unit 20E—Yukon-Charley Rivers National Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sept. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx:	
Unit 20A, 20B, and that portion of 20C east of the Teklanika River—2 lynx	Dec. 15–Jan. 31.
Unit 20E—2 lynx	Nov. 1–Jan. 31.
Unit 20—remainder—2 lynx	Dec. 1–Jan. 31.
Muskrat:	
Unit 20E, that portion within Yukon-Charley Rivers National Preserve—No limit	Sept. 20–June 10.
Unit 20—remainder	No Federal open season.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): Units 20A, 20B, 20C, 20E, and 20F—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock and Willow):	
Unit 20—those portions within 5 miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 15.

Harvest limits	Open season
Unit 20E—25 beaver per season. Only firearms may be used during Sept. 20–Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1–Apr. 15. The total annual harvest limit for beaver is 25, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption.	Sept. 20–May 15.
Coyote:	
Unit 20E—No limit	Oct. 15–Apr. 30.
Unit 20—remainder—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 20A, 20B, and 20C east of the Teklanika River—No limit	Dec. 15–Jan. 31.
Unit 20E—No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30	Nov. 1–Dec. 31.
Unit 20F and 20C—remainder—No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat:	
Unit 20E—No limit	Sept. 20–June 10.
Unit 20—remainder–No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf:	
Unit 20A, 20B, 20C, & 20F—No limit	Nov. 1–Apr. 30.
Unit 20E—No limit	Oct. 1–Apr. 30
Wolverine: No limit	Nov. 1–Feb. 28.

(21) *Unit 21.* (i) Unit 21 consists of drainages into the Yukon River upstream from Paimiut to, but not including, the Tozitna River drainage on the north bank, and to, but not including, the Tanana River drainage on the south bank; and excluding the Koyukuk River drainage upstream from the Dulbi River drainage:

(A) Unit 21A consists of the Innoko River drainage upstream from and including the Iditarod River drainage;

(B) Unit 21B consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Melozitna River drainage upstream from Grayling Creek;

(C) Unit 21C consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage;

(D) Unit 21D consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek;

(E) Unit 21E consists of the Yukon River drainage from Paimiut upstream to, but not including, the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Unit 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N. lat., 157°43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65° 28.42′ N. lat., 157°44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N. lat., 156°41 W. long.) at 65°56.66′ N. lat., 156°40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N. lat., 156°12.71′ W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N. lat., 155°18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N. lat., 154°52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N. lat., 156°06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N. lat., 157°21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) In Unit 21D, you may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25;

(B) If you have a trapping license, you may use a firearm to take beaver in Unit 21(E) from Nov. 1 through June 10;

(C) The residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State;

(D) The residents of Unit 21 may take up to three moose per regulatory year for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 21D—1 bear by State registration permit only	Aug. 10–June 30.
Unit 21—remainder—1 bear	Aug. 10–June 30.
Caribou:	
Unit 21A and 21B that part of the Nowitna River drainage upstream from but not including the Little Mud River drainage—1 caribou.	Aug. 10–Sept. 30 Dec. 10–Dec. 20.
Unit 21B—remainder, 21C, and 21E—1 caribou	Aug. 10–Sept. 30.
Unit 21D—north of the Yukon River and east of the Koyukuk River—1 caribou; however, 2 additional caribou may be taken during a winter season to be announced by the Refuge Manager Koyukuk/Nowitna NWR.	Aug. 10–Sept. 30. Winter season to be announced.
Unit 21D—remainder—5 caribou per day; however, cow caribou may not be taken May 16—June 30	July 1–June 30.
Moose:	
Unit 21B—that part of the Nowitna River drainage downstream from and including the Little Mud River drainage—1 bull by State registration permit.	Aug. 22–Aug. 31. Sept. 5–Sept. 25.
Unit 21A and 21B—remainder—1 bull	Aug. 20–Sept. 25. Nov. 1–Nov. 30.
Unit 21C—1 antlered bull	Sept. 5–Sept. 25.
Unit 21D—Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only during Aug. 27—31 and the Mar. 1–5 season if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 27–Sept. 20 season a State registration permit is required. During the Mar. 1–5 season a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon Fish and Game Advisory Committee.	Aug. 27–Sept. 20. Mar. 1–5 season to be announced.
Unit 21D—remainder—1 moose; however, antlerless moose may be taken only during Sept. 21–25 and the March 1–5 season if authorized jointly by the Koyukuk/Nowitna National Wildlife Refuge Manager and the Central Yukon Field Office Manager, Bureau of Land Management. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 22–Aug. 31 and Sept. 5–Sept. 25 seasons, a State registration permit is required. During the March 1–5 season a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee.	Aug. 22–Aug. 31. Sept. 5–Sept. 25. Mar. 1–5 season to be announced.
Unit 21E—1 moose; however, only bulls may be taken from Aug. 20–Sept. 25; moose may not be taken within one-half mile of the Innoko or Yukon River during the February season.	Aug. 20–Sept. 25. Feb. 1–Feb. 10.
Beaver:	
Unit 21E—No Limit	Nov. 1–June 10.
Unit 21—remainder	No open season
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed) 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No Limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(22) *Unit 22.* (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22A consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands;

(B) Unit 22B consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage;

(C) Unit 22C consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands;

(D) Unit 22D consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York and St. Lawrence Island;

(E) Unit 22E consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 22 during the established seasons;

(B) Coyote, incidentally taken with a trap or snare intended for red fox or wolf, may be used for subsistence purposes;

(C) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine;

(D) The taking of one bull moose and one muskox by the community of Wales is allowed for the celebration of the Kingikmiut Dance Festival under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Wales. The harvest may only occur between January 1 and March 15 in Unit 22E for a bull moose and in Unit 22E for a muskox. The harvest will count against any established quota for the area;

(E) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take muskoxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients in the course of a season, but have no more than two harvest limits in his/her possession at any one time, except in Unit 22E where a resident of Wales or Shishmaref acting as a designated hunter may hunt for any number of recipients, but have no more than four harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear:	
Unit 22A and 22B—3 bears	July 1–June 30.
Unit 22—remainder	No open season.
Brown Bear:	
Unit 22A, 22B, 22D, and 22E—1 bear by State registration permit only	Aug. 1–May 31.
Unit 22C—1 bear by State registration permit only	Aug. 1–Oct. 31. May 10–May 25.
Caribou:	
Unit 22B west of Golovin Bay and west of a line along the west bank of the Fish and Niukluk Rivers and excluding the Libby River drainage—5 caribou per day.	Oct. 1–Apr. 30. From May 1 through Sept. 30, the season may be opened by announcement by the Anchorage Field Office Manager of the BLM, in consultation with ADF&G.
Units 22A, 22B remainder, that portion of Unit 22D in the Kougaruk, Kuzitrin (excluding the Pilgrim River drainage), American, and Agiapuk River Drainages, and Unit 22E, that portion east of and including the Sanaguich River drainage—5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 22A—that portion north of and including the Tagoomenik and Shaktoolik River drainages—1 bull. Federal public lands are closed to hunting except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sept. 30.
Unit 22A—that portion in the Unalakleet drainage and all drainages flowing into Norton Sound north of the Golsovia River drainage and south of the Tagoomenik and Shaktoolik River drainages—Federal public lands are closed to the taking of moose.	No Federal open season.
Unit 22A—remainder—1 bull. However, during the period Jan. 1–Jan. 31, only an antlered bull may be taken. Federal public lands are closed to the taking of moose except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sept. 30. Jan. 1–Jan. 31.
Unit 22B—west of the Darby Mountains—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users hunting under these regulations.	Sept. 1–Sept. 14.

Harvest limits	Open season
Unit 22B—west of the Darby Mountains—1 bull by either Federal or State registration permit. Quotas and any needed season closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS, and ADF&G. Federal public lands are closed to the taking of moose except by residents of White Mountain and Golovin hunting under these regulations.	Jan. 1–Jan. 31.
Unit 22B—remainder—1 bull	Aug. 1–Jan.31.
Unit 22C—1 antlered bull	Sept. 1–Sept. 14.
Unit 22D—that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Sept. 1–Sept. 14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G.	Sept. 1–Sept. 14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Dec. 1–Dec. 31.
Unit 22D—remainder—1 moose; however, antlerless moose may be taken only from Dec. 1—Dec. 31; no person may take a cow accompanied by a calf. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users hunting under these regulations.	Aug. 1–Jan. 31.
Unit 22E—1 bull. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users hunting under these regulations.	Aug. 1–Dec. 31.
Muskox:	
Unit 22B—1 bull by Federal permit or State Tier II permit. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug.1–Mar. 15.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Sept.1–Mar. 15.
Unit 22D—remainder—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug.1–Mar. 15.
Unit 22E—1 muskox by Federal permit or State permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 22—remainder	No open season.
Beaver:	
Unit 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22—remainder	No open season.
Coyote: Federal public lands are closed to all taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit	Sept. 1–Apr. 15.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Marten:	
Unit 22A and 22B—No limit	Nov. 1–Apr. 15.
Unit 22—remainder	No open season.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 15.
Wolverine: 3 wolverines	Sept. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 22A and 22B east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22E—20 per day, 40 in possession	July 15–May 15.
Unit 22—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22C	No open season.
Coyote: Federal public lands are closed to all taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.

Harvest limits	Open season
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(23) *Unit 23.* (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in the Noatak Controlled Use Area for the period August 25–September 15. The Area consists of that portion of Unit 23 in a corridor extending five miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek. This closure does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service.

(B) [Reserved]

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 23;

(B) In addition to other restrictions on method of take found in this § ____.26, you may also take swimming caribou with a firearm using rimfire cartridges;

(C) If you have a trapping license, you may take beaver with a firearm in all of Unit 23 from Nov. 1 through Jun. 10;

(D) For the Baird and DeLong Mountain sheep hunts—A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipients' harvest limits in his/her possession at the same time;

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine;

(F) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take muskoxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 23—1 bear by State registration permit	Aug. 1–May 31.
Caribou: 15 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 23—south of Rabbit Creek, Kyak Creek, and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep is 21, of which 15 may be rams and 6 may be ewes. Federal public lands are closed to the taking of sheep except by Federally-qualified subsistence users hunting under these regulations.	Aug. 10–April 30. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.
Unit 23—north of Rabbit Creek, Kyak Creek, and the Noatak River, and west of the Aniuk River (DeLong Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep for the DeLong Mountains is 8, of which 5 may be rams and 3 may be ewes.	Aug. 10–April 30. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.
Unit 23, remainder (Schwatka Mountains)—1 ram with 7/8 curl or larger horn	Aug. 10–Sept. 20.
Unit 23, remainder (Schwatka Mountains)—1 sheep	Oct. 1–Apr. 30.
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 moose; no person may take a calf or a cow accompanied by a calf.	July 1–Mar. 31.

Harvest limits	Open season
Unit 23—that portion lying within the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Nov. 1–Mar. 31; no person may take a calf or a cow accompanied by a calf.	Aug. 1–Mar. 31.
Unit 23—remainder—1 moose; no person may take a calf or a cow accompanied by a calf	Aug. 1–Mar. 31.
Muskox:	
Unit 23—south of Kotzebue Sound and west of and including the Buckland River drainage—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 23—Cape Krusenstern National Monument—1 bull by Federal permit. Annual harvest quotas and any needed closures will be announced by the Superintendent of Western Arctic National Parklands. Cape Krusenstern National Monument is closed to the taking of muskoxen except by resident zone community members with permanent residence within the Monument or the immediately adjacent Napaktuktuk Mountain area, south of latitude 67°05′ N. and west of longitude 162°30′ W. hunting under these regulations.	Aug. 1–Mar. 15.
Unit 23—remainder	No open season.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes.	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Oct. 1–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	July 1–June 30.
Unit 23—remainder—30 beaver	July 1–June 30.
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(24) *Unit 24.* (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage:

(A) Unit 24A consists of the Middle Fork of the Koyukuk River drainage upstream from but not including the Harriet Creek and North Fork Koyukuk River drainages, to the South Fork of the Koyukuk River drainage upstream from Squaw Creek, the Jim River Drainage, the Fish Creek drainage upstream from and including the Bonanza Creek drainage, to the 1,410 ft. peak of the hydrologic divide with the northern fork of the Kanuti Chalatna River at N66 33.303 W151 03.637 and following the unnamed northern fork of the Kanuti Chalatna Creek to the confluence of the southern fork of the Kanuti Chalatna River at N66 27.090 W151 23.841, 4.2 miles SSW (194 degrees true) of Clawanmenka Lake and following the unnamed southern fork of the Kanuti Chalatna Creek to the hydrologic divide with the Kanuti River drainage at N66 19.789 W151 10.102, 3.0 miles ENE (79 degrees true) from the 2,055 ft. peak on that divide, and the Kanuti River drainage upstream from the confluence of an unnamed creek at N66 13.050 W151 05.864, 0.9 miles SSE (155 degrees true) of a 1,980 ft. peak on that divide, and following that unnamed creek to the Unit 24 boundary on the hydrologic divide to the Ray River drainage at N66 03.827 W150 49.988 at the 2,920 ft. peak of that divide;

(B) Unit 24B consists of the Koyukuk River Drainage upstream from Dog Island to the Subunit 24A boundary;

(C) Unit 24C consists of the Hogatza River Drainage, the Koyukuk River Drainage upstream from Batza River on the north side of the Koyukuk River and upstream from and including the Indian River Drainage on the south side of the Koyukuk River to the Subunit 24B boundary;

(D) Unit 24D consists of the remainder of Unit 24.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles, or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, and Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field

VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area;

(C) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Koyukuk Controlled Use Area, which consists of those portions of Unit 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N. lat., 157°43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N. lat., 157°44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N. lat., 156°41 W. long.) at 65°56.66′ N. lat., 156°40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N. lat., 156°12.71′ W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N. lat., 155°18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N. lat., 154°52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N. lat., 156°06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N. lat., 157°21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears. However, this prohibition does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25;

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 24—1 bear by State registration permit	Aug. 10–June 30.
Caribou:	
Unit 24—that portion south of the south bank of the Kanuti River, upstream from and including that portion of the Kanuti-Kilolitna River drainage, bounded by the southeast bank of the Kodosin-Nolitna Creek, then downstream along the east bank of the Kanuti-Kilolitna River to its confluence with the Kanuti River—1 caribou.	Aug. 10–Mar. 31.
Unit 24—remainder—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 24A and 24B—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 24A and 24B—(excluding Anaktuvuk Pass residents)—that portion within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 24A—except that portion within the Gates of the Arctic National Park—1 ram with 7/8 curl or larger horn by Federal registration permit only.	Aug. 20–Sept. 30.
Unit 24—remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 24A—1 antlered bull by Federal registration permit	Aug. 25–Oct. 1.
Unit 24B—that portion within the John River Drainage—1 moose	Aug. 1–Dec. 31.
Unit 24B—all drainages to the north of the Koyukuk River, except the John River drainage—1 moose; however, antlerless moose may be taken only during the periods Sept. 27–Oct. 1 and Mar. 1–5, if authorized jointly by the Kanuti National Wildlife Refuge Manager, the BLM Central Field Office Manager, and Gates of the Arctic National Park Superintendent. A Federal registration permit is required for the Sept. 26–Oct. 1 and Mar. 1–5 seasons. Harvest of cows accompanied by calves is prohibited. The announcement will be made after consultation with the ADF&G Area Biologist and Chairs of the Western Interior Alaska Subsistence Regional Advisory Council, the Gates of the Arctic Subsistence Resource Commission, and the Koyukuk River Fish and Game Advisory Committee. Federal public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by Federally qualified subsistence users of Unit 24, Koyukuk, and Galena hunting under these regulations.	Aug. 25–Oct. 1. Mar. 1–Mar. 5 season to be announced.
Unit 24B—remainder—1 antlered bull. A Federal registration permit is required for the Sept. 26–Oct. 1 season. Federal public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by Federally qualified subsistence users of Unit 24, Koyukuk, and Galena hunting under these regulations.	Aug. 25–Oct. 1.
Unit 24C and 24D—that portion within the Koyukuk Controlled Use Area and Koyukuk National Wildlife Refuge—1 moose; however, antlerless moose may be taken only during Aug. 27–31 and the Mar. 1–5 season, if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Central Yukon Field Office Manager. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 27–Sept. 20 season, a State registration permit is required. During the Mar. 1–5 season, a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G Area Biologist and the Chairs of the Western Interior Alaska Subsistence Regional Advisory Council, and the Middle Yukon and Koyukuk River Fish and Game Advisory Committees.	Aug. 27–Sept. 20. Mar. 1–Mar. 5 to be announced.

Harvest limits	Open season
Unit 24C—remainder and Unit 24D—remainder—1 antlered bull. During the Sept. 5–25 season, a State registration permit is required.	Aug. 25–Oct. 1.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 15 wolves; however, no more than 5 wolves may be taken prior to Nov. 1	Aug. 10–Apr. 30.
Wolverine: 5 wolverine; however, no more than 1 wolverine may be taken prior to Nov. 1	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(25) *Unit 25.* (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25A consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old CROWRiver drainage;

(B) Unit 25B consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River;

(C) Unit 25C consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20E boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage;

(D) Unit 25D consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(B) The Arctic Village Sheep Management Area consists of that portion of Unit 25A north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into 2 roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the head waters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30 and between August 1 and September 25; you may use bait to hunt wolves on FWS and BLM lands;

(B) You may take caribou and moose from a boat moving under power in Unit 25;

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25D west provided that:

(*1*) The person organizing the religious ceremony or cultural event contact the Refuge Manager, Yukon Flats National Wildlife Refuge prior to taking or attempting to take bull moose and provide to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, the general area in which the taking will occur;

(*2*) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s);

(*3*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in Unit 25D west;

(*4*) Any moose taken under this provision counts against the annual quota of 60 bulls.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
or 3 bears by State community harvest permit	July 1–June 30.
Brown Bear:	
Unit 25A and 25B—1 bear	Aug. 10–June 30.
Unit 25C—1 bear	Sept. 1–May 31.
Unit 25D—1 bear	July 1–June 30.
Caribou:	
Unit 25C—that portion west of the east bank of the mainstem of Preacher Creek to its confluence with American Creek, then west of the east bank of American Creek—1 caribou; however, cow caribou may be taken only from Nov. 1 through Mar. 31. However, during the November 1–March 31 season, a State registration permit is required.	Aug. 10–Sept. 20. Nov. 1–Mar. 31.
Unit 25C—remainder—1 caribou by joint State/Federal registration permit only. Up to 600 caribou may be taken under a State/Federal harvest quota. The season closures will be announced by the Eastern Interior Field Office Manager, Bureau of Land Management, after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 25D—that portion of Unit 25D drained by the west fork of the Dall River west of 150°W. long.—1 bull	Aug. 10–Sept. 30. Dec. 1–Dec. 31.
Unit 25A, 25B, and Unit 25D—remainder—10 caribou	July 1–Apr. 30.
Sheep:	
Unit 25A—that portion within the Dalton Highway Corridor Management Area	No open season.
Unit 25A—Arctic Village Sheep Management Area—2 rams by Federal registration permit only. Public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik, and Chalkyitsik hunting under these regulations.	Aug. 10–Apr. 30.
Unit 25A—remainder—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Moose:	
Unit 25A—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 10.
Unit 25B—that portion within Yukon-Charley National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 25B—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Sept. 30. Dec. 1–Dec. 10.
Unit 25B—that portion, other than Yukon-Charley National Preserve, draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sept. 5–Sept. 30. Dec. 1–Dec. 15.
Unit 25B—remainder—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 15.
Unit 25C—1 antlered bull	Sept. 1–Sept. 15.
Unit 25D (west)—that portion lying west of a line extending from the Unit 25D boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek and Lower Mouth of Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzic River, then upstream along the west bank of the Hadweenzic River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25D boundary—1 bull by a Federal registration permit. Permits will be available in the following villages: Beaver (25 permits), Birch Creek (10 permits), and Stevens Village (25 permits). Permits for residents of 25D (west) who do not live in one of the three villages will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician. Moose hunting on public land in Unit 25D (west) is closed at all times except for residents of Unit 25D (west) hunting under these regulations. The moose season will be closed by announcement of the Refuge Manager Yukon Flats NWR when 60 moose have been harvested in the entirety (from Federal and non-Federal lands) of Unit 25D (west).	Aug. 25–Feb. 28.
Unit 25D—remainder—1 antlered moose	Aug. 25–Sept. 25. Dec. 1–Dec. 20.
Beaver:	
Unit 25A, 25B, and 25D—1 beaver per day; 1 in possession	Apr. 16–Oct. 31.
Unit 25C	No Federal open season.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx:	
Unit 25C—2 lynx	Dec. 1–Jan. 31.
Unit 25—remainder—2 lynx	Nov. 1–Feb. 28.
Muskrat:	
Unit 25B and 25C, that portion within Yukon-Charley Rivers National Preserve—No limit	Nov. 1–June 10.
Unit 25—remainder	No Federal open season.
Wolf:	
Unit 25A—No limit	Aug. 10–Apr. 30.
Unit 25—remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.

Harvest limits	Open season
Grouse (Spruce, Ruffed, and Sharp-tailed):	
Unit 25C—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 25—remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 25C—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 25C—No limit	Nov. 1–Apr. 15.
Unit 25—remainder—50 beaver	Nov. 1–Apr. 15.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine:	
Unit 25C—No limit	Nov. 1–Feb. 28.
Unit 25—remainder—No limit	Nov. 1–Mar. 31.

(26) *Unit 26*. (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border, including the Firth River drainage within Alaska:

(A) Unit 26A consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26B consists of that portion of Unit 26 east of Unit 26A, west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26C consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose during the periods July 1–Sept. 14 and Jan. 1–Mar. 31 in Unit 26A; however, this does not apply to transportation of moose hunters, their gear, or moose parts by aircraft between publicly owned airports;

(B) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(iii) You may hunt brown bear in Unit 26A by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 26;

(B) In addition to other restrictions on method of take found in this § ____.26, you may also take swimming caribou with a firearm using rimfire cartridges;

(C) In Kaktovik, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep or muskox on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(D) For the DeLong Mountain sheep hunts—A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipient's harvest limits in his/her possession at the same time.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 26A—1 bear by State registration permit	Sept. 1–May 31.
Unit 26B—1 bear	Sept. 1–May 31.
Unit 26C—1 bear	Aug. 10–June 30.

Harvest limits	Open season
Caribou:	
Unit 26A—10 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Unit 26B—10 caribou per day; however, cow caribou may be taken only from Oct. 1–Apr. 30	July 1–June 30.
Unit 26B and 26C—1 moose by Federal registration permit by residents of Kaktovik only. The harvest quota is 3 moose (2 bulls and 1 of either sex), provided that no more than 2 bulls may be harvested from Unit 26C and cows may not be harvested from Unit 26C. You may not take a cow accompanied by a calf. Only 3 Federal registration permits will be issued. Federal public lands are closed to the taking of moose except by a Kaktovik resident holding a Federal registration permit and hunting under these regulations.	July 1–Mar. 31.
Muskox: Unit 26C—1 bull by Federal registration permit only. The number of permits that may be issued only to the residents of the village of Kaktovik will not exceed three percent (3%) of the number of muskoxen counted in Unit 26C during a pre-calving census. Public lands are closed to the taking of muskox, except by rural Alaska residents of the village of Kaktovik hunting under these regulations.	July 15–Mar. 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 26A and 26B—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Unit 26C—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Aug. 10–Apr. 30.
Wolverine: 5 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

Dated: May 30, 2006.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board.

Dated: June 2, 2006.

Steve Kessler,

Subsistence Program Leader, USDA-Forest Service.

[FR Doc. 06–5496 Filed 6–29–06; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

Federal Register

Friday,
June 30, 2006

Part III

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notices

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

DEPARTMENT OF THE TREASURY

FISCAL SERVICE
(Dept. Circular 570; 2006 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 2006

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the internet or from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER and on the internet as they occur). Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

The most current list of Treasury authorized companies is always available through the Internet at **www.fms.treas.gov/c570**. In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

Wanda J. Rogers
Assistant Commissioner
Financial Operations
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company (NAIC #31325)
BUSINESS ADDRESS: P.O. Box 9010, Westbrook, ME 04098 - 5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION b/: $6,259,000. SURETY LICENSES c,f/: AZ, AR, CO, CT, DE, DC, GA, KY, ME, MD, MA, MS, NH, NM, NY, OK, PA, RI, SC, TN, TX, UT, VT, VA. INCORPORATED IN: Maine.

ACCREDITED SURETY AND CASUALTY COMPANY, INC. (NAIC #26379)
BUSINESS ADDRESS: P.O. Box 2067, Winter Park, FL 32790 - 2067. PHONE: (407) 629-2131. UNDERWRITING LIMITATION b/: $1,837,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY (NAIC #22950)
BUSINESS ADDRESS: P.O. BOX 2350, NEW BRITAIN, CT 06050 - 2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION b/: $3,028,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)
BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671 x-3051. UNDERWRITING LIMITATION b/: $3,150,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Affiliated FM Insurance Company (NAIC #10014)
BUSINESS ADDRESS: P.O. Box 7500, Johnston, RI 02919 - 0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION b/: $48,926,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

ALL AMERICA INSURANCE COMPANY (NAIC #20222)
BUSINESS ADDRESS: 800 SOUTH WASHINGTON STREET, VAN WERT, OH 45891. PHONE: (419) 238-5551 x-2350. UNDERWRITING LIMITATION b/: $7,615,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Allegheny Casualty Company (NAIC #13285)
BUSINESS ADDRESS: PO Box 1116, Meadville, PA 16335 - 7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION b/: $1,226,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NV, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALLIED Property and Casualty Insurance Company (NAIC #42579)
BUSINESS ADDRESS: 1100 LOCUST ST DEPT 2007, DES MOINES, IA 50391 - 2007. PHONE: (515) 508-4211. UNDERWRITING LIMITATION b/: $8,701,000. SURETY LICENSES c,f/: AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NC, ND, OH, OR, PA, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMCO Insurance Company (NAIC #19100)
BUSINESS ADDRESS: 1100 LOCUST ST DEPT 2007, DES MOINES, IA 50391 - 2007. PHONE: (515) 508-4211. UNDERWRITING LIMITATION b/: $39,846,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NC, ND, OH, OR, PA, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION (NAIC #19720)
BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $15,283,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company (NAIC #21849)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $14,563,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA (NAIC #10111)
BUSINESS ADDRESS: 11222 QUAIL ROOST DRIVE, MIAMI, FL 33157. PHONE: (305) 253-2244 x-35611. UNDERWRITING LIMITATION b/: $26,032,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

See Footnotes and Notes at the end of this Circular.

American Casualty Company of Reading, Pennsylvania (NAIC #20427)
BUSINESS ADDRESS: CNA CENTER, CHICAGO, IL 60685. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $10,801,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC #10216) 1
BUSINESS ADDRESS: 9841 Airport Boulevard, 9th Floor, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION b/: $4,320,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

American Economy Insurance Company (NAIC #19690)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $50,250,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company (NAIC #24066)
BUSINESS ADDRESS: 9450 Seward Road , Fairfield , OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $3,549,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company (NAIC #26247)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $13,995,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Hardware Mutual Insurance Company (NAIC #13331)
BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (800) 922-6757. UNDERWRITING LIMITATION b/: $10,856,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

American Home Assurance Company (NAIC #19380)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $504,965,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The) (NAIC #21857)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $50,757,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

AMERICAN INTERNATIONAL INSURANCE COMPANY OF PUERTO RICO (NAIC #31674)
BUSINESS ADDRESS: P O Box 10181, San Juan, PR 00918. PHONE: (787) 767-6400. UNDERWRITING LIMITATION b/: $12,286,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

American International Pacific Insurance Company (NAIC #23795)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $3,120,000. SURETY LICENSES c,f/: AK, CO, CT, DC, IA, ME, MD, MA, MS, MT, NE, NH, ND, RI, SD, UT, VT, WV, WY. INCORPORATED IN: Colorado.

American Re-Insurance Company (NAIC #10227)
BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $304,138,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN RELIABLE INSURANCE COMPANY (NAIC #19615)
BUSINESS ADDRESS: 8655 EAST VIA DE VENTURA, STE E200, SCOTTSDALE, AZ 85258. PHONE: (480) 483-8666. UNDERWRITING LIMITATION b/: $9,186,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

See Footnotes and Notes at the end of this Circular.

AMERICAN ROAD INSURANCE COMPANY (THE) (NAIC #19631)
BUSINESS ADDRESS: The American Road, Dearborn, MI 48121 - 6027. PHONE: (313) 594-1914. UNDERWRITING LIMITATION b/: $45,919,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

American Safety Casualty Insurance Company (NAIC #39969)
BUSINESS ADDRESS: 1845 The Exchange, Atlanta, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION b/: $6,514,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Southern Insurance Company (NAIC #10235)
BUSINESS ADDRESS: P O Box 723030, Atlanta, GA 31139 - 0030. PHONE: (404) 266-9599 x-134. UNDERWRITING LIMITATION b/: $3,104,000. SURETY LICENSES c,f/: AL, AR, FL, GA, IL, IN, KS, KY, MD, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, UT, VA, WA, WV, WY. INCORPORATED IN: Kansas.

American States Insurance Company (NAIC #19704)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $77,277,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company (NAIC #31380)
BUSINESS ADDRESS: 3905 Vincennes Road, Suite 200, Indianapolis, IN 46268. PHONE: (317) 875-8700. UNDERWRITING LIMITATION b/: $944,000. SURETY LICENSES c,f/: AL, AK, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, ME, MD, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

Amerisure Mutual Insurance Company (NAIC #23396)
BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48333 - 2060. PHONE: (248) 615-9000. UNDERWRITING LIMITATION b/: $45,444,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

Antilles Insurance Company (NAIC #10308)
BUSINESS ADDRESS: PO Box 9023507 , San Juan , PR 00902 - 3507. PHONE: (787) 474-4900. UNDERWRITING LIMITATION b/: $4,115,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Arch Insurance Company (NAIC #11150)
BUSINESS ADDRESS: ONE LIBERTY PLAZA, 53RD FLOOR, NEW YORK, NY 10006. PHONE: (203) 388-3300. UNDERWRITING LIMITATION b/: $47,612,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Arch Reinsurance Company (NAIC #10348)
BUSINESS ADDRESS: 55 MADISON AVENUE, P.O. BOX 1988, MORRISTOWN, NJ 07962 - 1988. PHONE: (973) 889-6467. UNDERWRITING LIMITATION b/: $20,626,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Nebraska.

Associated Indemnity Corporation (NAIC #21865)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $5,858,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: California.

Atlantic Bonding Company, Inc. (NAIC #41114)
BUSINESS ADDRESS: Suite 212, Hilton Plaza, Pikesville, MD 21208. PHONE: (410) 484-3100. UNDERWRITING LIMITATION b/: $1,023,000. SURETY LICENSES c,f/: AZ, MD. INCORPORATED IN: Maryland.

Auto-Owners Insurance Company (NAIC #18988)
BUSINESS ADDRESS: P.O. BOX 30660, LANSING, MI 48909 - 8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION b/: $412,931,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, UT, VA, WV, WI. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

Berkley Insurance Company (NAIC #32603)
BUSINESS ADDRESS: 475 STEAMBOAT ROAD, GREENWICH, CT 06830. PHONE: (203) 542-3800. UNDERWRITING LIMITATION b/: $107,012,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

Berkley Regional Insurance Company (NAIC #29580)
BUSINESS ADDRESS: 11201 Douglas, Urbandale, IA 50322. PHONE: (203) 629-3000. UNDERWRITING LIMITATION b/: $61,171,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

BITUMINOUS CASUALTY CORPORATION (NAIC #20095)
BUSINESS ADDRESS: 320 - 18TH STREET, ROCK ISLAND, IL 61201 - 8744. PHONE: (309) 732-0300. UNDERWRITING LIMITATION b/: $23,235,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY (NAIC #27081)
BUSINESS ADDRESS: 10002 Shelbyville Road, Suite 100, Louisville, KY 40223. PHONE: (630) 495-9380. UNDERWRITING LIMITATION b/: $1,363,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, HI, IL, IN, KS, KY, LA, ME, MD, MA, MS, MO, MT, NV, NJ, NC, ND, OH, OK, RI, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Illinois.

BRITISH AMERICAN INSURANCE COMPANY (NAIC #32875)
BUSINESS ADDRESS: P.O. Box 1590, Dallas, TX 75221 - 1590. PHONE: (214) 443-5500. UNDERWRITING LIMITATION b/: $3,256,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Buckeye Union Insurance Company (The) (NAIC #20788)
BUSINESS ADDRESS: CNA CENTER, CHICAGO, IL 60685. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $19,618,000. SURETY LICENSES c,f/: AK, DC, FL, IL, IN, IA, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Illinois.

See Footnotes and Notes at the end of this Circular.

Capital City Insurance Company, Inc. (NAIC #30589)
BUSINESS ADDRESS: P. O. Box 212157, Columbia, SC 29221 - 2157. PHONE: (803) 731-7728. UNDERWRITING LIMITATION b/: $3,308,000. SURETY LICENSES c,f/: AL, AR, FL, GA, IL, KY, LA, ME, MD, MS, MO, NC, OK, PA, SC, TN, TX, VA, WV. INCORPORATED IN: South Carolina.

Capitol Indemnity Corporation (NAIC #10472)
BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705 - 0900. PHONE: (608) 829-4810. UNDERWRITING LIMITATION b/: $17,185,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Carolina Casualty Insurance Company (NAIC #10510)
BUSINESS ADDRESS: P. O. BOX 2575, JACKSONVILLE, FL 32203 - 2575. PHONE: (904) 363-0900. UNDERWRITING LIMITATION b/: $22,194,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

CENTRAL MUTUAL INSURANCE COMPANY (NAIC #20230)
BUSINESS ADDRESS: 800 SOUTH WASHINGTON STREET, VAN WERT, OH 45891. PHONE: (419) 238-5551 x-2350. UNDERWRITING LIMITATION b/: $30,917,000. SURETY LICENSES c,f/: AZ, CA, CO, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VA, WA. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY (NAIC #36951)
BUSINESS ADDRESS: P.O. BOX 163340, Columbus, OH 43216 - 3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: $12,182,000. SURETY LICENSES c,f/: AZ, IN, ME, OH, WV, WI. INCORPORATED IN: Ohio.

Cherokee Insurance Company (NAIC #10642)
BUSINESS ADDRESS: 34200 Mound Road, Sterling Heights, MI 48310. PHONE: (800) 201-0450. UNDERWRITING LIMITATION b/: $6,143,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, MD, MI, MS, MO, NJ, NM, NY, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

CHUBB INDEMNITY INSURANCE COMPANY (NAIC #12777)
BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615 , Warren , NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $4,366,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The) (NAIC #28665)
BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250 - 5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION b/: $26,290,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The) (NAIC #10677)
BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250 - 5496. PHONE: (513) 870-2604. UNDERWRITING LIMITATION b/: $393,091,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

CITIZENS INSURANCE COMPANY OF AMERICA (NAIC #31534)
BUSINESS ADDRESS: 645 W. Grand River Avenue, Howell, MI 48843. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $73,297,000. SURETY LICENSES c,f/: AL, GA, IL, IN, KS, ME, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WI. INCORPORATED IN: Michigan.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY (NAIC #34347)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $2,219,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY (NAIC #10758)
BUSINESS ADDRESS: 50 Chestnut Ridge Road , Montvale , NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION b/: $621,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

COMPANION PROPERTY AND CASUALTY INSURANCE COMPANY (NAIC #12157)
BUSINESS ADDRESS: P.O. Box 100165, Columbia, SC 29202. PHONE: (803) 735-0672. UNDERWRITING LIMITATION b/: $8,849,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NE, NJ, NC, OH, OK, OR, PA, SC, TN, TX, VT, VA, WV, WI. INCORPORATED IN: South Carolina.

Consolidated Insurance Company (NAIC #22640)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $5,577,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, MN, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company (NAIC #20443)
BUSINESS ADDRESS: CNA CENTER, CHICAGO, IL 60685. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $439,290,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

CONTINENTAL HERITAGE INSURANCE COMPANY (NAIC #39551)
BUSINESS ADDRESS: 2800 Corporate Exchange Dr, Ste 130, Columbus, OH 43231. PHONE: (614) 839-1800. UNDERWRITING LIMITATION b/: $633,000. SURETY LICENSES c,f/: AZ, CA, FL, ID, IL, IN, IA, MD, MN, NV, ND, OH, PA, SC, TN, TX, UT, VA. INCORPORATED IN: Ohio.

Continental Insurance Company (The) (NAIC #35289)
BUSINESS ADDRESS: CNA CENTER, CHICAGO, IL 60685. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $81,773,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: South Carolina.

CONTRACTORS BONDING AND INSURANCE COMPANY (NAIC #37206)
BUSINESS ADDRESS: P.O. BOX 9271, SEATTLE, WA 98109 - 0271. PHONE: (206) 628-6820. UNDERWRITING LIMITATION b/: $5,420,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

See Footnotes and Notes at the end of this Circular.

Cooperativa de Seguros Multiples de Puerto Rico (NAIC #18163)
BUSINESS ADDRESS: P O BOX 363846, SAN JUAN, PR 00936 - 3846. PHONE: (787) 759-9961. UNDERWRITING LIMITATION b/: $20,852,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

CUMIS INSURANCE SOCIETY, INC. (NAIC #10847)
BUSINESS ADDRESS: P. O. Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION b/: $41,467,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DaimlerChrysler Insurance Company (NAIC #10499)
BUSINESS ADDRESS: CIMS:405-26-10, P.O. Box 9217, Farmington Hills, MI 48333 - 9217. PHONE: (800) 782-9164. UNDERWRITING LIMITATION b/: $14,877,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Developers Surety and Indemnity Company (NAIC #12718)
BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623 - 9725. PHONE: (800) 782-1546. UNDERWRITING LIMITATION b/: $3,526,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Insurance Company of Wausau (NAIC #21458)
BUSINESS ADDRESS: Post Office Box 8017, Wausau, WI 54402 - 8017. PHONE: (715) 845-5211 x-6570. UNDERWRITING LIMITATION b/: $107,066,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company (NAIC #21415)
BUSINESS ADDRESS: P. O. BOX 712, DES MOINES, IA 50303 - 0712. PHONE: (515) 362-7589. UNDERWRITING LIMITATION b/: $66,325,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See Footnotes and Notes at the end of this Circular.

Employers Reinsurance Corporation (NAIC #39845)
BUSINESS ADDRESS: P.O. BOX 2991, OVERLAND PARK, KS 66201 - 1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: $511,763,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Endurance Reinsurance Corporation of America (NAIC #11551)
BUSINESS ADDRESS: 333 Westchester Avenue, White Plains, NY 10604. PHONE: (914) 468-8000. UNDERWRITING LIMITATION b/: $51,484,000. SURETY LICENSES c,f/: AZ, CA, DE, DC, ID, IN, KS, MD, MA, MI, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, SC, TX, UT, WV. INCORPORATED IN: New York.

Erie Insurance Company (NAIC #26263)
BUSINESS ADDRESS: 100 ERIE INSURANCE PLACE, ERIE, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION b/: $16,169,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company (NAIC #26921)
BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938 - 0830. PHONE: (800) 438-4375. UNDERWRITING LIMITATION b/: $232,759,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company (NAIC #12750)
BUSINESS ADDRESS: 2800 Corporate Exchange Dr, Ste 130, Columbus, OH 43231. PHONE: (614) 839-1800. UNDERWRITING LIMITATION b/: $2,501,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Excelsior Insurance Company (NAIC #11045)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $6,574,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, IN, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA. INCORPORATED IN: New Hampshire.

See Footnotes and Notes at the end of this Circular.

Executive Risk Indemnity Inc. (NAIC #35181)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $65,636,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Explorer Insurance Company (NAIC #40029)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186 - 5563. PHONE: (858) 350-2400 x-2634. UNDERWRITING LIMITATION b/: $2,845,000. SURETY LICENSES c,f/: AZ, CA, CO, FL, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: California.

Factory Mutual Insurance Company (NAIC #21482)
BUSINESS ADDRESS: P.O. Box 7500, Johnston, RI 02919 - 0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION b/: $371,496,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Fairmont Specialty Insurance Company (NAIC #24384)
BUSINESS ADDRESS: P.O. Box 2807, Houston, TX 77252. PHONE: (713) 954-8100. UNDERWRITING LIMITATION b/: $9,379,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Farmers Alliance Mutual Insurance Company (NAIC #19194)
BUSINESS ADDRESS: 1122 North Main Street, McPherson, KS 67460. PHONE: (620) 241-2200. UNDERWRITING LIMITATION b/: $12,022,000. SURETY LICENSES c,f/: AZ, CO, ID, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company (NAIC #41483)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $21,800,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes and Notes at the end of this Circular.

Farmland Mutual Insurance Company (NAIC #13838)
BUSINESS ADDRESS: 1100 LOCUST ST. DEPT 2007, DES MOINES, IA 50391 - 2007. PHONE: (800) 228-6700. UNDERWRITING LIMITATION b/: $11,848,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company (NAIC #20281)
BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $813,306,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY (NAIC #13935)
BUSINESS ADDRESS: 121 EAST PARK SQUARE, OWATONNA, MN 55060. PHONE: (888) 333-4949. UNDERWRITING LIMITATION b/: $141,339,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Casualty Company of New York (The) (NAIC #35270)
BUSINESS ADDRESS: CNA CENTER, CHICAGO, IL 60685. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $14,722,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Carolina.

Fidelity and Deposit Company of Maryland (NAIC #39306)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $16,466,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY (NAIC #35386)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $1,420,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See Footnotes and Notes at the end of this Circular.

Fidelity and Guaranty Insurance Underwriters, Inc. (NAIC #25879)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $3,135,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Fidelity National Property and Casualty Insurance Company (NAIC #16578)
BUSINESS ADDRESS: 10301 Deerwood Park Blvd, Suite 100, Jacksonville, FL 32256. PHONE: (904) 997-7310. UNDERWRITING LIMITATION b/: $4,957,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Financial Pacific Insurance Company (NAIC #31453)
BUSINESS ADDRESS: P.O. Box 292220, Sacramento, CA 95829 - 2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION b/: $5,345,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company (NAIC #21873)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $285,020,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey (NAIC #20850) 2
BUSINESS ADDRESS: CNA CENTER, CHICAGO, IL 60685. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $52,310,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Carolina.

First Founders Assurance Company (NAIC #12150)
BUSINESS ADDRESS: 720 Palisades Avenue, Englewood Cliffs, NJ 07632. PHONE: (201) 568-2810. UNDERWRITING LIMITATION b/: $235,000. SURETY LICENSES c,f/: NJ. INCORPORATED IN: New Jersey.

First Insurance Company of Hawaii, Ltd. (NAIC #41742)
BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION b/: $16,635,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

See Footnotes and Notes at the end of this Circular.

First Liberty Insurance Corporation (The) (NAIC #33588)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $2,038,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America (NAIC #24724)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $7,453,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

First Sealord Surety, Inc. (NAIC #28519)
BUSINESS ADDRESS: 33 Rock Hill Road, Bala Cynwyd, PA 19004. PHONE: (610) 664-2259. UNDERWRITING LIMITATION b/: $901,000. SURETY LICENSES c,f/: AL, AK, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, MD, MA, MI, MS, MO, NJ, NY, NC, OH, OR, PA, SC, TN, TX, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

FOLKSAMERICA REINSURANCE COMPANY (NAIC #38776)
BUSINESS ADDRESS: ONE LIBERTY PLAZA - 19TH FLOOR, NEW YORK, NY 10006 - 1404. PHONE: (212) 312-2500. UNDERWRITING LIMITATION b/: $107,415,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

General Insurance Company of America (NAIC #24732)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $81,426,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation (NAIC #22039)
BUSINESS ADDRESS: Financial Centre, P.O.Box 10350, Stamford, CT 06904 - 2350. PHONE: (203) 328-6463. UNDERWRITING LIMITATION b/: $723,426,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See Footnotes and Notes at the end of this Circular.

Global Surety & Insurance Co. (NAIC #11304)
BUSINESS ADDRESS: 3555 FARNAM STREET, OMAHA, NE 68131. PHONE: (402) 271-2840. UNDERWRITING LIMITATION b/: $6,463,000. SURETY LICENSES c,f/: AZ, CA, CO, NE, WY. INCORPORATED IN: Nebraska.

GRANITE RE, INC. (NAIC #26310)
BUSINESS ADDRESS: 14001 Quailbrook Drive, Oklahoma City, OK 73134. PHONE: (800) 440-5953. UNDERWRITING LIMITATION b/: $701,000. SURETY LICENSES c,f/: AZ, AR, CO, KS, MN, MT, NM, ND, OK, SD, WI. INCORPORATED IN: Oklahoma.

Granite State Insurance Company (NAIC #23809)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $3,093,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

GRAY CASUALTY & SURETY COMPANY (THE) (NAIC #10671)
BUSINESS ADDRESS: P.O. Box 6202, Metairie, LA 70009 - 6202. PHONE: (504) 888-7790. UNDERWRITING LIMITATION b/: $1,204,000. SURETY LICENSES c,f/: AL, AR, GA, LA, MS, NM, OK, SC, TX. INCORPORATED IN: Louisiana.

GRAY INSURANCE COMPANY (THE) (NAIC #36307)
BUSINESS ADDRESS: P.O. BOX 6202, METAIRIE, LA 70009 - 6202. PHONE: (504) 888-7790. UNDERWRITING LIMITATION b/: $8,309,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Louisiana.

Great American Alliance Insurance Company (NAIC #26832)
BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $2,515,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Great American Insurance Company (NAIC #16691)
BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $145,531,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (NAIC #22136)
BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $5,306,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company (NAIC #20303)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $28,397,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Great River Insurance Company (NAIC # 18468) 3

Greenwich Insurance Company (NAIC #22322)
BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902 - 6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $30,316,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Guarantee Company of North America USA (The) (NAIC #36650)
BUSINESS ADDRESS: 1000 Town Center, Suite 1800, Southfield, MI 48075. PHONE: (248) 281-0281 x-1008. UNDERWRITING LIMITATION b/: $5,444,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

Hanover Insurance Company (The) (NAIC #22292)
BUSINESS ADDRESS: 440 Lincoln Street, Worcester, MA 01653. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $47,163,000. SURETY LICENSES c,f/ AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY (NAIC #26433)
BUSINESS ADDRESS: P.O. Box 68309, Schaumburg, IL 60168 - 0309. PHONE: (847) 321-4800. UNDERWRITING LIMITATION b/: $16,497,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company (NAIC #14168)
BUSINESS ADDRESS: 355 Maple Avenue , Harleysville , PA 19438 - 2297. PHONE: (215) 256-5470. UNDERWRITING LIMITATION b/: $51,759,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Harleysville Worcester Insurance Company (NAIC #26182)
BUSINESS ADDRESS: 120 Front Street, Suite 400 , Worcester , MA 01608 - 1408. PHONE: (215) 256-5470. UNDERWRITING LIMITATION b/: $11,094,000. SURETY LICENSES c,f/: CT, ME, MA, MI, NH, NY, RI, VT. INCORPORATED IN: Massachusetts.

Hartford Accident and Indemnity Company (NAIC #22357)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $243,721,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company (NAIC #29424)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $82,354,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

See Footnotes and Notes at the end of this Circular.

Hartford Fire Insurance Company (NAIC #19682)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $1,048,013,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois (NAIC #38288)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $130,681,000. SURETY LICENSES c,f/: AS, GU, IL, NY, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest (NAIC #37478)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $16,806,000. SURETY LICENSES c,f/: AL, AK, AS, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast (NAIC #38261) 4
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $6,776,000. SURETY LICENSES c,f/: AS, CT, FL, GA, GU, KS, LA, MN, PA. INCORPORATED IN: Connecticut.

IMT Insurance Company (Mutual) (NAIC #14257)
BUSINESS ADDRESS: P.O. Box 1336, Des Moines, IA 50305 - 1336. PHONE: (515) 327-2755. UNDERWRITING LIMITATION b/: $8,746,000. SURETY LICENSES c,f/: IL, IN, IA, MO, NE, SD, WI. INCORPORATED IN: Iowa.

Indemnity Company of California (NAIC #25550)
BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623 - 9725. PHONE: (800) 782-1546. UNDERWRITING LIMITATION b/: $873,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, IN, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

Indemnity National Insurance Company (NAIC #18468)
BUSINESS ADDRESS: 4800 Old Kingston Pike, Knoxville, TN 37919. PHONE: (865) 934-4360. UNDERWRITING LIMITATION b/: $1,319,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

See Footnotes and Notes at the end of this Circular.

Independence Casualty and Surety Company (NAIC #10024)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186 - 5563. PHONE: (858) 350-2400. UNDERWRITING LIMITATION b/: $2,204,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Insurance Company (NAIC #22659)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $29,668,000. SURETY LICENSES c,f/: FL, IL, IN, IA, KY, MI, MN, NJ, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company (NAIC #14265)
BUSINESS ADDRESS: 3600 Woodview Trace , Indianapolis , IN 46268 - 0600. PHONE: (317) 875-3710. UNDERWRITING LIMITATION b/: $3,508,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company (NAIC #23264)
BUSINESS ADDRESS: P.O. Box 80468 , Lincoln , NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $10,898,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The) (NAIC #19429)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $63,425,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West (NAIC #27847)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186 - 5563. PHONE: (858) 350-2400 x-2634. UNDERWRITING LIMITATION b/: $34,257,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company (NAIC #43273)
BUSINESS ADDRESS: P.O. Box 2683 , Waco , TX 76702 - 2683. PHONE: (254) 759-3703 x-3727. UNDERWRITING LIMITATION b/: $425,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

INTEGRAND ASSURANCE COMPANY (NAIC #26778)
BUSINESS ADDRESS: PO Box 70128 , San Juan , PR 00936 - 8128. PHONE: (787) 781-0707. UNDERWRITING LIMITATION b/: $6,021,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

International Business & Mercantile REassurance Company (NAIC #24139)
BUSINESS ADDRESS: 307 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION b/: $16,725,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Fidelity Insurance Company (NAIC #11592) 5
BUSINESS ADDRESS: One Newark Center , Newark , NJ 07102 - 5207. PHONE: (973) 624-7200. UNDERWRITING LIMITATION b/: $6,340,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED (NAIC #22845)
BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806 - 1520. PHONE: (808) 564-8200. UNDERWRITING LIMITATION b/: $10,815,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Kansas Bankers Surety Company (The) (NAIC #15962)
BUSINESS ADDRESS: P. O. Box 1654, TOPEKA, KS 66601 - 1654. PHONE: (785) 228-0000. UNDERWRITING LIMITATION b/: $11,931,000. SURETY LICENSES c,f/: AZ, AR, CO, DE, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NH, NM, ND, OH, OK, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Kansas.

Lexington Insurance Company (NAIC #19437)
BUSINESS ADDRESS: 100 Summer Street, Boston, MA 02110. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $256,485,000. SURETY LICENSES c,f/: DE. INCORPORATED IN: Delaware.

See Footnotes and Notes at the end of this Circular.

LEXINGTON NATIONAL INSURANCE CORPORATION (NAIC #37940)
BUSINESS ADDRESS: 200 East Lexington Street, Suite 501, Baltimore, MD 21202. PHONE: (410) 625-0800. UNDERWRITING LIMITATION b/: $854,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Maryland.

Lexon Insurance Company (NAIC #13307)
BUSINESS ADDRESS: 10002 Shelbyville Rd, Suite 100, Louisville, KY 40223. PHONE: (502) 253-6568. UNDERWRITING LIMITATION b/: $3,309,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Liberty Insurance Corporation (NAIC #42404)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $29,080,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Liberty Mutual Fire Insurance Company (NAIC #23035) 6
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $82,997,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Liberty Mutual Insurance Company (NAIC #23043)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $610,791,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Lincoln General Insurance Company (NAIC #33855)
BUSINESS ADDRESS: P.O. BOX 3709, YORK, PA 17402 - 0136. PHONE: (847) 700-8500. UNDERWRITING LIMITATION b/: $14,469,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

LM Insurance Corporation (NAIC #33600)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $1,853,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Lyndon Property Insurance Company (NAIC #35769)
BUSINESS ADDRESS: 14755 North Outer Forty Rd., Suite 400, St. Louis, MO 63017. PHONE: (800) 950-6060. UNDERWRITING LIMITATION b/: $16,324,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Madison Insurance Company (NAIC #10702)
BUSINESS ADDRESS: 303 PEACHTREE STREET NE, SUITE 700, ATLANTA, GA 30308. PHONE: (404) 588-8344. UNDERWRITING LIMITATION b/: $7,180,000. SURETY LICENSES c,f/: DC, FL, GA, MD, TN, VA. INCORPORATED IN: Georgia.

Massachusetts Bay Insurance Company (NAIC #22306)
BUSINESS ADDRESS: 440 Lincoln Street, Worcester, MA 01653. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $2,340,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual) (NAIC #14494)
BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321 - 1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $3,876,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company (NAIC #14508)
BUSINESS ADDRESS: P. O. Box 30060, Lansing, MI 48909 - 7560. PHONE: (517) 482-6211 x-252. UNDERWRITING LIMITATION b/: $11,974,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, NC, ND, OH, OK, OR, PA, SD, TN, VA, WA, WI. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

Mid-Century Insurance Company (NAIC #21687)
BUSINESS ADDRESS: P.O. Box 2478 Terminal Annex, Los Angeles, CA 90051. PHONE: (805) 583-7000. UNDERWRITING LIMITATION b/: $48,301,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY (NAIC #23418)
BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $23,401,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, SC, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Oklahoma.

MIDWESTERN INDEMNITY COMPANY (THE) (NAIC #23515) 7
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $2,943,000. SURETY LICENSES c,f/: AL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Minnesota Surety and Trust Company (NAIC #30996)
BUSINESS ADDRESS: PO Box 463, Austin, MN 55912. PHONE: (507) 437-3231. UNDERWRITING LIMITATION b/: $130,000. SURETY LICENSES c,f/: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motorists Mutual Insurance Company (NAIC #14621)
BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (800) 876-6642. UNDERWRITING LIMITATION b/: $46,407,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation (NAIC #22012)
BUSINESS ADDRESS: 300 GALLERIA OFFICENTRE, SOUTHFIELD, MI 48034. PHONE: (248) 263-6900. UNDERWRITING LIMITATION b/: $250,109,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

National American Insurance Company (NAIC #23663)
BUSINESS ADDRESS: P.O. Box 9 , Chandler , OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION b/: $4,728,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

See Footnotes and Notes at the end of this Circular.

NATIONAL FARMERS UNION PROPERTY AND CASUALTY COMPANY (NAIC #16217)
BUSINESS ADDRESS: 5619 DTC PARKWAY, SUITE 300, GREENWOOD VILLAGE, CO 80111 - 3136. PHONE: (303) 338-2904. UNDERWRITING LIMITATION b/: $9,912,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Colorado.

National Fire Insurance Company of Hartford (NAIC #20478) 8
BUSINESS ADDRESS: CNA CENTER, CHICAGO, IL 60685. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $17,086,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Grange Mutual Insurance Company (NAIC #14788) 9

National Indemnity Company (NAIC #20087)
BUSINESS ADDRESS: 3024 Harney Street , Omaha , NE 68131 - 3580. PHONE: (402) 536-3000. UNDERWRITING LIMITATION b/: $2,872,039,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation (NAIC #21881)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $17,004,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA (NAIC #19445)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $632,477,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NATIONS BONDING COMPANY (NAIC #11595)
BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321 - 1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $264,000. SURETY LICENSES c,f/: PA, TX. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

Nationwide Mutual Insurance Company (NAIC #23787)
BUSINESS ADDRESS: ONE NATIONWIDE PLAZA, COLUMBUS, OH 43215 - 2220. PHONE: (877) 669-6877. UNDERWRITING LIMITATION b/: $778,035,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY (NAIC #42307)
BUSINESS ADDRESS: 6 International Drive, Rye Brook, NY 10573. PHONE: (914) 934-8999. UNDERWRITING LIMITATION b/: $35,648,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Netherlands Insurance Company (The) (NAIC #24171)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $5,222,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, LA, ME, MD, MA, MI, MN, MO, NE, NV, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company (NAIC #23841)
BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 458-7018. UNDERWRITING LIMITATION b/: $86,711,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NGM Insurance Company (NAIC #14788) 9
BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (877) 927-5672. UNDERWRITING LIMITATION b/: $36,795,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY (NAIC #29874)
BUSINESS ADDRESS: 650 ELM STREET, MANCHESTER, NH 03101. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: $15,381,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

See Footnotes and Notes at the end of this Circular.

NORTH POINTE INSURANCE COMPANY (NAIC #27740)
BUSINESS ADDRESS: P.O. Box 2223, Southfield, MI 48037 - 2223. PHONE: (248) 358-1171 x-146. UNDERWRITING LIMITATION b/: $4,386,000. SURETY LICENSES c,f/: DE, GA, IL, IN, IA, KS, KY, MD, MI, NE, NJ, OH, PA, SD, TN. INCORPORATED IN: Michigan.

NORTHWESTERN PACIFIC INDEMNITY COMPANY (NAIC #20338)
BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $1,310,000. SURETY LICENSES c,f/: CA, OK, OR, TX, WV. INCORPORATED IN: Oregon.

NOVA Casualty Company (NAIC #42552)
BUSINESS ADDRESS: Suite 1020, 726 Exchange Street, Buffalo, NY 14210. PHONE: (716) 856-3722. UNDERWRITING LIMITATION b/: $5,269,000. SURETY LICENSES c,f/: AL, AZ, DC, FL, GA, IL, IN, IA, KY, LA, ME, MI, MS, NV, NY, ND, OH, OK, PA, SC, SD, TN, UT, VT, VA, WA. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The) (NAIC #24074)
BUSINESS ADDRESS: 9450 Seward Road , Fairfield , OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $76,937,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company (NAIC #24104)
BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $100,749,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Indemnity Company (NAIC #26565)
BUSINESS ADDRESS: 250 East Broad Street, 10th Floor , Columbus , OH 43215. PHONE: (614) 220-5207. UNDERWRITING LIMITATION b/: $3,478,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Oklahoma Surety Company (NAIC #23426)
BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $877,000. SURETY LICENSES c,f/: AR, KS, LA, OK, TX, VA. INCORPORATED IN: Oklahoma.

OLD DOMINION INSURANCE COMPANY (NAIC #40231)
BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (877) 927-5672. UNDERWRITING LIMITATION b/: $2,006,000. SURETY LICENSES c,f/: DE, FL, GA, MD, SC, VA. INCORPORATED IN: Florida.

Old Republic Insurance Company (NAIC #24147)
BUSINESS ADDRESS: 133 Oakland Avenue, P.O. Box 789, Greensburg, PA 15601 - 0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION b/: $78,368,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company (NAIC #40444)
BUSINESS ADDRESS: P.O. BOX 1635, MILWAUKEE, WI 53201. PHONE: (262) 797-2640 x-654. UNDERWRITING LIMITATION b/: $3,960,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company (NAIC #20621)
BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108 - 3100. PHONE: (508) 549-9577. UNDERWRITING LIMITATION b/: $46,225,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

OneBeacon Insurance Company (NAIC #21970)
BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108 - 3100. PHONE: (508) 549-9577. UNDERWRITING LIMITATION b/: $94,576,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

Pacific Indemnity Company (NAIC #20346)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $127,923,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

PACIFIC INDEMNITY INSURANCE COMPANY (NAIC #18380)
BUSINESS ADDRESS: 348 WEST O'BRIEN DRIVE, HAGATNA, GU 96932. PHONE: (671) 472-8834. UNDERWRITING LIMITATION b/: $352,000. SURETY LICENSES c,f/ GU. INCORPORATED IN: Guam.

PARTNER REINSURANCE COMPANY OF THE U.S. (NAIC #38636)
BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830 - 6352. PHONE: (203) 485-4287. UNDERWRITING LIMITATION b/: $46,771,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DC, IL, KS, MI, MS, NE, NY, TX, UT, WV. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK (NAIC #10006)
BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830 - 6352. PHONE: (203) 485-4287. UNDERWRITING LIMITATION b/: $9,791,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

Peerless Indemnity Insurance Company (NAIC #18333)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (630) 505-1442. UNDERWRITING LIMITATION b/: $54,693,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Illinois.

Peerless Insurance Company (NAIC #24198)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $44,030,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

See Footnotes and Notes at the end of this Circular.

Pekin Insurance Company (NAIC #24228)
BUSINESS ADDRESS: 2505 COURT STREET, PEKIN, IL 61558. PHONE: (309) 346-1161 x-2499. UNDERWRITING LIMITATION b/: $7,729,000. SURETY LICENSES c,f/: IL, IN, IA, MI, OH, WI. INCORPORATED IN: Illinois.

Penn Millers Insurance Company (NAIC #14982)
BUSINESS ADDRESS: P.O. BOX P, WILKES-BARRE, PA 18773 - 0016. PHONE: (570) 822-8111. UNDERWRITING LIMITATION b/: $4,722,000. SURETY LICENSES c,f/: AL, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: Pennsylvania.

Pennsylvania General Insurance Company (NAIC #21962)
BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108 - 3100. PHONE: (508) 549-9577. UNDERWRITING LIMITATION b/: $20,748,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company (NAIC #14990)
BUSINESS ADDRESS: P. O. Box 2361, Harrisburg, PA 17105 - 2361. PHONE: (717) 234-4941 x-6814. UNDERWRITING LIMITATION b/: $33,675,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company (NAIC #12670)
BUSINESS ADDRESS: 6780 EAST HAMPDEN AVENUE, DENVER, CO 80224. PHONE: (303) 758-8122. UNDERWRITING LIMITATION b/: $563,000. SURETY LICENSES c,f/: AZ, CO, KS, MO, MT, NE, NM, UT, WY. INCORPORATED IN: Colorado.

PLATTE RIVER INSURANCE COMPANY (NAIC #18619)
BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705 - 0900. PHONE: (608) 829-4810. UNDERWRITING LIMITATION b/: $3,348,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

See Footnotes and Notes at the end of this Circular.

Progressive Casualty Insurance Company (NAIC #24260)
BUSINESS ADDRESS: 6300 WILSON MILLS ROAD, W33, MAYFIELD VILLAGE, OH 44143 - 2182. PHONE: (800) 776-4737. UNDERWRITING LIMITATION b/: $165,398,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company (NAIC #12416)
BUSINESS ADDRESS: 1099 North Meridian Street , Indianapolis , IN 46204. PHONE: (317) 636-9800 x-288. UNDERWRITING LIMITATION b/: $23,556,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Republic - Franklin Insurance Company (NAIC #12475)
BUSINESS ADDRESS: P. O. Box 530, Utica, NY 13503 - 0530. PHONE: (315) 734-2413. UNDERWRITING LIMITATION b/: $3,165,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

RLI Indemnity Company (NAIC #28860)
BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000 x-5550. UNDERWRITING LIMITATION b/: $3,404,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

RLI Insurance Company (NAIC #13056)
BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000 x-5550. UNDERWRITING LIMITATION b/: $65,651,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Roche Surety and Casualty Company, Inc. (NAIC #42706)
BUSINESS ADDRESS: 1910 Orient Road, Tampa, FL 33619. PHONE: (813) 623-5042. UNDERWRITING LIMITATION b/: $515,000. SURETY LICENSES c,f/: AZ, AR, DE, FL, GA, ID, IN, KS, LA, MD, MI, MN, MO, MT, NE, NV, NJ, OK, SC, SD, TN, TX, VA, WA. INCORPORATED IN: Florida.

See Footnotes and Notes at the end of this Circular.

SAFECO Insurance Company of America (NAIC #24740)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $119,787,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Safety National Casualty Corporation (NAIC #15105)
BUSINESS ADDRESS: 2043 Woodland Parkway, St. Louis, MO 63146. PHONE: (314) 995-5300 x-200. UNDERWRITING LIMITATION b/: $35,912,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Sagamore Insurance Company (NAIC #40460)
BUSINESS ADDRESS: 1099 North Meridian Street, Indianapolis, IN 46204. PHONE: (317) 636-9800 x-307. UNDERWRITING LIMITATION b/: $9,492,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, CT, DE, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MS, MO, MT, NE, NM, NY, NC, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Seaboard Surety Company (NAIC #22535)
BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $12,415,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

SECURA INSURANCE, A Mutual Company (NAIC #22543)
BUSINESS ADDRESS: P.O. Box 819 , Appleton , WI 54912 - 0819. PHONE: (920) 739-3161. UNDERWRITING LIMITATION b/: $17,930,000. SURETY LICENSES c,f/: AZ, CO, IL, IN, IA, KS, MI, MN, MO, ND, PA, WI. INCORPORATED IN: Wisconsin.

Selective Insurance Company of America (NAIC #12572)
BUSINESS ADDRESS: 40 WANTAGE AVENUE, BRANCHVILLE, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: $51,967,000. SURETY LICENSES c,f/: AL, AK, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

See Footnotes and Notes at the end of this Circular.

Seneca Insurance Company, Inc. (NAIC #10936)
BUSINESS ADDRESS: 160 Water Street, New York, NY 10038 - 4922. PHONE: (212) 344-3000. UNDERWRITING LIMITATION b/: $10,565,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company (NAIC #24988)
BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481 - 8020. PHONE: (715) 346-7527. UNDERWRITING LIMITATION b/: $231,902,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company (NAIC #21180)
BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481 - 8020. PHONE: (715) 346-7527. UNDERWRITING LIMITATION b/: $17,423,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY (NAIC #36560)
BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206 - 9729. PHONE: (800) 780-8423 x-1021. UNDERWRITING LIMITATION b/: $1,045,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Florida.

SERVICE INSURANCE COMPANY INC. (THE) (NAIC #28240)
BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731-7650. UNDERWRITING LIMITATION b/: $265,000. SURETY LICENSES c,f/: CT, DE, NJ, NY, PA. INCORPORATED IN: New Jersey.

St. Paul Fire and Marine Insurance Company (NAIC #24767)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $434,879,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

See Footnotes and Notes at the end of this Circular.

ST. PAUL GUARDIAN INSURANCE COMPANY (NAIC #24775)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $1,405,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company (NAIC #24791)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $2,513,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The) (NAIC #19070)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $100,377,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company (NAIC #18023)
BUSINESS ADDRESS: 26255 American Drive, Southfield, MI 48034. PHONE: (800) 482-2726. UNDERWRITING LIMITATION b/: $14,114,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

State Auto Property and Casualty Insurance Company (NAIC #25127)
BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464-5000 x-5017. UNDERWRITING LIMITATION b/: $47,385,000. SURETY LICENSES c,f/: AL, AZ, AR, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, UT, VA, WV, WI, WY. INCORPORATED IN: South Carolina.

State Automobile Mutual Insurance Company (NAIC #25135)
BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215 - 3976. PHONE: (614) 464-5000 x-5017. UNDERWRITING LIMITATION b/: $108,957,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

State Farm Fire and Casualty Company (NAIC #25143)
BUSINESS ADDRESS: ONE STATE FARM PLAZA, BLOOMINGTON, IL 61710. PHONE: (309) 766-6393. UNDERWRITING LIMITATION b/: $766,666,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Stonebridge Casualty Insurance Company (NAIC #10952)
BUSINESS ADDRESS: 520 Park Avenue, Baltimore, MD 21201. PHONE: (800) 527-9027. UNDERWRITING LIMITATION b/: $6,982,000. SURETY LICENSES c,f/: AL, AZ, CO, DC, GA, HI, ID, IL, IN, IA, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SD, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Ohio.

Suretec Insurance Company (NAIC #10916)
BUSINESS ADDRESS: 952 Echo Lane, Suite 450, Houston, TX 77024. PHONE: (713) 812-0800. UNDERWRITING LIMITATION b/: $2,117,000. SURETY LICENSES c,f/: CA, TX. INCORPORATED IN: Texas.

SURETY BONDING COMPANY OF AMERICA (NAIC #24047)
BUSINESS ADDRESS: P.O. Box 5111, Sioux Falls, SD 57117 - 5111. PHONE: (800) 331-6053. UNDERWRITING LIMITATION b/: $678,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY. INCORPORATED IN: South Dakota.

Surety Company of the Pacific (NAIC #12793)
BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410. PHONE: (818) 609-9232. UNDERWRITING LIMITATION b/: $429,000. SURETY LICENSES c,f/: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation (NAIC #25364)
BUSINESS ADDRESS: 175 KING STREET, ARMONK, NY 10504. PHONE: (914) 828-8000. UNDERWRITING LIMITATION b/: $258,001,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY (NAIC #20389)
BUSINESS ADDRESS: 15 Mountain View Road., P.O. Box 1615, Warren, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $420,000. SURETY LICENSES c,f/: AR, TX. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

TRANSATLANTIC REINSURANCE COMPANY (NAIC #19453)
BUSINESS ADDRESS: 80 PINE STREET, NEW YORK, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION b/: $261,800,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company (NAIC #19038)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $263,172,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America (NAIC #31194)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $85,687,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty Insurance Company of America (NAIC #19046)
BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $39,332,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company (The) (NAIC #25658)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $594,031,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Trinity Universal Insurance Company (NAIC #19887)
BUSINESS ADDRESS: P.O. BOX 655028, DALLAS, TX 75265 - 5028. PHONE: (800) 926-1887. UNDERWRITING LIMITATION b/: $115,296,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

U.S. Specialty Insurance Company (NAIC #29599)
BUSINESS ADDRESS: 13403 NORTHWEST FREEWAY, HOUSTON, TX 77040 - 6094. PHONE: (713) 744-3700. UNDERWRITING LIMITATION b/: $16,094,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DC, FL, HI, ID, IL, KS, KY, LA, MD, MI, MS, MT, NE, NV, NM, NY, ND, OK, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Texas.

Union Insurance Company (NAIC #25844)
BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306 - 1594. PHONE: (515) 278-3000. UNDERWRITING LIMITATION b/: $2,527,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, GA, ID, IL, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Nebraska.

UNITED CASUALTY AND SURETY INSURANCE COMPANY (NAIC #36226)
BUSINESS ADDRESS: 170 Milk Street, Boston, MA 02109. PHONE: (617) 542-3232 x-109. UNDERWRITING LIMITATION b/: $320,000. SURETY LICENSES c,f/: DC, FL, MA, NJ, NY, ND, PA. INCORPORATED IN: Massachusetts.

United Fire & Casualty Company (NAIC #13021)
BUSINESS ADDRESS: P. O. BOX 73909, CEDAR RAPIDS, IA 52407 - 3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: $38,314,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED FIRE & INDEMNITY COMPANY (NAIC #19496)
BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407 - 3909. PHONE: (409) 766-4600. UNDERWRITING LIMITATION b/: $993,000. SURETY LICENSES c,f/: AL, CO, IN, KY, LA, MS, MO, NM, TX. INCORPORATED IN: Texas.

United States Fidelity and Guaranty Company (NAIC #25887)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $201,060,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

See Footnotes and Notes at the end of this Circular.

United States Fire Insurance Company (NAIC #21113)
BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07962. PHONE: (973) 490-6473. UNDERWRITING LIMITATION b/: $94,518,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United States Surety Company (NAIC #10656)
BUSINESS ADDRESS: P. O. Box 5605, Timonium, MD 21094 - 5605. PHONE: (410) 453-9522. UNDERWRITING LIMITATION b/: $2,688,000. SURETY LICENSES c,f/: DE, DC, FL, GA, ME, MD, MA, NJ, NC, OH, PA, RI, SC, TN, VT, VA, WV. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY (NAIC #44423)
BUSINESS ADDRESS: P.O. BOX 2111, SAN JUAN, PR 00922 - 2111. PHONE: (787) 273-1818. UNDERWRITING LIMITATION b/: $4,500,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL INSURANCE COMPANY (NAIC #31704)
BUSINESS ADDRESS: GPO BOX 71338, SAN JUAN, PR 00936. PHONE: (787) 706-7150. UNDERWRITING LIMITATION b/: $16,698,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company (NAIC #25933)
BUSINESS ADDRESS: P.O.Box 80468 , Lincoln , NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $8,290,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY (NAIC #41181)
BUSINESS ADDRESS: 7045 COLLEGE BOULEVARD, OVERLAND PARK, KS 66211. PHONE: (913) 339-1000. UNDERWRITING LIMITATION b/: $50,581,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

See Footnotes and Notes at the end of this Circular.

Utica Mutual Insurance Company (NAIC #25976)
BUSINESS ADDRESS: POST OFFICE BOX 530, UTICA, NY 13503 - 0530. PHONE: (800) 274-1914 x-2943. UNDERWRITING LIMITATION b/: $55,827,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

VAN TOL SURETY COMPANY, INCORPORATED (NAIC #30279)
BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION b/: $362,000. SURETY LICENSES c,f/: SD. INCORPORATED IN: South Dakota.

VICTORE INSURANCE COMPANY (NAIC #28517)
BUSINESS ADDRESS: 4334 N.W. Expressway, Suite 151, Oklahoma City, OK 73116 - 1574. PHONE: (405) 767-1151. UNDERWRITING LIMITATION b/: $178,000. SURETY LICENSES c,f/: OK, TX. INCORPORATED IN: Oklahoma.

Vigilant Insurance Company (NAIC #20397)
BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615 , Warren , NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $12,109,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company (NAIC #32778)
BUSINESS ADDRESS: 1200 ARLINGTON HEIGHTS ROAD, SUITE 400, ITASCA, IL 60143. PHONE: (630) 227-4700. UNDERWRITING LIMITATION b/: $4,198,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company (NAIC #44393)
BUSINESS ADDRESS: 9450 Seward Road , Fairfield , OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $19,969,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

See Footnotes and Notes at the end of this Circular.

WEST BEND MUTUAL INSURANCE COMPANY (NAIC #15350)
BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 334-5571 x-6523. UNDERWRITING LIMITATION b/: $42,362,000. SURETY LICENSES c,f/: IL, IN, IA, MI, MN, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #21121)
BUSINESS ADDRESS: 436 WALNUT STREET, P.O. BOX 1000, Philadelphia, PA 19106. PHONE: (215) 640-4551. UNDERWRITING LIMITATION b/: $54,002,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Insurance Company (NAIC #10008)
BUSINESS ADDRESS: P.O. BOX 21030, RENO, NV 89515. PHONE: (775) 829-6650. UNDERWRITING LIMITATION b/: $1,302,000. SURETY LICENSES c,f/: AZ, CA, CO, ID, NV, NM, TX, UT. INCORPORATED IN: Nevada.

Western Surety Company (NAIC #13188)
BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117 - 5077. PHONE: (800) 331-6053. UNDERWRITING LIMITATION b/: $26,837,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company (NAIC #24112)
BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $57,988,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)
BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $14,315,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, IL, IN, IA, KY, MI, MN, ND, OH, PA, SD, TN, TX, WV, WI. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Westport Insurance Corporation (NAIC #34207)
BUSINESS ADDRESS: P.O. BOX 2991, OVERLAND PARK, KS 66202 - 1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: $27,123,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

XL Reinsurance America Inc. (NAIC #20583)
BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902 - 6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $141,076,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company (NAIC #37885)
BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902 - 6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $14,223,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Zurich American Insurance Company (NAIC #16535)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $444,663,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]

Clearwater Insurance Company (NAIC #25070)
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8024. UNDERWRITING LIMITATION b/: $60,293,000.

See Footnotes and Notes at the end of this Circular.

GE Reinsurance Corporation (NAIC #22969)
BUSINESS ADDRESS: 5200 METCALF - PO BOX 2991, OVERLAND PARK, KS 66202. PHONE: (847) 277-5437. UNDERWRITING LIMITATION b/: $104,145,000.

NATIONAL REINSURANCE CORPORATION (NAIC #34835)
BUSINESS ADDRESS: 695 East Main Street, Stamford, CT 06901 - 2141. PHONE: (203) 328-6463. UNDERWRITING LIMITATION b/: $66,863,000.

Odyssey America Reinsurance Corporation (NAIC #23680)
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8019. UNDERWRITING LIMITATION b/: $146,836,000.

Phoenix Insurance Company (The) (NAIC #25623)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $101,980,000.

PLATINUM UNDERWRITERS REINSURANCE, INC. (NAIC #10357)
BUSINESS ADDRESS: 2 WFC, Suite 2300, 225 Liberty Street, New York, NY 10281. PHONE: (212) 238-9600. UNDERWRITING LIMITATION b/: $44,721,000.

SAFECO Insurance Company of Illinois (NAIC #39012)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $17,382,000.

SAFECO National Insurance Company (NAIC #24759)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $7,888,000.

ST. PAUL PROTECTIVE INSURANCE COMPANY (NAIC #19224)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $21,647,000.

See Footnotes and Notes at the end of this Circular.

FOOTNOTES

1. AMERICAN CONTRACTORS INDEMNITY COMPANY is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY. However, business is conducted in all other covered states as AMERICAN CONTRACTORS INDEMNITY COMPANY.

2. Firemen's Insurance Company of Newark, New Jersey changed its state of incorporation from New Jersey to South Carolina, effective January 1, 2006.

3. Great River Insurance Company changed its name to Indemnity National Insurance Company effective December 27, 2005.

4. Hartford Insurance Company of the Southeast changed its state of incorporation from Florida to Connecticut, effective December 7, 2005.

5. International Fidelity Insurance Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

6. Liberty Mutual Fire Insurance Company changed its state of incorporation from Massachusetts to Wisconsin effective December 22, 2005.

7. MIDWESTERN INDEMNITY COMPANY's (THE) name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

8. National Fire Insurance Company of Hartford changed its state of incorporation from Connecticut to Illinois, effective January 1, 2006.

9. National Grange Mutual Insurance Company changed its name to NGM Insurance Company effective October 27, 2005.

Notes

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a *per bond basis*. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected* by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11).

See Footnotes and Notes at the end of this Circular.

Treasury refers to a *bond of this type as an Excess Risk.* When Excess Risks on *bonds in favor of the United States are protected by reinsurance*, such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(c) A surety company *must be licensed in the State or other area in which it provides a bond*, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec.24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be Approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state*. Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

See Footnotes and Notes at the end of this Circular.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Alabama , Montgomery 36104	(334) 269-3550
Alaska , Anchorage 99501 - 3567	(907) 269-7900
Arizona , Phoenix 85018 - 7256	(602) 364-3100
Arkansas , Little Rock 72201 - 1904	(501) 371-2600
California , Sacremento 95814	(916) 492-3500
Colorado , Denver 80202	(303) 894-7499
Connecticut , Hartford 06142 - 0816	(860) 297-3800
Delaware , Dover 19904	(302) 739-4251
District of Columbia, Washington 20002	(202) 727-8000
Florida , Tallahasse 32399 - 0300	(850) 413-2806
Georgia , Atlanta 30334	(404) 656-2056
Hawaii , Honolulu 96813	(808) 586-2790
Idaho , Boise 83720 - 0043	(208) 334-4250
Illinois , Springfield 62767 - 0001	(217) 782-4515
Indiana , Indianapolis 46204 - 2787	(317) 232-2385
Iowa , Des Moines 50319	(515) 281-5705
Kansas , Topeka 66612 - 1678	(785) 296-3071
Kentucky , Frankfort 40602 - 0517	(502) 564-6046
Louisiana , Baton Rouge 70802	(225) 342-5423
Maine , Augusta 04333 - 0034	(207) 624-8475
Maryland , Baltimore 21202 - 2272	(410) 468-2090
Massachusetts , Boston 02110	(617) 521-7301
Michigan , Lansing 48933 - 1020	(517) 373-0220
Minnesota , St. Paul 55101 - 2198	(651) 296-2488 ext. 1
Mississippi , Jackson 39201	(601) 359-3569
Missouri , Jefferson City 65102	(573) 751-4126
Montana , Helena 59601	(406) 444-2040
Nebraska , Lincoln 68508	(402) 471-2201
Nevada , Carson City 89701 - 5753	(775) 687-4270
New Hampshire , Concord 03301	(603) 271-2261
New Jersey , Trenton 08625	(609) 292-5360
New Mexico , Sante Fe 87504 - 1269	(505) 827-4601
New York , New York 10004 - 2319	(212) 480-2289
North Carolina , Raleigh 27611	(919) 733-3058
North Dakota , Bismarck 58505 - 0320	(701) 328-2440

See Footnotes and Notes at the end of this Circular.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
============================	=============
Ohio, Columbus 43215 – 1067	(614) 644-2658
Oregon , Salem 97301 - 3883	(503) 947-7980
Pennsylvania , Harrisburg 17120	(717) 783-0442
Puerto Rico , Santurce 00909	(787) 722-8686
Rhode Island , Providence 02903 - 4233	(401) 222-5466
South Carolina , Columbia 29202 - 3105	(803) 737-6212
South Dakota , Pierre 57501 - 3185	(605) 773-4104
Tennessee , Nashville 37243 - 0565	(615) 741-6007
Texas , Austin 78701	(512) 463-6464
Utah , Salt Lake City 84114 - 1201	(801) 538-3800
Vermont , Montpelier 05620 - 3101	(802) 828-3301
Virginia , Richmond 23218	(804) 371-9741
Virgin Islands , St. Thomas 00802	(340) 774-7166
Washington , Olympia 98504 - 0255	(360) 725-7100
West Virginia , Charleston 25305 - 0540	(304) 558-3354
Wisconsin , Madison 53707 - 7873	(608) 267-1233
Wyoming , Cheyenne 82002 - 0440	(307) 777-7401

See Footnotes and Notes at the end of this Circular.

[FR Doc. 06–5744 Filed 6–29–06; 8:45 am]
BILLING CODE 4810–35–C

Friday,

June 30, 2006

Part IV

Environmental Protection Agency

40 CFR Parts 122 and 412

Revised National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines for Concentrated Animal Feeding Operations in Response to Waterkeeper Decision; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 412

[EPA–HQ–OW–2005–0037; FRL–8189–7]

RIN 2040–AE80

Revised National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines for Concentrated Animal Feeding Operations in Response to Waterkeeper Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revise the National Pollutant Discharge Elimination System (NPDES) permitting requirements and Effluent Limitations Guidelines and Standards (ELGs) for concentrated animal feeding operations (CAFOs) in response to the order issued by the Second Circuit Court of Appeals in *Waterkeeper Alliance et al.* v. *EPA,* 399 F.3d 486 (2nd Cir. 2005). This proposed rule responds to the court order while furthering the statutory goal of restoring and maintaining the nation's water quality and effectively ensuring that CAFOs properly manage manure generated by their operations.

This proposal would revise several aspects of EPA's current regulations governing discharges from CAFOs. First, EPA proposes to require only the owners and operators of those CAFOs that discharge or propose to discharge to seek coverage under a permit. Second, EPA proposes to require CAFOs seeking coverage under a permit to submit their nutrient management plan (NMP) with their application for an individual permit or notice of intent to be authorized under a general permit. Permitting authorities would be required to review the plan and provide the public with an opportunity for meaningful public review and comment. Permitting authorities would also be required to incorporate terms of the NMP as NPDES permit conditions. Third, this action proposes to authorize permit writers, upon request by a CAFO, to establish best management, zero discharge effluent limitations when the facility demonstrates that it has designed an open containment system that will comply with the no discharge requirements.

This proposed rule also responds to the court's remand orders regarding water-quality based effluent limitations (WQBELs) and pathogens. EPA proposes to clarify that WQBELs are available in permits with respect to production area discharges and non-precipitation related discharges from land application, but are statutorily unavailable in permits for Large CAFOs with respect to precipitation related land application discharges because the only allowable discharge from a land application area is due to agricultural storm water which is by statute exempt from permitting requirements. Finally, EPA proposes to clarify its selection of BCT technologies for pathogens (fecal coliform), and reaffirm its decision to set the BCT limitations for fecal coliform to be equal to the BPT limits established in the 2003 CAFO rule.

DATES: Comments on this proposed action must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2005–0037 by one of the following methods:

(1) *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

(2) *E-mail: ow-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OW–2005–0037.

(3) *Mail:* Send the original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mail code 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW–2005–0037.

(4) *Hand Delivery:* Deliver your comments to: EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW–2005–0037. Such deliveries are only accepted during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2005–0037. 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 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Water Docket in the EPA Docket Center, EPA West, Room B102, 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 Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: For additional information contact Kawana Cohen, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–2345, e-mail address: *cohen.kawana@epa.gov* or Paul Shriner, Engineering and Analysis Division, Office of Science and Technology (4303T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–1076, e-mail address: *shriner.paul@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies to concentrated animal feeding operations (CAFOs) as defined in section 502(14) of the Clean Water Act and in the NPDES regulations at 40 CFR 122.23. The following table provides a list of standard industrial codes for operations covered under this revised rule.

TABLE 1.—ENTITIES POTENTIALLY REGULATED BY THIS RULE

Category	Examples of regulated entities	North American industry code (NAIC)	Standarial industrial classification code
Federal, State, and Local Government:			
Industry	Operators of animal production operations that meet the definition of a CAFO.		
	Beef cattle feedlots (including veal)	112112	0211
	Beef cattle ranching and farming	112111	0212
	Hogs	11221	0213
	Sheep	1241, 11242	0214
	General livestock except dairy and poultry	11299	0219
	Dairy farms	11212	0241
	Broilers, fryers, and roaster chickens	11232	0251
	Chicken eggs	11231	0252
	Turkey and turkey eggs	11233	0253
	Poultry hatcheries	11234	0254
	Poultry and eggs	11239	0259
	Ducks	112390	0259
	Horses and other equines	11292	0272

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated under this rulemaking, you should carefully examine the applicability criteria in 40 CFR 122.23. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

1. *Submitting Confidential Business Information.* 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.

2. *Tips for Preparing Your Comments.* It will be helpful if you follow these guidelines as you prepare your written comments:

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

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

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

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

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

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

vii. Explain your views as clearly as possible.

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

II. Background

A. The Clean Water Act

Congress passed the Federal Water Pollution Control Act (1972), also known as the Clean Water Act (CWA), to ''restore and maintain the chemical, physical, and biological integrity of the nation's waters'' (33 U.S.C. 1251(a)). Among the core provisions, the CWA establishes the NPDES permit program to authorize and regulate the discharge of pollutants from point sources to waters of the U.S. 33 U.S.C. 1342.

Section 502(14) of the CWA specifically includes CAFOs in the definition of the term ''point source.'' Section 502(12) defines the term ''discharge of a pollutant'' to mean ''*any* addition of any pollutant to navigable waters from any point source'' (emphasis added). EPA has issued comprehensive regulations that implement the NPDES program at 40 CFR Part 122. The Act also provides for the development of technology-based and water quality-based effluent limitations that are imposed through NPDES permits to control the discharge of pollutants from point sources. CWA sections 301(a) and (b).

B. History of Actions to Address CAFOs under the NPDES Permitting Program

EPA's regulation of wastewater and manure from CAFOs dates to the 1970s. EPA initially issued national effluent limitations guidelines and standards for feedlots on February 14, 1974 (39 FR 5704), and NPDES CAFO regulations on March 18, 1976 (41 FR 11458).

In February 2003, EPA issued revisions to these regulations that focused on the 5% of the nation's animal feeding operations (AFOs) that presented the highest risk of impairing water quality and public health (68 FR 7176) (''the 2003 CAFO rule''). The 2003 CAFO rule required the owners or operators of all CAFOs [1] to seek coverage under an NPDES permit. CAFO industry organizations (American Farm Bureau Federation, National Pork Producers Council, National Chicken Council, and National Turkey Federation (NTF), although NTF later withdrew its petition) and environmental groups (Waterkeeper Alliance, Natural Resources Defense Council, Sierra Club, and American Littoral Society) filed petitions for judicial review of certain aspects of the 2003 CAFO rule. This case was brought before the U.S. Court of Appeals for the Second Circuit. On February 28, 2005, the court ruled on these petitions and upheld most provisions of the 2003 rule but vacated and remanded others. *Waterkeeper Alliance et al.* v. *EPA*, 399 F.3d 486 (2nd Cir. 2005). The court's decision, which applies nationally, is described in detail below.

The revisions to the 2003 CAFO rule being proposed today relate directly to the changes required by the court's decision and continue to maintain the focus on regulating discharges from the universe of high-risk AFOs.

C. Ruling by the U.S. Court of Appeals for the Second Circuit

The Second Circuit's decision in *Waterkeeper* upheld certain challenged provisions of the 2003 rule and vacated or remanded others, as follows.

1. Issues Upheld by the Court

This section discusses provisions of the 2003 CAFO rule that were challenged by either industry or environmental petitioners, but were upheld by the *Waterkeeper* court and therefore remain unchanged. EPA is not proposing to revise any of these provisions and is not soliciting comment on them.

(a) Land Application Regulatory Framework and Interpretation of ''Agricultural Storm Water''

The *Waterkeeper* court upheld EPA's authority to regulate, through NPDES permits, the discharge of manure, litter, and process wastewater that CAFOs apply to crop or forage land. The court rejected the industry petitioners' claim that land application runoff must be channelized before it can be considered to be a point source discharge subject to permitting. The court noted that the CWA expressly defines the term ''point source'' to include ''any * * * concentrated animal feeding operation * * * from which pollutants are or may be discharged,'' and found that the Act ''not only permits, but demands'' that land application discharges be construed as discharges ''from'' a CAFO. *Waterkeeper Alliance et al.* v. *EPA*, 399 F.3d at 510.

The *Waterkeeper* court also upheld EPA's determination in the 2003 CAFO rule that precipitation-related discharges of manure, litter, or process wastewater from land application areas under the control of a CAFO qualify as ''agricultural stormwater'' only where the CAFO has applied the manure in accordance with nutrient management practices that ensure ''appropriate agricultural utilization'' of the manure, litter, and process wastewater nutrients. EPA's interpretation of the Act in this regard was reasonable, the court found, in light of Congressional intent in excluding agricultural stormwater from the meaning of the term ''point source'' and given the precedent set in an earlier Second Circuit case, *Concerned Area Residents for the Environment* v. *Southview Farm*, 34 F.3d 114 (2d Cir. 1994). *Waterkeeper Alliance et al.* v. *EPA*, 399 F.3d at 508–09.

(b) Effluent Guidelines

—Identification of best available technologies. The court rejected the environmental organizations' claim that when EPA chose the pollution control technologies on which to base effluent guidelines for CAFOs, the Agency did not meet its duty to identify the single CAFO with the best-performing technology. The court found that EPA had collected extensive data on the waste management systems at CAFOs and had considered approximately 11,000 public comments on the proposed CAFO rule, and on those bases, EPA had adequately justified its selection of ''best available technologies'' on which to base the regulations.

—Groundwater controls. The court upheld EPA's decision in the 2003 rule relating to groundwater controls. In the 2003 rule EPA stated that the Agency believed that requirements limiting the discharge of pollutants to surface water via groundwater that has a direct hydrologic connection to surface water were beyond the scope of the ELGs promulgated in the rule. The Agency also stated that nothing in the 2003 rule was to be construed to expand, diminish, or otherwise affect the jurisdiction of the CWA over discharges to surface water via groundwater that has a direct hydrologic connection to surface water.

—Economic methodologies. The court upheld the analytic methodologies that EPA used for determining whether the technology-based permit requirements for CAFOs set in the 2003 rule would be economically achievable by the industry as a whole.

2. Issues Vacated by the Court

The following are the elements of the 2003 rule that the *Waterkeeper* court found to be unlawful and therefore vacated.

(a) Duty to Apply

The CAFO industry organizations argued that the EPA exceeded its statutory authority by requiring all CAFOs to either apply for NPDES permits or demonstrate that they have no potential to discharge. The court agreed with the CAFO industry petitioners on this issue and therefore vacated the ''duty to apply'' provision of the 2003 CAFO rule.

The court found that the duty to apply, which the Agency had based on a presumption that most CAFOs have at least a potential to discharge, was invalid, because the CWA subjects only actual discharges to permitting

[1] The Clean Water Act regulates the conduct of persons, which includes the owners and operators of CAFOs, rather than the facilities or their discharges. To improve readability in this preamble, reference is made to ''CAFOs'' as well as ''owners and operators of CAFOs.'' No change in meaning is intended.

requirements rather than potential discharges. The court acknowledged EPA's policy considerations for seeking to impose a duty to apply but found that the Agency lacked statutory authority to do so.

(b) Nutrient Management Plans

The environmental organizations argued that the 2003 CAFO rule was unlawful because: (1) The rule empowered permitting authorities to issue permits without any meaningful review of a CAFO's NMP, (2) the rule failed to require that the terms of the nutrient management plan be included in the NPDES permit, and (3) the permitting approach established by the rule violated the Clean Water Act's public participation requirements. The court agreed with the environmental petitioners on these three issues.

The court relied on provisions of the Act that authorize point source discharges only where NPDES permits ''ensure that every discharge of pollutants will comply with all applicable effluent limitations and standards,'' citing CWA sections 402(a)(1), (a)(2), and (b). Because the 2003 CAFO rule did not provide for permitting authority review of a CAFO's nutrient management plan before the permit was issued, the court found that the rule did not ensure that each Large CAFO's discharges comply with these CWA provisions. In addition, the court found that by not making the NMPs part of the permit and available to the public for review, the 2003 CAFO rule violated public participation requirements in sections 101(e) and 402 of the Act. The court also found that the terms of the NMPs themselves are ''effluent limitations'' as that term is defined in the Act and therefore must be made part of the permit and enforceable as required under CWA sections 301 and 402.

3. Issues Remanded by the Court

The *Waterkeeper* court also remanded other aspects of the CAFO rule to EPA ''for further clarification and analysis,'' as follows:

(a) Water Quality-Based Effluent Limits

The court agreed with EPA that agricultural stormwater is excluded from the meaning of the term ''point source'' and therefore is not subject to water quality-based effluent limitations in permits. However, the court directed EPA to ''clarify the statutory and evidentiary basis for failing to promulgate water quality-based effluent limitations for discharges other than agricultural stormwater discharges as that term is defined in 40 CFR 122.23(e),'' and to ''clarify whether States may develop water quality-based effluent limitations on their own.''

(b) New Source Performance Standards—100-Year Storm Standard

The 2003 CAFO rule set the new source performance standards (NSPS) for swine, poultry, and veal CAFOs at a level of zero discharge. A CAFO in these categories could fulfill this requirement by showing that either (1) its production area was designed to contain all manure, litter, process wastewater, and precipitation from the 100-year, 24-hour storm, or (2) it would comply with ''voluntary superior environmental performance standards'' based on innovative technologies, under which a discharge from the production area would be allowed if it was accompanied by an equivalent or greater reduction in the quantity of pollutants released to other media (*e.g.*, air emissions). The court found that EPA had neither justified in the record nor provided an adequate opportunity for public comment with respect to either of these provisions. As a result, the court remanded these provisions to EPA to clarify, via a process that adequately involves the public, the statutory and evidentiary basis for them.

(c) BCT Effluent Guidelines for Pathogens

The court held that the 2003 CAFO rule violated the CWA because EPA had not made an affirmative finding that the BCT-based Effluent Limitations Guidelines (ELGs)—*i.e.*, the ''best conventional technology'' guidelines for conventional pollutants such as fecal coliform—do in fact represent BCT technology. The court remanded this issue to EPA to make such a finding based on the BAT/BPT technologies EPA studied or to establish specific BCT limitations for pathogens based on some other technology.

D. What Requirements Still Apply to CAFOs?

The *Waterkeeper* decision either upheld or did not address most provisions of the 2003 CAFO rule. This section describes certain key portions of the rule that were not challenged in *Waterkeeper*. These unchallenged provisions are not addressed in or affected by today's proposal, except to provide background information. EPA has not reconsidered its initial decision regarding these provisions and is not soliciting comment on them.

The definitions provided in 40 CFR 122.23(b) of the 2003 CAFO rule remain in effect and are unchanged. First, an operation must be defined as an animal feeding operation (AFO) before it can be defined as a concentrated animal feeding operation (CAFO). 40 CFR 122.23. The term ''animal feeding operation'' is defined by EPA regulation as a ''lot or facility'' where animals ''have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period and crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility.''

Whether an AFO is a CAFO depends primarily on the number of animals confined, which is also unchanged. Large CAFOs are AFOs that confine more than the threshold number of animals detailed in 40 CFR 122.23(b)(4). Medium CAFOs confine fewer animals than Large CAFOs and also: (1) Discharge pollutants into waters of the U.S. through a man-made ditch, flushing system, or other similar man-made device; or (2) discharge pollutants directly into waters of the U.S. which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the confined animals. 40 CFR 122.23(b)(6)(ii). The NPDES permitting authority also may, on a case-by-case basis, designate any AFO, including small AFOs, as a CAFO after conducting an on-site inspection and finding that the facility ''is a significant contributor of pollutants to waters of the United States.'' 40 CFR 122.23(c). The permitting authority may not exercise its authority to designate a Small CAFO unless pollutants are discharged into waters of the U.S. through a man-made ditch, flushing system, or other similar man-made device, or are discharged directly into waters of the U.S. which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation. 40 CFR 122.23(c)(3).

Although the *Waterkeeper* decision invalidated the duty to apply provision promulgated in the CAFO regulations at 40 CFR 122.23(d), there remains in the NPDES regulations a different duty to apply provision, at 40 CFR 122.21(a), that applies to point sources in general, including CAFOs. While the CAFO provision in § 122.23(d) would have required all CAFOs to apply for a permit, § 122.21(a) requires only a person who ''discharges or proposes to discharge pollutants'' to apply. The *Waterkeeper* decision did not invalidate § 122.21(a), nor is this provision's continued application to CAFOs inconsistent with the decision in *Waterkeeper*. Therefore, under § 122.21(a), CAFOs currently are required to apply for an NPDES permit if they discharge or propose to discharge pollutants other than agricultural stormwater, which is not a point source discharge.

It should also be noted that the definitions of both ''Medium CAFO'' and ''Small CAFO'' in the regulations include only those facilities that have an actual discharge. Thus, under § 122.21(a), all Medium and Small CAFOs must apply for a permit.

Nutrient management planning requirements for permitted CAFOs established in the 2003 CAFO rule also were unaffected by the court's ruling. All permitted CAFOs must develop and implement an NMP that meets the requirements of 40 CFR 122.42(e) and, for Large CAFOs subject to 40 CFR Part 412, subpart C or D, 40 CFR 412.4. The NMP identifies the necessary actions to ensure that runoff is eliminated or minimized through proper and effective manure, litter, and wastewater management, including compliance with the ELGs. Permitted CAFOs must comply with all applicable recordkeeping and reporting requirements, including those specified in 40 CFR 122.42(e).

ELG requirements for existing Large CAFOs also are unaffected by the court decision, with the exception of changes to the NMP compliance dates and BCT. ELG requirements ensure the appropriate storage of manure, litter, and process wastewater and proper land application practices. They vary depending upon the types of animals confined: Subpart A for horses and sheep; Subpart B for ducks; Subpart C for dairy cattle, heifers, steers, and bulls; and Subpart D for swine, poultry, and veal calves. (40 CFR Part 412). Additionally, New Source requirements for beef and dairy operations remain unchanged (40 CFR 412.35).

Permitted small and medium CAFOs are not subject to the ELGs specified in part 412. Rather, they must comply with technology-based requirements developed by the permitting authority on a case-by-case basis (*i.e.*, Best Professional Judgment (BPJ)).

E. Status of EPA's Response to the Waterkeeper Decision

In addition to the changes made through this proposed rule, EPA extended certain deadlines in the NPDES permitting requirements and ELGs in a separate rulemaking in order to allow the Agency adequate time to complete this rulemaking in response to *the Waterkeeper* decision in advance of those deadlines. (71 FR 6978). That rule revised dates established in the 2003 CAFO rule by which facilities newly defined as CAFOs were required to seek permit coverage and by which all CAFOs were required to have nutrient management plans developed and implemented. EPA extended the date by which operations defined as CAFOs as of April 14, 2003, who were not defined as CAFOs prior to that date, must seek NPDES permit coverage, from February 13, 2006, to July 31, 2007. EPA also amended the date by which operations that become defined as CAFOs after April 14, 2003, due to operational changes that would not have made them a CAFO prior to April 14, 2003, and that are not new sources, must seek NPDES permit coverage, from April 13, 2006, to July 31, 2007. Finally, EPA extended the deadline by which CAFOs are required to develop and implement nutrient management plans, from December 31, 2006, to July 31, 2007. That rulemaking revised all references to the date by which NMPs must be developed and implemented as specified in the 2003 CAFO rule.

III. This Proposal

This proposed rule is in response to the Second Circuit Court's vacature and remand orders. EPA intends to make only those changes necessary to address the court's decision.

A. Duty To Apply for a Permit

1. Provisions in the 2003 CAFO Rule

(a) Duty To Apply

The 2003 CAFO rule required all CAFOs to seek coverage under an NPDES permit unless the Director determined that the CAFO has no potential to discharge. The breadth of this duty to apply was based on EPA's presumption that most CAFOs have a potential to discharge pollutants into waters of the United States. Therefore, all CAFOs were required to apply for a permit, except where the Director determined a CAFO had no potential to discharge.

(b) ''No Potential To Discharge'' Determination

The 2003 CAFO rule included a process for CAFOs to seek a ''no potential to discharge'' determination by the Director. Where the Director determined, based on information supplied by the CAFO operator, that a CAFO had no potential to discharge manure, litter, or process wastewater, the CAFO operator had no duty to apply for a permit, unless circumstances at the facility changed such that the facility would have the potential to discharge. Examples of facilities that possibly would have qualified for this exemption included facilities in very arid areas, facilities that are downslope from waters of the United States, and facilities with completely enclosed operations.

2. Summary of the Second Circuit Court Decision

The Second Circuit Court of Appeals vacated the provision that required all CAFO owners or operators to apply for an NPDES permit. The court held that the Clean Water Act authorizes EPA to require permits for the actual discharge of pollutants, but not for mere potential discharges. Because the 2003 CAFO rule imposed an obligation on all CAFOs to either apply for an NPDES permit or affirmatively demonstrate that they have no potential to discharge, the court ruled that it exceeded EPA's authority under the Clean Water Act.

3. This Proposal

To address the court's decision on the duty to apply, EPA is proposing changes to the 2003 CAFO rule in two areas:

- Revising the requirement that all CAFOs apply for an NPDES permit; and
- Eliminating the procedures for a no potential to discharge determination.

EPA also seeks to clarify how unpermitted CAFOs may meet the agricultural stormwater exemption when they land apply manure, litter, or process wastewater.

(a) Requirement That All CAFOs With a Discharge Seek Permit Coverage

EPA is proposing to delete the ''duty to apply'' requirement adopted in the 2003 rule, which states that all CAFO owners or operators must seek coverage under an NPDES permit (40 CFR 122.21(a)(1) and 40 CFR 122.23(a) and (d)(1)).

Today's proposed rule would replace the ''duty to apply'' requirement of the 2003 rule with a requirement that all CAFOs that ''discharge or propose to discharge'' must seek coverage under an NPDES permit. This proposed change would address the *Waterkeeper* court's ruling and would hold CAFO owners and operators to the same ''duty to apply'' requirement as already exists for point sources under 40 CFR 122.21(a)(1).

The result of this proposed revision is that only owners and operators of those CAFOs that discharge or propose to discharge would be required to seek coverage under an NPDES permit. This revised duty to apply applies to all owners and operators that discharge or propose to discharge, regardless of the volume or duration of the discharge except for discharges of agricultural stormwater (*see* below). A facility may seek permit coverage in one of two ways, by submitting an application for an individual permit or by submitting a notice of intent to be covered by a general permit that has been issued by the permitting authority. Generally, under this proposal, it would be the CAFO's responsibility to decide whether or not to seek permit coverage based on whether they discharge or propose to discharge. This is how the NPDES program operates for other point sources. Any CAFO that discharged or proposed to discharge and failed to obtain an NPDES permit would be in violation of the NPDES regulatory requirement to seek coverage under an NPDES permit. A facility with an actual discharge would also be in violation of the CWA prohibition against discharging without an NPDES permit (33 U.S.C. 1311(a)).

Any discharge from a CAFO, even one that is unplanned or accidental, is illegal unless it is authorized by the terms of a permit. Many CAFOs have conditions that may result in a discharge. For example, manure structures that are improperly designed or, for other reasons, have insufficient capacity (*e.g.*, due to facility expansion) may discharge. In addition, discharges can occur from a properly designed containment structure that is improperly operated and maintained or as a result of precipitation that exceeds the operating capacity of the structure. In the absence of an actual discharge or proposed discharge, CAFOs with such conditions are not required under the terms of today's proposed rule to obtain an NPDES permit. However, the owner or operator of a CAFO that fails to obtain an NPDES permit and has a discharge is subject to State or federal enforcement, as well as liability from citizen suits under CWA Section 505(a).

Because discharges are prohibited from unpermitted CAFOs, NPDES permit coverage reduces CAFO operator risk and provides certainty to CAFO operators regarding activities and actions that are necessary to comply with the Clean Water Act. Compliance with the permit is deemed compliance with the CWA and thus acts as a shield against EPA enforcement or citizen suits under CWA Section 402(k). Furthermore, under the 2003 rule, most CAFO NPDES permits will incorporate ELG provisions that allow for discharge when precipitation causes an overflow from a structure that is properly designed, constructed, operated, and maintained, in accordance with the applicable design standards. Finally, upset provisions can protect permittees from legal liability when emergencies or natural disasters cause discharges beyond the permittee's reasonable control, as provided in § 122.41(n). This protection is not available to unpermitted CAFOs.

There are many factors a CAFO owner or operator should consider in determining whether to seek permit coverage. For example, if the CAFO is in a flood plain, subject to high annual precipitation, or subject to lengthy rainy seasons, it is likely to have a discharge if the CAFO drains to a water of the United States. Other factors likely to result in a discharge include runoff from open feed bunkers, field storage, or other stockpiles exposed to precipitation; lagoons that are not sufficiently pumped down for the upcoming winter season; holding of process wastewater for summer irrigation that precludes adequate capacity for chronic rainfalls; and inadequate containment due to unavailability of land for manure, litter, or process wastewater application due to timing constraints associated with, for example, saturated ground or imminent rain. In addition, a discharge may occur from land application due to improper maintenance or operation of manure handling equipment that may lead to spills, and application of manure, litter or process wastewater to land in such a way that it does not qualify for the agricultural stormwater exemption (see below).

EPA recognizes that some CAFOs have a higher likelihood of actually discharging due to certain geographic and physiographic conditions. In order to guide CAFOs in making a decision on whether or not to seek permit coverage, EPA suggests that Large CAFOs falling into one or more of these categories should consider seeking permit coverage (this list is not intended to be exhaustive):

1. Where a CAFO is located in close proximity to waters of the United States with land classified in USDA Land Use Capability Classes III through VIII [2];

2. Where the CAFO's production area is not designed and operated for zero discharge, including where the containment structure is not designed or maintained to contain all manure, litter, process wastewater, precipitation and runoff that may accumulate during periods when the facility is unable to land apply in accordance with a nutrient management plan;

3. Where a CAFO that land applies does not have or is not implementing nutrient management planning that is designed to ensure that any land application runoff qualifies for the agricultural stormwater exemption; and

4. Where the CAFO has had a discharge in the past and has not corrected the factors that caused the discharge to occur.

EPA seeks comment on the completeness and accuracy of the above list of situations where a discharge may occur to further assist CAFOs in their decisions regarding whether or not to seek permit coverage.

EPA also solicits comment on its proposal to replace the duty to apply provision promulgated in the 2003 CAFO rule with the narrower duty to apply provision described above.

(b) ''No Potential to Discharge'' Determination

EPA is proposing to delete the regulatory provisions adopted in the 2003 CAFO rule allowing CAFOs to demonstrate that they have no potential to discharge and authorizing the Director to make such a determination. 40 CFR 122.23(d)(2) and 122.23(f). Such a designation would be irrelevant because the proposed rule requires only those CAFOs that discharge or propose to discharge to seek coverage under a permit.

(c) Agricultural Storm Water

The discharge of manure, litter, or process wastewater from a land application area under the control of a CAFO is a discharge subject to NPDES permit requirements, unless the discharge is agricultural stormwater, which is excluded from the meaning of the term ''point source'' under 33 U.S.C. 1362(14).

As described in the preamble to the 2003 rule, EPA recognized that manure, litter, or process wastewater applied in accordance with practices designed to

[2] Land capability classification is a system of grouping soils primarily on the basis of their capability to produce common cultivated crops and pasture plants without deteriorating over a long period of time. Soil survey map units contained in United States Department of Agriculture (USDA) soil surveys typically are assigned a land capability classification. The eight classes are defined as follows: Class 1 soils have slight limitations that restrict their use; Class 2 soils have moderate limitations that reduce the choice of plants or require moderate conservation practices; Class 3 soils have severe limitations that reduce the choice of plants or require special conservation practices, or both; Class 4 soils have very severe limitations that restrict the choice of plants or require very careful management, or both; Class 5 soils have little or no hazard of erosion but have other limitations, impractical to remove, that limit their use mainly to pasture, range, forestland, or wildlife food and cover; Class 6 soils have severe limitations that make them generally unsuited to cultivation and that limit their use mainly to pasture, range, forestland, or wildlife food and cover; Class 7 soils have very severe limitations that make them unsuited to cultivation and that restrict their use mainly to grazing, forestland, or wildlife; and Class 8 soils and miscellaneous areas (areas dominated by disturbed soil) have limitations that preclude their use for plant production and limit their use to recreation, wildlife, or water supply or for esthetic purposes.

ensure appropriate agricultural utilization of nutrients fulfills an important agricultural purpose, namely the fertilization of crops, while reducing the potential for a subsequent discharge of pollutants to waters of the U.S. However, EPA also recognized that some runoff may occur during rainfall events even when a CAFO applies manure, litter, or process wastewater in accordance with practices designed to ensure appropriate agricultural utilization of nutrients. EPA believed that the potential for runoff and water quality impairments would be minimized where a CAFO implemented a site-specific NMP in conformance with 40 CFR 122.42(e)(1)(vi)–(ix) and, for Large CAFOs, the additional management practices required in 40 CFR 412.4(c).

In the 2003 rule, EPA promulgated a definition of agricultural stormwater that included compliance with 40 CFR 122.42(e)(1)(vi–ix). The referenced regulatory text includes requirements for edge-of-field buffers, testing of manure and soil, land application at agronomic rates, and record keeping. While not explicitly included in the definition, Large CAFOs were also required under the effluent guidelines to comply with technical standards established by the Director, in accordance with 40 CFR 412.4(c). These more specific limitations implemented the general requirements at 40 CFR 122.42(e)(1)(vi–ix), and because all CAFOs with a potential to discharge were required to obtain permits, virtually all Large CAFOs were required to comply with them.

Under today's proposed rulemaking, Large CAFOs that have only agricultural stormwater discharges from their land application area, and no other discharges or proposed discharges from their production or land application areas, would no longer be required to seek permit coverage. (See 40 CFR 122.23(e).) However, precipitation-related discharges from CAFO land application areas would be considered agricultural stormwater only where the CAFO land applies in accordance with nutrient management practices that meet the requirements of 40 CFR 122.42(e)(1)(vi)–(ix). EPA believes that, in order for the owner or operator of a CAFO to qualify for the statutory agricultural stormwater exemption, manure, litter, and process wastewater must be applied in compliance with technical standards that are, in significant part, intended to ensure the appropriate agricultural utilization of the nutrients contained in the manure, litter, and process wastewater.

The Second Circuit upheld EPA's definition of agricultural stormwater, and EPA is not proposing to change the definition at this time, or requesting comment on such a change. However, EPA is considering requiring explicitly that Large CAFOs that are not permitted because they do not discharge or propose to discharge comply with the technical standards for land application established by the Director (in addition to meeting the requirements of 40 CFR 122.42(e)(1)(vi–ix)) in order for runoff from their fields to be considered agricultural stormwater (which is exempt from permitting requirements). Even if EPA does not adopt this requirement explicitly, EPA believes that unpermitted Large CAFOs should incorporate the technical standards established by the Director into their NMPs. EPA also recommends that small or medium AFOs use nutrient management practices consistent with 40 CFR 122.42(e)(1)(vi–ix) and comply with the applicable technical standards in their land application of manure, litter, or process wastewater. EPA requests comment on this issue.

Unpermitted CAFOs that land apply manure, litter, or process wastewater must document that they are land applying in accordance with the requirements described above in order to qualify for the statutory exclusion for agricultural stormwater. (See 40 CFR 122.42(e)(1)(ix).) The documentation required includes both the nutrient planning and the additional recordkeeping necessary to demonstrate that the CAFO properly land applied manure, litter, or process wastewater in accordance with 40 CFR 122.42(e)(1)(vi)–(ix), including the technical standards used to translate these requirements into specific land application rates and practices. EPA believes that an appropriate approach to planning and documenting such practices is by preparing a comprehensive nutrient management plan in accordance with guidance provided by USDA and the appropriate technical standards. Whatever form the documentation takes, it must be maintained on site. This documentation is crucial in determining whether the CAFO is land applying manure, litter, or process wastewater in a manner that ensures the appropriate agricultural utilization of nutrients and, as a result, is not illegally discharging pollutants from land application areas.

B. Nutrient Management Plans

1. Provisions in the 2003 CAFO Rule Affected by the Court Decision

(a) Requirement to Develop and Implement a Nutrient Management Plan

Under the 2003 CAFO rule, NPDES permits for all CAFOs must include a requirement for the permittee to develop and implement a nutrient management plan. At a minimum, the NMP must include BMPs and procedures necessary to achieve effluent limitations and standards. The plan must, to the extent applicable, include the minimum elements established at 40 CFR 122.42(e)(1)(i)–(ix). For Large CAFOs in the cattle, swine, poultry, and veal subcategories, the NMP must also meet the more detailed requirements in the Part 412 effluent limitations guidelines. For Small and Medium CAFOs, or other operations not otherwise subject to Part 412 requirements for land application, the required elements of a nutrient management plan would be further specified in the permit based on the best professional judgment (BPJ) of the permitting authority. The Second Circuit's decision did not affect these provisions and EPA is not revisiting them or soliciting comments.

(b) Due Dates for Developing and Implementing Nutrient Management Plans

The 2003 CAFO rule required all CAFOs to develop and implement an NMP by December 31, 2006, except that CAFOs seeking to obtain coverage under a permit subsequent to that date were required to have an NMP developed and implemented upon the date of permit coverage. This timing was consistent with the dates for the implementation of the ELG, which required existing Large CAFOs to implement the land application requirements at 40 CFR 412.4(c) by December 31, 2006. (Following the court decision these dates were extended to July 31, 2007, to give EPA time to complete the current rulemaking (*see* Section II.E).)

As discussed in the preamble to the 2003 CAFO rule, EPA believed that these dates were reasonable given that operations would have had three and a half years from the time the 2003 rule was issued to conduct the necessary planning and construction to implement an NMP. For Large CAFOs that are new sources (*i.e.*, those commencing construction after the effective date of the 2003 CAFO rule), the land application requirements at 40 CFR 412.4(c) apply immediately.

EPA concluded that this timeframe also allowed States to update their

NPDES programs and issue permits to reflect the NMP requirements of the 2003 CAFO rule and provided flexibility for permit authorities to establish permit schedules based on specific circumstances, including prioritization of nutrient management plan development and implementation based on site-specific water quality risks and the availability of technical expertise for development of NMPs.

2. Summary of the Second Circuit Court of Appeals Decision on Nutrient Management Plans

As previously discussed, the Second Circuit Court of Appeals found that the terms of the NMPs were effluent limitations and vacated the 2003 CAFO rule insofar as the rule allowed permitting authorities to issue NPDES permits to CAFOs without: reviewing the terms of the nutrient management plans, providing for adequate public participation in the development, revision, and enforcement of the nutrient management plans, and including the terms of the nutrient management plan in the permit.

The decision did not affect the required contents of nutrient management plans established at 40 CFR 122.42(e)(1) and 40 CFR 412.4(c)(1) in the 2003 CAFO rule.

The Second Circuit court decision did not vacate any NPDES permits issued pursuant to the 2003 CAFO rule. Therefore, such permits already issued to CAFOs by States or EPA prior to June 27, 2005 (the effective date of the court's decision), are not directly affected by the court decision and the nutrient management plan requirements in those permits remain in effect until and unless the permits are modified, revoked and reissued, or terminated in accordance with State regulations.

3. This Proposal

To address the court's decision, EPA is proposing regulatory revisions to the 2003 CAFO rule and other provisions of the NPDES regulations to provide for:

- Receipt and review of the nutrient management plan by the permitting authority prior to issuing an individual permit or granting coverage under a general permit;
- Procedures to provide opportunity for adequate public participation prior to issuing an individual permit or granting coverage under a general permit; and
- Incorporation of the terms of the nutrient management plan into the NPDES permit.

In proposing these revisions, EPA has devoted particular attention to the process for issuance of general permits, because most CAFOs are expected to be covered by general permits and, for those that will be permitted under individual permits, the individual permitting process already allows for review of NMPs by the permitting authority, public review of an NMP as part of the individual permit application process, and incorporation of the terms of the NMP into the individual permit consistent with the CWA. Further, EPA proposes a process to address changes to the NMP once permit coverage is granted, for both individual and general permits. To effectuate these changes, EPA is proposing regulatory revisions to 40 CFR 122.21, 122.23, 122.28, 122.42, 122.62, and 122.63. In addition, in a separate rulemaking EPA extended the deadlines set in the 2003 CAFO rule for NMP development and implementation, as well as for newly defined CAFOs to seek permit coverage. (71 FR 6978.)

The preamble discussion that follows is divided into six sections to separately address each of the following issues:

- CAFO permit application and notice of intent requirements;
- Procedures for permitting authority review;
- Procedures for public review and comment;
- Incorporation of nutrient management plan terms in NPDES permits;
- Changes to nutrient management plans; and
- Required dates to seek coverage under a permit and submit an NMP.

(a) CAFO Permit Application or Notice of Intent Requirements for Nutrient Management Plans

In order to satisfy the court's requirements that the terms of a nutrient management plan must be publicly reviewed and incorporated into the permit, EPA is proposing to revise 40 CFR 122.21(i)(1)(x) to require the applicant to submit, as part of its permit application or notice of intent (NOI), a nutrient management plan developed in accordance with the provisions of 40 CFR 122.42(e)(1) and 40 CFR 412.4(c)(1), as applicable. Although this proposed change would be codified in the section of the regulations applicable to individual permit applications (40 CFR 122.21(i)(1)), it would also apply to notices of intent to be covered by a general permit, because 40 CFR 122.28(b)(2)(ii), the regulation governing notices of intent for general permits, incorporates the requirements of 40 CFR 122.21(i)(1) by reference. EPA Application Form 2B will also be revised to reflect these changes. The revised form is provided as Appendix A to this notice.

This approach is consistent with the decision of the Second Circuit Court of Appeals, which left undisturbed the basic substantive requirements for nutrient management plans in the 2003 CAFO rule. The proposed revisions would not change the required contents of the NMP, but would now require CAFOs to submit the plan with the application or the notice of intent rather than only at the request of the Director. The permitting authority would then make the nutrient management plan available for review prior to developing an individual permit or providing coverage under an NPDES general permit.

(b) Procedures for Permitting Authority Review

Once the permitting authority receives an application or an NOI from a CAFO seeking permit coverage, it would be the responsibility of the permitting authority to review the application or NOI to ensure that the nutrient management plan meets the requirements of 40 CFR 122.42(e)(1) and, for Large CAFOs, the applicable requirements of 40 CFR 412.4(c). As part of that process, the Director would review the NMP for completeness and sufficiency. EPA believes that this review process responds to the *Waterkeeper* decision by providing for permitting authority review of the NMP.

For individual permits, the NMP would be submitted and reviewed as part of the permit application. The decision-making procedures in 40 CFR Part 124 continue to apply to the Director's review of the application, which now would include the NMP. Part 124 requires review of the completeness and sufficiency of the permit, includes an opportunity for the CAFO to modify the plan or provide additional information to the permitting authority, and provides for a final decision by the Director after an opportunity for public comment and a public hearing.

While the review process for NMPs in individual permits is already established in existing NPDES regulations, there are gaps in the requirements for general permitting of CAFOs that EPA proposes to fill in order to address the Second Circuit Court decision. Specifically, EPA is proposing new regulatory provisions to establish permitting authority review of NMPs for CAFO general permits. These procedures are in the proposed new Paragraph (d) to be added to 40 CFR 122.28.

Proposed 40 CFR 122.28(d) would require the Director to review the NMP submitted with the NOI and to take appropriate steps to ensure that the NMP meets the requirements of the regulations. If upon review the permitting authority determines that additional information is necessary to complete the notice of intent or clarify, modify, or supplement previously submitted material, the Director would notify the CAFO owner or operator and request the appropriate information be provided. When the NOI is complete the permitting authority would notify the public of its receipt and of the terms of the nutrient management plan proposed to be incorporated into the existing general permit as terms and conditions applicable to that CAFO. Following an opportunity for public comment and public hearing, the permitting authority would decide whether to authorize coverage under the general permit and incorporate the terms of the NMP into the general permit for that CAFO.

EPA is considering the use of a template which could be used as a voluntary tool to facilitate completion of the NMP by CAFO applicants, as well as to facilitate review by the permitting authority. Such a template would help to systematically organize the information necessary to satisfy the NMP requirements in the regulation. The template could, for example, be used as a form, that when completed by the operator, and approved by the permitting authority, could suffice as the NMP itself. Alternatively, it could also be used as a checklist that the operator and/or permitting authority could use to organize the information in the NMP and to assist in assessing its adequacy (*see* Section III.B.3.d, below). It would be up to the permitting authority's discretion as to how to incorporate the terms of the NMP into the permit and permitting authorities might need to tailor any template to their permit process and technical requirements, including the technical standards established by the Director.

EPA has developed a draft template for public review that is intended to be user friendly. It follows the requirements for an NMP identified in 40 CFR 122.42(e) relating to: manure storage; management of animal mortalities; diversion of clean water; prevention of direct contact of animals with waters of the US; chemical handling; site-specific conservation practices; protocols for testing manure, litter, process wastewater and soil; protocols for land application; and recordkeeping. This draft template is in the public record for this rulemaking at *www.regulations.gov* under docket # EPA–HQ–OW–2005–0037 and is also available on the EPA Web site at *www.epa.gov.* EPA is interested in receiving feedback on the form and content of the template.

(c) Procedures for Public Participation Prior to Permit Coverage

As noted above, the regulatory procedures for public participation in the issuance of individual permits are already established. (*See* generally, 40 CFR Part 124.) Because the NMP would be part of the individual permit application, it would be subject to existing regulations requiring public participation, including the requirement for public notice (40 CFR 124.10) and the opportunity for the public to provide comments and request a public hearing (40 CFR 124.11). Because of the proposed regulatory change requiring nutrient management plans to be submitted with the permit application (*see* discussion at II.B.3.i.; 40 CFR 122.21 and 122.28), the public would have access to the nutrient management plan prior to permit issuance and would also have full opportunity to comment on the adequacy of the plan and on the nutrient management terms and conditions of the draft NPDES permit developed for the specific CAFO facility. EPA believes that this process responds to the court's decision.

The general permit issuance process differs from the individual permitting process discussed above in the way in which a permit is developed and the means by which individual facilities obtain coverage under the permit. A general permit is developed by the permitting authority to cover multiple facilities without the need to receive individual permit applications from facilities in advance of the development of the permit. Once the draft general permit is developed, the public (including potential future permittees) is provided the opportunity to review the permit, submit comments, and request a hearing. After considering any comments submitted, the permitting authority then finalizes the general permit. Once the final general permit is issued, facilities may submit a notice of intent (NOI) seeking coverage under the permit. Typically, the permitting authority then grants coverage, without the need for further public notice and comment, or requires the facility to seek coverage under an individual permit.

Following the *Waterkeeper* decision, general permits for CAFOs must be modified, once issued, to include the terms of an NMP applicable to a specific CAFO. Moreover, *Waterkeeper* requires that the public have an opportunity to comment on the incorporation of NMP requirements into the permit. Thus, a second round of public notice and comment is necessary when providing coverage for CAFOs under a general permit. There is no provision in the existing regulations that explicitly addresses incorporation of site-specific requirements into a general permit when a CAFO seeks coverage or any additional public process for such incorporation.

Today, in proposed 40 CFR 122.28(d), EPA proposes to establish new procedures applicable to the general permitting process that would allow the incorporation of the site-specific NMPs into CAFO general permits and provide an opportunity for public review of a CAFO's NOI (including the entire NMP) before the CAFO receives coverage under a general permit. The proposed procedures would also allow the public to review and comment on those terms of the nutrient management plan to be incorporated into the permit, and to request a public hearing before a CAFO receives coverage under a general permit. The discussion that follows describes the process for public participation that EPA is proposing. Further discussion of incorporation of the terms of the NMP into the general permit is provided below in section III.B.3.d of this preamble.

The proposed § 122.28(d) would provide specific procedures for public participation. The proposed rule would require that, for each facility submitting a completed NOI, the permitting authority must notify the public of the following: (1) That it has received a complete NOI; (2) that the permitting authority is proposing to allow coverage under the general permit; and (3) that the nutrient management plan is available for public review, along with the terms of the nutrient management plan proposed to be incorporated into the permit by the permitting authority.

Today's proposed rule would allow the permitting authority discretion as to how best to provide such public notification in the general permit context. For example, public notification could be provided on the permitting authority's web page or through other electronic means. Another alternative would be to use the notice or fact sheet for the general permit to establish a procedure allowing any person to request notice by mail or electronically of the receipt of an NOI, the permitting authority's proposed action, and the terms of the nutrient management plan proposed to be incorporated into the permit. EPA believes that these are appropriate ways to balance the competing concerns of providing adequate notification to the public, providing flexibility to the permitting authority, and ensuring the practicality of general permits. The permitting authority should describe the process to be used to give the public notice of and comment opportunities on site-specific NMPs in the draft and final general permit to ensure meaningful public participation. EPA solicits comment on the methodology for providing public notice.

Under today's proposal, the Director would also have discretion to establish an appropriate period of time for public review of the NOI and proposed permit conditions incorporating the terms of the NMP into the permit. For example, the Director might establish a period of 30 days, depending upon a variety of factors. Factors to consider might include the number of NOIs being publicly noticed at any one time, the complexity of the material made available for public review, expected level of public interest based on prior notices of CAFOs seeking coverage, the relative availability of NOIs to the public (e.g., on the internet), the opportunity for the public to extend the comment period for one or more facilities, and whether individuals can request and receive individual notification of CAFOs seeking coverage in a timely fashion. Because this proposal would not mandate a 30-day public notice period as currently required in 40 CFR 124.10, EPA would require that the Director establish a time frame for public review by regulation or propose the time frame for public notice in the draft general permit and include it as a provision in the final permit. This would allow the public and other interested parties an opportunity to comment on the sufficiency of the time allotted for public notice. EPA solicits comment on this approach, as well as on fixed minimum time frames for public review, such as 7 days, 15 days, 21 days, and 30 days.

The Director would also have to provide an opportunity for the public to request a hearing. EPA further proposes that the procedures for requesting and holding a hearing on the terms of the NMP to be incorporated into the general permit would be the same as those for draft individual permits, which are provided in §§ 124.11 through 124.13. When granting permit coverage, the permitting authority would be required to respond to all significant public comments.

EPA believes that the proposed processes will provide adequate notice to affected States. CWA section 402(b)(3) provides that the Administrator, in approving State programs, shall make sure adequate authority exists to ensure notice to ''any other State the waters of which may be affected'' and Section 402(b)(5) provides that the Administrator must insure that any State ''whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State'' and that if those recommendations are rejected that the permitting State notify the affected State in writing of the reasons for the rejection. Although today's proposal does not include provisions specifically intended to address these requirements, EPA believes that the public notice provisions are sufficient to notify affected States. Additionally, the permitting authority's response to all significant comments would include responses to comments from affected States. EPA solicits comment from States and other interested parties as to whether this approach is adequate or whether there are specific requirements for review by affected States that should be added to this proposal.

The proposed rule seeks to balance several competing concerns in crafting the public participation procedures for general permitting of CAFOs. First, EPA believes that the proposed rule would maintain the utility of a general permit program as a resource-efficient method by which to authorize multiple dischargers under an NPDES permit while meeting the court's directive to ''provide for adequate public participation'' in the development of site-specific effluent limitations. *Waterkeeper Alliance et al.* v. *EPA,* 399 F.3d at 524. Second, EPA believes the proposed rule would provide sufficient flexibility for State permitting authorities to adopt their own procedures while ensuring they meet the public participation requirements of the Clean Water Act. EPA is attempting to implement the Second Circuit decision in a way that would not have the effect of eliminating the use of general permits for CAFOs. Because of the large number of CAFOs that may seek permit coverage, the Agency considers it appropriate to develop procedures that would allow and encourage permitting authorities to continue the use of NPDES general permits as a means for applying Clean Water Act limitations and standards to CAFOs on a timely basis. Of course, the Director may always require a facility to apply for an individual permit instead of allowing coverage under a general permit (even after coverage under a general permit has been granted) under already existing regulations.

EPA seeks comment on the approach taken in today's proposal concerning public participation in the general permitting process. Specifically, the Agency is interested in comment as to whether the procedures strike an appropriate balance between the above mentioned competing concerns.

(d) Incorporation of Nutrient Management Plan Terms in NPDES Permits

EPA is proposing to modify the language of 40 CFR 122.42(e)(1) to require that any individual or general permit issued to a CAFO contain the terms of the NMP. In the 2003 CAFO rule, the Agency finalized regulations that required each CAFO permit to include requirements to develop and implement a nutrient management plan that met the conditions specified in 40 CFR 122.42(e)(1)(i)–(ix) and, for Large CAFOs, that also fulfilled the requirements of 40 CFR 412.4(c). The Second Circuit decision did not affect these requirements and EPA is not revisiting its decision with respect to the contents of the nutrient management plan. The NMP must continue to include the elements in 40 CFR 122.42(e)(1)(i) through (x) and the elements required by the effluent limitation guideline at 40 CFR 412.4(c), where applicable. However, the proposal would ensure that the terms of the NMP become terms and conditions of the permit, as required by the Second Circuit.

The *Waterkeeper* decision requires the permitting authority to include the terms of a CAFO's nutrient management plan in the NPDES permit issued to the CAFO. The court's opinion appeared to distinguish between the ''nutrient management plan,'' which must be submitted by the CAFO to the permitting authority for review (as discussed above), and the ''terms'' of the nutrient management plan, which must be incorporated into the permit following the public review process described above. In light of the court's opinion, EPA is proposing to require the permitting authority to incorporate the terms of the NMP into the permit as enforceable terms and conditions of the permit. At a minimum, the terms of the NMP must meet the requirements specified in 40 CFR 122.42(e)(1)(i)–(ix) and 412.4(c) (for Large CAFOs, as applicable). Thus, the terms of the NMP would need to ensure, for example, adequate storage of manure, litter, and process wastewater, proper management of mortalities, and diversion of clean water. The terms of the NMP would identify site-specific conservation practices to be implemented by the CAFO and establish site-specific requirements for proper land application of manure, litter, and process wastewater, including application rates.

EPA expects that a submitted NMP, as a whole, will include data, calculations, and other information that provide a basis for the *terms* of the NMP and any other planning decisions encompassed in an NMP. The data, calculations, and additional information are generally analogous to both the information contained in a permit application and the assumptions, calculations, and other determinations typically provided as part of the fact sheet that is prepared for every draft NPDES permit. On the other hand, the *terms* of the NMP are the sort of requirements normally found as terms and conditions in a permit. In other words, whereas a fact sheet (or, in this case, the supplemental information provided in the NMP) contains the information that forms the basis of the requirements included in a permit, the permit itself contains the actual requirements applicable to the permitted facility. A complete NMP contains both the requirements applicable to the facility (''the *terms* of the NMP'') and the background information (assumptions, data, calculations, etc.) which provide the basis for those requirements.

This relationship is well illustrated when considering rates of application for land applying manure, which, for Large CAFOs, must be developed consistent with technical standards for nutrient management established by the Director in accordance with 40 CFR 123.36. These technical standards typically require application rates to be calculated using the Phosphorous Index or its equivalent established by the State. The calculations in turn are derived from data from fields where land application is to occur and predictions for nutrient utilization based upon crops to be planted in those fields. In preparing an NMP, a CAFO would include both the data necessary to determine the application rates in accordance with the applicable technical standards and the calculations it used to determine those rates.

EPA believes that it is appropriate to allow the permitting authority discretion as to how to incorporate the terms of an NMP that meets the regulatory requirements of 40 CFR 122.42(e) and 412.4 into the permit. For example, the permitting authority could simply attach the whole NMP to the permit and require implementation of the terms of the NMP as a condition of the permit. Alternatively, the permitting authority could identify and extract the terms of the NMP from the larger document and incorporate only the extracted terms into the permit. Another possibility is that the software used by some nutrient management planners to develop NMPs could be modified to generate a separate form that would clearly identify the terms of the NMP when generating the whole NMP report. As mentioned above, the Agency is considering the use of a model or template for identification of the terms of the NMP. The Agency solicits comment on these various approaches to identify the terms of the NMP that would be included in the permit.

EPA also seeks comments on a modified approach as an alternative to the process described above for incorporating nutrient management terms and conditions into general permits. It is premised on EPA's recognition that some NMP requirements may be broadly applicable to all of the CAFOs covered by a general permit. Under this approach there would be three possible categories of permit conditions. The first category would include permit conditions that can be established in the general permit itself so as to apply to all CAFOs seeking coverage under that permit. The second category would allow for flexibility in some broadly applicable requirements. Conditions falling into this category would lend themselves to a default requirement set by the permitting authority, with the option for facilities to substitute alternative measures in their NMPs that are equivalent or more effective in achieving the same objective. In such instances, of course, it would be necessary for the permitting authority to review the NMP submitted by each CAFO that chooses such alternative measures to determine whether the selected measures satisfy the relevant regulatory requirement(s). The third category would include those requirements for which a broadly applicable condition in the general permit would not be possible because they are of necessity facility-specific. A prime example of this third category is the requirement for field-specific rates of application.

Under this alternative approach, for the first category of conditions, the permitting authority would have the discretion to incorporate some NMP requirements into the terms and conditions of the general permit itself so they are applicable to all CAFOs covered by the permit. Examples of requirements that might lend themselves to the first category include, 40 CFR 122.42(e)(1)(iii) (diversion of clean water), (iv) (prevent contact of confined animals with waters of the United States), and (v) (proper disposal of chemicals), and 40 CFR 412.37(a)(4) (mortality management)).

During the comment period on the draft general permit, the public would have the opportunity to comment and request a hearing on the broadly applicable nutrient management terms and conditions proposed by the permitting authority. If after notice and comment the permitting authority included these conditions in the final permit, the permitting authority would be free to focus greater attention on those terms of a facility's nutrient management plan that were actually site-specific (*i.e.*, those conditions in the second and third categories, described below, specified in the facility's NMP). Of course, the public would still have the opportunity to review each CAFO's nutrient management plan (as well as the terms of the NMP that would be included in the general permit) to ensure that the plan complied with all conditions of the general permit. EPA seeks comment on the feasibility of utilizing this approach under a general permit.

For the second category of permit conditions in this modified approach, the permitting authority might establish broadly-applicable permit terms that could be implemented through specific NMP measures, while allowing for flexibility as previously noted. For example, the permitting authority could set a minimum requirement for adequate storage of manure (40 CFR 122.42(e)(1)(i)) by specifying the number of days of storage capacity for each facility type. In such an instance, a facility wishing to take an alternative approach would need to describe, for example, the alternative measures it would take that would justify a shorter period of storage capacity. Other broadly applicable requirements that so many qualifiers could lend themselves to site-specific alternatives might include permit conditions requiring conservation practices to reduce soil erosion from land application areas to the tolerable rate (''T'') as a standard to ensure adequate conservation practices, as required by 40 CFR 122.42(e)(1)(vi), or requiring CAFOs to address the timing of land application (40 CFR 412.4(c)(2)(i)) in part by prohibiting surface application of manure on frozen or snow-covered land that is upslope from waters of the United States. EPA solicits comment on such an approach, the sort of measures that might lend themselves to such an approach, and the sort of alternative measures that might qualify as site-specific substitutions.

Under this alternative methodology for establishing some terms of the NMP, the permitting authority would still need to identify the third category of facility-specific terms of the nutrient management plan to be incorporated into the permit. For example, the permitting authority would need to identify the manure, litter, and process wastewater application rates in each CAFO's nutrient management plan on a site-specific basis and incorporate those rates as terms and conditions of the permit before the permitting authority could authorize coverage of the CAFO under the permit. The public would have the opportunity to review and comment and request a hearing on these site-specific terms and conditions, as well as on the NMP's adequacy to satisfy any generally applicable permit requirements, as provided by the procedures in today's proposal.

EPA believes the alternative described above has the potential to speed the pace at which unpermitted CAFOs receive authorization under general permits while being consistent with the Second Circuit decision. In seeking comments, EPA specifically asks States to comment on the possible workload burden associated with the procedures proposed today as well as the alternative described immediately above.

For either approach discussed above, EPA is proposing that the permitting authority would be required to respond to all significant comments received during the comment period. As necessary, the Director would require a CAFO owner or operator to make revisions to the CAFO's NMP in order to address issues raised during the review process. Once the Director determines that the process for the development of a CAFO's NMP has been completed, the Director must make a final decision whether to grant permit coverage to the CAFO under the general permit. If coverage is granted, the Director must incorporate the relevant terms of the NMP into the general permit and inform the CAFO owner or operator of the terms of the NMP that have been incorporated as permit conditions.

Under today's proposal, incorporation of the terms of a particular CAFO's NMP into a general permit would not be a permit modification subject to 40 CFR 122.62. Rather, EPA views this as an extension of the CAFO general permitting process itself. As discussed above, EPA intends the process proposed in 40 CFR 122.28(d)(1) to generally parallel the procedures in 40 CFR Part 124. A person who objects to the incorporation of the terms of an individual CAFO's NMP into a general permit could appeal the permit decision to the Environmental Appeals Board pursuant to 40 CFR 124.19, when EPA is the permitting authority.

EPA seeks comment on today's proposed process for incorporation of the terms of a CAFO's NMP into NPDES permits. EPA specifically seeks comment from States on the workload implications of requiring the permitting authority to respond to all significant comments on each individual CAFO's NOI (including the NMP) and the terms of the NMP to be incorporated into the permit.

(e) Changes to Nutrient Management Plans

When a CAFO obtains coverage under an NPDES permit, as proposed in today's notice, it would be the CAFO's responsibility to implement the terms and conditions of the nutrient management plan as incorporated into the permit, as of the date of permit coverage. Because agricultural operations sometimes modify their nutrient management and farming practices as a normal part of their operations, and because such alterations may require changes to NMPs after a permit is issued, EPA is proposing a permit revision process to specifically address these circumstances.

The Agency does not, however, believe that such a process is necessary for all operating changes at a CAFO. Most routine changes at a facility should not require changes to the NMP itself because of the way NMPs are developed. Nutrient management plans are dynamic documents and are developed to accommodate routine variations, for example changes resulting from anticipated crop rotation or climatic variability inherent in agricultural operations, as well as changes in numbers of animals and volume of manure, litter or process wastewater resulting from normal fluctuations or a facility's planned expansion. Nevertheless, as discussed in the preamble to the 2003 CAFO rule, changes to a nutrient management plan will be necessary under some circumstances; for example, when there is a substantial increase in the number of animals, or a major change in the CAFO's cropping program not anticipated in the original NMP.

EPA encourages CAFO operators to develop, at the outset, NMPs that thoughtfully anticipate, to the extent feasible, all contingencies and changes in operations that may occur over the term of the permit. The NMP should provide information on possible crop rotations or other alterations in cropping patterns with accompanying field-specific calculations for manure, litter, and process wastewater application rates based on realistic crop yield goals, soil characteristics, weather, and other site-specific field conditions. In this way, the public will have the opportunity to review all anticipated operational scenarios and associated field-specific manure, litter, and process wastewater application rates, including the calculation on which these rates were based. In this manner, NMPs and associated permit conditions can address most year-to-year changes in nutrient management practices during the term of the permit and greatly reduce the need for NMP and associated permit modifications as a range of potential operational scenarios will have already been accounted for.

For example, the NMP could specify: (1) The maximum amount of manure that the CAFO may apply to land application areas under its control, based on its total available land application area and the capacity of its waste storage and treatment facilities, as well as manure and soil test results; (2) the maximum amount of manure that may be transferred to other persons (see § 122.42(e)(3)) by the CAFO, given limitations on available markets, the cost of transporting wastes, etc.; (3) a complete inventory of all of the fields under the CAFO's control that might receive manure, with the associated acreage, soil types, soil tests and testing protocols, setbacks, and other soil conservation measures; (4) a list of all of the crops the CAFO may wish to grow on each of those fields, with a matrix of the associated realistic yield expectations and land application rates consistent with the various field conditions; and/or (5) plans to address contingencies (*e.g.*, a spill or especially heavy rainfall event), including consultation with the permitting authority as appropriate.

The NMP should indicate calculations necessary to determine rates of application for the array of crops most likely to be planted in accordance with the cropping system utilized by the CAFO operator, including likely fallback scenarios. For Large CAFOs, the land application rates must comply with the ELG requirements of 40 CFR 412.4. The NMP may also identify other crops that could be planted and other fields that might be utilized for land application, thus allowing the CAFO to utilize a mix of fields and crops different from the most likely or preferred combinations. Nevertheless, the NMP should reasonably forecast the practices most likely to be utilized by the CAFO. EPA solicits comment on the degree of flexibility that should be allowed in NMPs. Greater flexibility would minimize the need for subsequent permit revisions, but will also increase the up-front work load, both for the permittee and for the permitting authority, and provide the permitting authority and the public with less certainty as to which practices the CAFO will actually utilize.

Even when a CAFO owner or operator develops an NMP that encompasses a significant degree of flexibility, it nevertheless may be necessary to revise the NMP during a CAFO's term of permit coverage. EPA believes that, due to the issues associated with agricultural operations and the variables associated with nutrient management planning, including seasonal variations, weather, soil and slope variation, and availability of feed, seed, and other resources, it is necessary to provide flexibility in the best management practice requirements for CAFOs beyond that typically available for other permit conditions. Consistent with this objective, EPA is proposing to establish specific protocols to allow changes to an NMP after permit coverage has been granted.

EPA is proposing formal public notice and comment procedures that the permitting authority would be required to follow for permit modification when a CAFO is seeking to make substantial changes to its NMP. EPA is proposing that substantial changes would include, but are not limited to: (1) Changes that could result in an increase in runoff of manure, litter, or process wastewater from the facility; (2) an increase in the rate of nutrients from manure, litter, or process wastewater applied to the land application area that is significant in relation to technical standards established by the Director; (3) a significant change in the nutrient balance at the CAFO caused by: (i) An increase in the ratio of animals, manure, litter, or process wastewater to the available land application acreage or storage capacity; (ii) changes in the CAFO's procedures for handling, storage, treatment, or land application of manure, litter, or process wastewater; (iii) a significant increase in the number of animals; or (iv) a significant reduction of manure, litter, or process wastewater hauled off site when there is no equivalent decrease in the amount of manure, litter, or process wastewater produced; and (4) the addition of land application areas not previously included in the nutrient management plan. Specific examples of such changes would include changes to the method of land application from injection to surface application, changes in timing from spring to late fall or winter application, and installation of new drainage systems that would increase runoff from land application fields. The proposed new paragraph 40 CFR 122.42(e)(5)(iv) identifies what would constitute substantial changes to the facility's NMP that would trigger this process for permit revisions.

For these types of changes, EPA is proposing to create new procedures in 40 CFR 122.42(e)(5) to allow CAFOs to change their nutrient management plans after the Director has incorporated the terms of the NMP into the permit. These procedures, which would be available to CAFOs operating under both individual and general permits, would be nearly identical to those for CAFOs seeking coverage in the first place. The Agency believes that such a process satisfies the need for the permitting authority and the public to have ample opportunity to review and comment on changes to a facility's NMP, while allowing the CAFO the flexibility it needs.

In addition, there may be changes at a facility that were not contemplated in the currently applicable NMP that do not require substantial changes to the terms of the NMP in the permit. In these instances, while a revised NMP would need to be submitted to the Director, the Director should not need to seek public comment on the revised NMP. Such changes might include, for example, changes in cropping patterns not anticipated in the original NMP where they are managed consistent with the original plan and properly documented. In such instances, today's proposal would require the CAFO owner or operator to provide the revised NMP, along with appropriate documentation to reflect changed conditions, to the permitting authority. The better the documentation of the terms in the NMP, including calculations, the easier it will be for a permitted facility to demonstrate that changes in its nutrient management practices are non-substantial modifications of its NMP.

Today's proposal (see proposed 40 CFR 122.42(e)(5)) would require that, whenever a CAFO makes any change to its NMP, the owner or operator would provide the Director with the revised NMP and identify the changes from the previous version submitted to the permitting authority. The Director would then review the changes to ensure that the NMP still meets the requirements of 40 CFR 122.42(e)(1)(i) through (x) and, for Large CAFOs, 40 CFR 412.4(c) and technical standards developed by the Director. If the changes are not substantial, the Director would simply modify the permit as necessary and notify the public of such modification (and not seek public comment). If the changes are substantial, the nutrient management plan would be revised using procedures similar to those proposed for the initial incorporation of an NMP into a general permit. Thus, today's proposed rule would require the Director to notify the public of substantial changes, and provide an opportunity for public notice and comment. Moreover, the appeals process would be the same as that for incorporation of NMPs into a general permit. EPA solicits comment on the approach proposed to deal with NMP revisions, as well as on the conditions concerning what constitutes a substantial change to an NMP.

Because the process in 40 CFR 122.42(e)(5) would allow for public review of changes to the terms of nutrient management plans and the underlying data and calculations, EPA proposes that the incorporation of changes to the permit through this process would be treated as a minor permit modification, under § 122.63(h), and not require additional review. EPA considered requiring any change to the NMP to be considered a permit modification requiring procedures under § 122.62, but rejected this option as it would significantly burden permitting authorities and CAFO operators' ability to make necessary and timely minor changes to NMPs as discussed above.

For substantial changes, the Agency also proposes to expressly allow the facility, at the Director's discretion, to proceed in implementing the change for up to 180 days before completion of public review and permitting authority approval, so long as the change is not likely to result in increased runoff of manure, litter or process wastewater from the facility. Given the importance of timing in farming, EPA recognizes that CAFOs may be unable to delay the implementation of a substantial change to their nutrient management plan to allow for public review and still implement the change in a timely fashion.

EPA believes that it would be reasonable to allow the Director to temporarily allow substantial changes so long as certain conditions are met. First, the approval would be temporary, allowing the CAFO to implement the changes for only 180 days. Second, the facility would need to provide to the Director documentation to demonstrate that the change would not result in increased runoff of manure, litter, or process wastewater from the facility. Third, the Director would have to review the documentation and conclude that the changes would not result in increased runoff of manure, litter, or process wastewater from the facility. Finally, the Director would have to include such expedited decisions with the permit in the public record and notify the public of its decision. Moreover, by the end of the 180 day period, these changes would need to undergo the public review procedures required for all substantial changes and be incorporated into the CAFO's permit by the Director. Changes EPA intends to encompass within this provision include the addition of new fields for land application where the Director determines that such additional or replacement fields have equivalent phosphorous ratings (based on the Phosphorous Index, for example) for nutrient uptake as the fields they are supplementing or replacing, whichever may be the case. EPA is interested in commenters' views concerning this proposed provision. EPA specifically solicits comment on whether a change that would result in increased rates of land application of manure, litter, or process wastewater in addition to those changes likely to result in increased runoff, should also be precluded from expedited implementation during the 180 day period.

EPA is also interested in taking comment on an approach that might allow greater flexibility for CAFO operators in making cropping decisions while assuring permitting authorities and the public that they are complying substantively with the terms of the NMP as incorporated into the permit, even if the CAFO modifies its practices somewhat from those articulated in the NMP and the permit. Under this approach, the Agency would modify the annual report requirements for permitted CAFOs in 40 CFR 122.42(e)(4) to require all CAFOs to submit information with the annual report indicating how the CAFO achieved substantive compliance with the terms of the NMP as set forth in the permit. If the CAFO implemented any cropping options not included in the calculations provided in the NMP, the CAFO would document the procedures and nutrient management practices utilized, including crops grown and fields planted, together with nutrient management calculations that governed its land application practices for the prior calendar year, and explain how the modified cropping options as implemented continued to comply with the substantive terms of the NMP incorporated into the permit. Under this option, EPA would include guidance in either rule or preamble text on which types of deviations from the NMP would be allowed, and what would be required to demonstrate in the annual report that these deviations substantively complied with the permit terms. The Agency solicits comment on whether such an approach would be practical and the extent to which it could allow greater flexibility for CAFOs to meet the NMP requirements incorporated into their permits, while still ensuring appropriate permitting authority and public oversight of permit compliance.

(f) Required Dates

In a separate rulemaking, EPA revised the dates in the 2003 CAFO rule by which CAFOs were required to develop and implement their NMPs. (71 FR 6978.) The 2003 CAFO rule required newly defined CAFOs to seek coverage under an NPDES permit by February 13, 2006, but required the development and implementation of a nutrient management plan by December 31, 2006. This would have conflicted with today's proposal that CAFOs submit their NMPs with their permit applications or notices of intent, as required by the Second Circuit Court's decision. The new rule requires CAFO owners and operators to submit their NMPs at the time of the permit application by extending the deadline for both to July 31, 2007. EPA extended these deadlines in a separate rulemaking so as to provide the Agency sufficient time to develop the regulatory revisions proposed in this rulemaking that more broadly respond to the Waterkeeper decision.

C. Remand Concerning Water Quality Based Effluent Limitations

Water quality-based effluent limitations (WQBELs) are one of two fundamental types of limitations imposed in NPDES permits. The other is technology-based limitations. Technology-based limitations are required in all NPDES permits, unless the permit writer imposes more stringent WQBELs in the permit where necessary to ensure that water quality standards are attained in the receiving waters. (See CWA Section 301(b)(1)(c), 33 U.S.C. 1311(b)(1)(c), and 40 CFR 122.44(d).) Where WQBELs are necessary, the permit writer establishes them without consideration of the availability or effectiveness of treatment technologies or the costs that dischargers would incur to meet those water quality-based limits. (*See Arkansas* v. *Oklahoma*, 112 S.Ct. 1046, 1054 (1992); *Westvaco* v. *EPA*, 899 F.2d 1383 (4th Cir. 1990).)

The environmental petitioners claimed that the 2003 CAFO rule violated both the Clean Water Act and the Administrative Procedure Act because it failed to promulgate WQBELs for CAFO discharges and also barred States from doing so. The Second Circuit agreed in part with this claim, as described in Section II.D.3 above, and remanded this issue to EPA for further clarification.

The terms of the 2003 CAFO rule itself do not contain any requirements concerning WQBELs, but EPA addressed the subject of WQBELs in the preamble. In fact, there was only one WQBELs issue that EPA addressed or intended to address in the preamble—whether WQBELs can be imposed for land application discharges of agricultural stormwater—and on that issue, the court expressly agreed with EPA's discussion. What appears to have troubled the court were certain statements in the preamble that the court thought might also address how WQBELs apply to other types of discharges. EPA therefore offers the following clarification.

1. The Application of WQBELs to CAFO Discharges Under the 2003 CAFO Rule

How WQBELs apply to a CAFO's land application runoff is different from how they apply to discharges from a CAFO's production areas, as explained below.

(a) Land Application Discharges

In the 2003 rule, to determine how WQBELs apply to land application discharges at CAFOs, EPA first had to consider the statutory exclusion for agricultural stormwater. In the Clean Water Act, the definition of "point source" specifically includes CAFOs but excludes agricultural stormwater discharges. (*See* CWA Section 502(14).) In the 2003 CAFO rule, EPA interpreted how this exclusion applies to discharges from land application at CAFOs. EPA found that where a CAFO applies manure, litter, or process wastewater to its fields, the resulting discharges from those fields are regulated by the Clean Water Act as point source discharges except where they qualify as agricultural stormwater. EPA determined that land application discharges qualify as agricultural stormwater only where manure, litter, or process wastewater has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, as specified in § 122.42 (e)(1)(vi)–(ix). (*See* 40 CFR 122.23(e).) Where a CAFO has not followed such practices, EPA concluded that any resulting precipitation-related discharge was not intended by Congress to be excluded from the Act as agricultural stormwater and is therefore subject to NPDES requirements.

The land application requirements of the 2003 CAFO rule reflected this interpretation by EPA of the agricultural stormwater exclusion in the Act. EPA found that where a CAFO follows these practices, any and all precipitation-related discharges of manure, litter, or process wastewater that occur from land application fields would be covered by the agricultural stormwater exclusion and would thus be considered nonpoint source runoff. (68 FR 7198.) In other words, a CAFO that follows the requirements in the 2003 rule eliminates all precipitation-related point source discharges from its land application fields. While physically there may still be some runoff from the fields related to precipitation, the CAFO has no discharge of *regulated* precipitation-related runoff, since any remaining precipitation runoff is agricultural stormwater.

Because the CAFO effluent guidelines—the *technology-based regulations*—already prohibit all precipitation-related land application discharges that are subject to regulation, EPA noted in the 2003 rule that it is not possible for a CAFO permit writer to add any other permit limitations on these discharges that are more stringent than the CAFO effluent guidelines, including any water quality-based limitations. (*See* 68 FR at 7198.) Only discharges of agricultural stormwater, which are nonpoint source discharges, remain. The Second Circuit agreed that the rule ''does not present a problem to the extent that [it] fails to promulgate—and bars States from promulgating—WQBELs for any 'agricultural stormwater discharge' * * * Agricultural storm water discharges are, after all, statutorily exempt from any effluent limitations, including WQBELs, because they are non-point source discharges.'' *Waterkeeper,* 399 F.3d at 522.

It should be noted that the key point of this discussion—that water quality-based effluent limits are not available to limit land application discharges that are agricultural stormwater—involves, in the first instance, only precipitation-related land application discharges, since only precipitation-related discharges can be agricultural stormwater. Water quality-based effluent limits are available to the permit writer to limit any non-precipitation related (*i.e.*, dry-weather) discharges that occur at land application areas to levels that are more stringent than the technology-based limitations (effluent guidelines), and EPA never intended to indicate otherwise. As EPA stated in the 2003 rule, ''any dry weather discharge of manure or process wastewater resulting from its application to land area under the control of a CAFO would not be considered an agricultural stormwater discharge and would thus be subject to Clean Water Act requirements.'' 68 FR 7198. To be sure, in most instances, a CAFO's requirement to meet technology-based permit limits that require manure to be applied at appropriate agronomic rates should itself eliminate all or most dry weather discharges. Nevertheless, if such discharges remain, the need for additional water quality-based effluent limits to control them will be determined by the permit writer based on the circumstances of each particular case.

(b) Production Area Discharges

In contrast to precipitation-related land application discharges, under the 2003 rule, WQBELs can be applied by permit writers in appropriate cases to further limit discharges from CAFO production areas (except for new source CAFOs in the swine and poultry sectors, as discussed below). WQBELs can be imposed on these production area discharges, where appropriate, because the effluent guidelines do not, by themselves, prohibit all ''regulatable'' discharges from the production area. The effluent guidelines allow occasional overflow discharges from properly designed, operated, and maintained lagoons and storage ponds. It is possible that WQBELs might be necessary in a particular permit to further limit these discharges beyond the levels that are authorized under the CAFO effluent guidelines. It should also be noted that the exclusion for agricultural stormwater does not apply to discharges from the CAFO production area, as EPA stated in the 2003 rule. (*See* 40 CFR 122.23(e) and 68 FR 7198). Thus, the agricultural stormwater exclusion does not serve to limit how WQBELs may be imposed to control production area discharges.

For new source CAFOs in the swine and poultry sectors, however, no WQBELs can be imposed in permits for the production areas. This is because the effluent guidelines already prohibit all production area discharges from these new sources. (*See* 40 CFR 412.46(a).)

2. Discussion

The Second Circuit expressed two concerns with EPA's discussion of how WQBELs apply at CAFOs. First, the court found that it was ''unclear * * * why the CAFO Rule exempts discharges other than agricultural storm water discharges from WQBELs.'' (See 399 F.3d at 522.) EPA had indicated its intention, the court found, ''not to promulgate any WQBELs whatsoever.'' As an initial matter, WQBELs for CAFOs are derived, where appropriate, on a case-by-case basis for individual permits, not promulgated in EPA regulations. EPA never intended to ''promulgate'' any WQBELs in the 2003 rule, but simply to discuss how WQBELs might apply once a CAFO applied for a permit.

Specifically, the court was concerned by EPA's preamble statement that ''EPA does not expect that water quality-based effluent limitations will be established for CAFO discharges resulting from the land application of manure, litter, or process wastewater.'' 399 F.3d at 522, citing 68 FR 7207. The court may have been concerned that EPA was exempting from the application of WQBELs not only agricultural stormwater discharges from CAFO land application areas (which the court agreed are not subject to WQBELs) but also any other discharges from land application areas or even production areas. (See 399 F.3d at 522 (''EPA has * * * only justified its determination not to impose WQBELs * * * only insofar as agricultural stormwater discharges are concerned * * * The EPA has not attempted, in any way, to explain its failure to promulgate WQBELs for CAFO discharges other than agricultural stormwater discharges * * *'').) This was not EPA's intent. EPA intended only to affirm that where the precipitation-related discharge from land application areas has been limited to only agricultural stormwater, WQBELs are not available as further limitations on those discharges.

Based on its understanding, the court directed EPA ''to explain whether or not, and why, WQBELs are needed to assure that CAFO discharges will not 'interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water,' '' citing 33 U.S.C. 1312(a). 399 F.3d at 523. In response, EPA clarifies that WQBELs are not available for permits with respect to precipitation-related land application discharges for CAFOs. However, water quality-based effluent limits can be included in permits as necessary with respect to non-precipitation-related land application discharges and with respect to production area discharges, as discussed above. For example, with respect to production area discharges, under the effluent guidelines, a CAFO may be subject to a permit requirement that allows production area discharges only if the CAFO designs and operates its lagoon or pond to contain all process wastewater plus any storm water runoff resulting from the 25-year, 24-hour storm. But water quality considerations may lead the permit writer to impose a more stringent permit requirement such as allowing discharges only if the lagoon or pond is designed and operated to contain water from an even bigger storm.

The court's second concern was that the 2003 rule preamble was ''ambiguous about whether States may promulgate WQBELs for discharges other than agricultural stormwater discharges.'' 399 F.3d at 523. The court directed EPA to explain this issue more clearly on remand. In response, the reasoning described above applies to State-issued as well as EPA-issued NPDES permits. Permit writers in NPDES-authorized States can include WQBELs as necessary with respect to non-precipitation-related land application discharges and with respect to production area discharges.

There are two additional considerations, however, with respect to State-issued permits. First, the effluent guidelines require CAFOs to limit their land application of wastes to levels that comport with State technical standards for manure management. In the 2003 rule preamble, EPA encouraged States to address water quality protection issues in setting those technical standards for appropriate land application practices. (*See* 399 F.3d at 523, citing 68 FR 7198). Thus, although the effluent guidelines are by their nature technology-based, EPA encouraged the States to address water quality concerns in setting their technical standards for manure management. But this does not change the basic regulatory scheme under which, once those technology-based standards are applied in a permit, the only remaining precipitation-related runoff is agricultural stormwater, for which water quality-based effluent limitations are not available.

Second, it is possible that a State can have additional requirements under its own State regulatory authorities that would go beyond the requirements of the federal NPDES program. Thus, where the only runoff from a CAFO's land application area is agricultural stormwater, that remaining runoff, though not subject to further NPDES regulation, could be subject to additional State requirements that are broader in scope, including additional requirements related to water quality. 33 U.S.C. 1370 and 40 CFR 123.1 and 123.25. These requirements, however, would not be federally enforceable.

D. New Source Performance Standards for Subpart D Facilities

1. Provisions in the 2003 CAFO Rule

(a) 100-Year, 24-Hour Rainfall Event Design Standards

The Clean Water Act requires EPA to promulgate New Source Performance Standards (NSPS) for new, as opposed to already existing, sources of pollution. (*See* 33 U.S.C. 1316.) The Act provides that these standards must ''reflect the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.'' 33 U.S.C. 1316(a)(1). The Act further requires that EPA ''take into consideration the cost of achieving such effluent reduction, and any non-water quality, environmental impact and energy requirements.'' 33 U.S.C. 1316(b)(1)(B). EPA is given considerable discretion to weigh and balance the various factors required by statute to set NSPS. *Riverkeeper, Inc.* v. *EPA,* 358 F. 3d 174, 195 (2d Cir. 2004).

The 2003 CAFO rule effluent guidelines for new Subpart D (swine, poultry, and veal) operations prohibit the discharge of any pollutants from CAFO production areas. It is common for new poultry, veal, and swine operations to confine the animals so that they are never exposed to rainfall or storm water runoff. In addition, many new operations employ manure handling systems that greatly reduce or eliminate the use of water as a conveyance or handling mechanism for the manure, and typically contain manure in covered or indoor facilities. (*See* 68 FR 7219 and Chapter 8 of the ''Technical Development Document for the Final Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Guidelines for Concentrated Animal Feeding Operations'' (EPA–821–R–03–001) or ''TDD'' for more information.) Based on these technologies, EPA determined that a no discharge standard was technologically feasible.

EPA recognized that CAFOs may use different technologies to meet the no discharge standard and that these technologies may have slightly different vulnerabilities to extreme weather events. Therefore, the 2003 CAFO rule would have allowed CAFOs to meet the no discharge standard by using waste management and storage facilities designed, constructed, operated, and maintained to contain all manure and process wastewater including the runoff and precipitation from a 100-year, 24-hour rainfall event.[3] The 100-year, 24-hour rainfall event is a statistical event defined as the amount of rainfall that has a one percent chance of being exceeded in a 24-hour period in any given year. Thus, a facility that was adequate to contain both the process wastewater generated at the facility and the runoff and precipitation from the 100-year event would not discharge in circumstances resulting in runoff and precipitation less than that produced in the 100-year event, when properly operated and maintained. EPA provided the 100-year, 24-hour rainfall event criteria to provide clarity to the regulated community about how to design, operate and maintain their manure handling systems to achieve the no discharge standard.

(b) Superior Alternative Performance Standards

The 2003 CAFO rule also allows existing CAFOs in Subparts C and D, and new beef, dairy, and heifer CAFOs to voluntarily participate in the *Voluntary Alternative Performance Standards* program. The alternative performance provisions allow CAFOs to request that the Director establish alternate permit effluent limitations in place of the 25-year, 24-hour storm standard that would otherwise apply. This provision enables CAFOs to implement new technologies and management practices that perform as well as or better than the baseline effluent guidelines at reducing pollutant discharges to surface waters from the production area. To demonstrate that an alternative control technology would achieve equivalent or better pollutant reductions than the baseline effluent guidelines, the CAFO must submit a technical analysis, which first calculates the pollutant discharges based on the site-specific modeled performance of a system designed to comply with the baseline effluent guidelines and then demonstrates that the proposed alternate limitations would result in equal or lower discharges. The minimum specific components of the technical analysis were included in the ELGs at 40 CFR 412.31(a)(2).

For new Large swine, poultry, and veal CAFOs (new sources under Subpart D), the 2003 rule had a similar provision for alternative permit limitations—the ''Voluntary Superior Environmental Performance Standards'' provision. This NSPS provision empowered permitting

[3] All storage structures must be operated in accordance with the additional measures specified in the regulations at 40 CFR 412.37(a) and (b).

authorities to establish site-specific alternative performance standards that allow production area discharges, so long as such discharges were accompanied by reductions of pollutant discharges to other media. (*See* 40 CFR 412.46(d).) Specifically, the quantity of pollutants discharged from the production area had to be accompanied by an equivalent or greater reduction in the quantity of pollutants released to other media from the production area (*e.g.*, air emissions from housing and storage), the land application areas for all manure, litter, and process wastewater at on-site and off-site locations, or both. The Director was given the discretion to request supporting information to supplement such a request.

2. Summary of the Second Circuit Court Decision Concerning Remanded Issues

The Second Circuit Court of Appeals remanded several elements of the 2003 CAFO rule related to new sources. Specifically, the court directed EPA to clarify the statutory and evidentiary basis for allowing subpart D CAFOs to comply with the NSPS requirements by either the 100-year storm standard or the alternative performance standards. With respect to the 100-year storm standard, the Court noted that while certain studies showed that the production area BMPs adopted by the 2003 CAFO rule would have substantially prevented the production area discharges documented in the record, the court explicitly stated that substantially preventing discharges is not the same as prohibiting them outright. With respect to the alternative performance standards, the court held that EPA had not justified its decision to allow compliance with the no discharge standard through an alternative standard permitting production area discharges so long as the aggregate pollution to all media is equivalent to or lower than that resulting from the baseline standards. The court further held that EPA did not provide adequate notice for either of these provisions under the Clean Water Act's public participation requirements. (*See* 33 U.S.C. 1251(e) (''Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States'').)

3. This Proposal

(a) 100-Year Storm Containment Structure

EPA has reconsidered the NSPS in light of the Second Circuit decision. As a result of its review, EPA is proposing to delete 40 CFR 412.46(a)(1), the provision allowing CAFOs to meet the no discharge standard through the use of a 100-year, 24-hour rain event containment structure. If EPA adopts this change, all discharge of manure, litter, and process wastewater would be prohibited from the production area for new source swine, poultry, and veal calf operations. The land application requirements would remain unchanged. Regulatory language implementing the proposed change may be found in today's proposed rule text.

As part of this approach, EPA also proposes to modify Section 412.37(a)(2) by removing the requirement that all surface liquid impoundments at new sources have a depth marker indicating the minimum capacity to contain the runoff and direct precipitation from a 100-year, 24-hour rain event. The removal of the 100-year storm containment structure provision for new sources makes this provision irrelevant. Although the Agency proposes to delete the 100-year, 24-hour depth marker requirement, EPA recognizes that a marker indicating depth can be an excellent means of displaying how much storage a CAFO has, and whether it is time to pump down levels in the lagoon or pond. EPA believes depth markers are a useful tool to help with the management of any facility, and proposes to maintain, in 412.37(a), the depth marker requirement in the rule, even though EPA removed the 100-year, 24 hour rainfall specification. EPA solicits comment on this provision of the ELGs.

Additionally, EPA is proposing an alternative that would authorize the NPDES Program Director to establish no discharge best management practice effluent limitations based upon a site-specific evaluation for an individual CAFO. Compliance with such limitations would provide an alternate approach for CAFOs to meet the zero discharge requirement. Specifically, EPA is proposing to authorize permit writers, upon request by a CAFO, to establish best management, zero discharge effluent limitations on a case-by-case basis when a facility demonstrates through a rigorous modeling analysis that it has designed an open containment system that will comply with the no discharge requirements. If a facility has complied with all of the specified site-specific design, construction, operation, and maintenance components of such a system demonstrated to meet the zero discharge requirement, it would be deemed to be in compliance with the no discharge requirement even in the event of an unanticipated discharge.

EPA continues to recognize that CAFOs may use different technologies to meet the no discharge standard and that these technologies may have different vulnerabilities to extreme weather events. While some CAFOs may use closed containment systems to ensure meeting the no discharge requirements, EPA seeks to encourage new source CAFOs to consider implementation of anaerobic digesters, multi-cell treatment lagoons, and nitrification and/or denitrification technologies. While these innovative technologies should be able to achieve zero discharge, and the operator must demonstrate to the permit authority's satisfaction that the system will be designed, operated and maintained to do so, there may be greater uncertainty in the performance of these systems during exceptionally heavy rainfalls and other rare weather conditions. To address such situations, EPA believes it appropriate to allow a facility to use an upset/bypass defense under 40 CFR 122.41(m)–(n), for events that are beyond the reasonable control of the operator, including weather events as well as other unforeseen or uncontrollable conditions. However, EPA recognizes that the upset and bypass provisions do not provide certainty to the operator that any particular unpermitted discharge will be excused. CAFOs operating innovative technologies in particular may be reluctant to rely on these provisions. Therefore, in order to provide some upfront assurance that the design, construction, operation, and maintenance of their system meets the requirements of the new source effluent guidelines, EPA is proposing to allow permit writers to verify in advance that the designed system is a zero discharge system. EPA is proposing this alternative approach in order to provide this additional level of certainty and to encourage the development of new and innovative open system technologies.

While one component of preventing discharge from an open system is to provide adequate storage of manure and wastewater during critical periods, ensuring adequate physical capacity is not sufficient. Rather, adequate storage is based on a site-specific evaluation of the CAFO's entire waste handling system. Adequate storage has to be based on climate-specific variables that define the appropriate storage volume, but of equal importance are the nutrient management plan and other management decisions that dictate when and how the storage can be emptied. The link between adequate storage and land application practices is one of the most critical considerations in developing and implementing a site-specific nutrient management plan. For example, the amount of land available for application, the hydraulic limitations (ability of the land to handle additional water without the occurrence of runoff), geology, and soil properties of the available land base can play an important role. See Chapter 2 of EPA's technical guidance for CAFOs ''Managing Manure Nutrients at Concentrated Animal Feeding Operations'' (EPA–821–B–04–00) for more information.

Given these considerations, EPA is proposing requirements for approval of site-specific management practices for such open containment systems with the expectation that a system designed in accordance with these requirements will meet the no discharge standard within the limits of design and operational foreseeability. EPA believes that the design, operation and maintenance elements and analytical assessment required under this alternative are sufficient for this purpose. The assessment process was previously described in two papers delivered to the American Society of Agricultural Engineers, available in today's record (Moffitt *et al.*, (2003), DCN 1–01233 and Moffitt and B. Wilson, (2004), DCN 1–01224).

The first step is to gather information about the specific operation to be analyzed and the regulatory framework in which it operates. The regulatory framework could include: state requirements for minimum storage periods for rainy seasons or winter or additional minimum capacity requirements for chronic rainfall; technical standards that prohibit or otherwise limit land application to frozen, saturated, or snow-covered ground; standards that further limit land application where there is a high risk of nutrient transport; increased storage requirements for manure intended to be transferred to another recipient at a later time; and any other special requirements that would impact the size of the storage facility. The operator's management options and needs should also be included in the design and evaluation, as discussed below. The accuracy of this first step is critical to designing and evaluating a manure storage facility. A check sheet of possible considerations based on 40 CFR 412.46(a)(1) may help ensure the right information is gathered, and EPA solicits comment on what relevant information must be included in the analysis as a minimum.

The second step is the *design* of the storage facility using design procedures in the USDA Natural Resources Conservation Service's (NRCS) ''Agricultural Waste Management Field Handbook,'' NEH–651. This will be done using Animal Waste Management (AWM) software, which is NRCS's manure storage and treatment planning/design software tool for animal feeding operations that can be used to estimate the production of manure, bedding, and process water and to determine the appropriate size of storage/treatment facilities. The Common Computing Environment (CCE) version of AWM 2.10 is currently available on the web, and planned software updates in the near future are not expected to change the general form of the tool. Site-specific input to AWM includes climate data for 30 years consisting of historical average monthly precipitation obtained from local weather stations, and evaporation values obtained from the National Oceanic and Atmospheric Administration (NOAA) handbook. Additional inputs include animal numbers and typical animal sizes/weights, added water and bedding (if any), and the size and condition of outside areas exposed to rainfall and contributing runoff to the storage facility. AWM allows the user to specify a storage period (months), and the software will design for the series of months with the most rainfall. The program will not design a system in excess of 12 months, as such designs are not recommended. As an alternative, the user can designate months when the storage pond can be emptied, and AWM sizes the pond based on the months with the most precipitation between pumping events. The output of this step is the design of a waste storage facility. AWM provides a series of reports describing the storage facility and providing a listing of the related specifications including the dimensions of the storage facility, daily manure and wastewater additions, the size and characteristics of the fields, and other management assumptions such as storage period.

The third step is an evaluation of the adequacy of the AWM designed storage facility using the Soil Plant Air Water (SPAW) Hydrology Tool. The current version of SPAW is 6.1. SPAW is a field-level tool that uses a modified Soil Conservation Service Curve Number Method to develop water budgets for agricultural fields. SPAW is used by NRCS to evaluate the design procedure in the ''Agricultural Waste Management Field Handbook,'' NEH–651 (DCN 1–1231). Water budget processes are evaluated by making daily adjustments to crop canopy cover and antecedent soil moisture. Field water budgets can be used for evaluating runoff and infiltration from precipitation events. SPAW also provides an integrated pond module to develop pond water budgets that is ideal for assessing the adequacy of an open containment system. Input to SPAW includes daily precipitation, temperature, and evaporation data; storage facility dimensions and manure related quantities extracted from AWM; and the strategies for managing the storage facility. For each user-specified soil profile and crop rotation, SPAW simulates possible runoff from fields as well as the irrigation water needs of fields receiving the storage effluent. Hydrologic groups are used to rate soils for potential to release excess water down grade.

EPA notes that where AWM software is used for design and SPAW is used for evaluation, additional software for nutrient management planning may be appropriately linked and the NMP data can then be imported. For example, see 6–12 of ''Managing Manure'' (EPA–821–B–04–009) for a discussion of ''Manure Management Planner'' or ''MMP,'' a comprehensive Windows-based planning tool for manure management.

SPAW is then run with the site-specific historic rainfall records to see if the open containment system (referred to as a pond in SPAW) and associated management and land application was adequate to eliminate any discharge. EPA has concluded that 100 years of data is an adequate timeframe for simulation purposes and will support a reasonable finding of no discharge. However, EPA is aware that 100 years of continuous rainfall data may not be available for many CAFOs. The SPAW model can be run using actual rainfall data where available, and then simulated with a confidence interval analysis over a period of 100 years. The SPAW model shows not only that the storage facility does not discharge, but also that there is no runoff of wastewater from fields during land application activities, which is necessary to ensure that the open containment system is operated in a way to meet the land application requirements of the rule. In practice, if the SPAW evaluation indicated any level of discharge or any spillway flow, the pond design volume could be increased in size in AWM, the new dimensions converted to SPAW input, and the simulation done again. This iterative procedure could continue until the pond simulation predicts no discharge. If the facility shows no discharge over the 100 year simulation, then EPA has concluded that the lagoon or pond has been designed to achieve the requirement of no discharge.

EPA has obtained several case studies using this approach to design. Example CNMPs were obtained from Georgia, South Carolina, Nebraska, North Carolina, and Iowa. Each of these CNMPs was used as the basis of design for a new facility. The CNMPs were used to get animal numbers and average weights, crop acreage, location for climate records, storage period, and information about spreading of manure and wastewater. The design volume is generally pumped out of the storage facility twice a year (once in the spring, and once in the fall). These are large pump down events, and it is part of the planning and design process to assure that there is sufficient land and pumping capacity to accomplish this activity. These case studies allow two weeks for this pump down to occur. In the few instances when the storage volume approaches the volume reserved for precipitation and runoff, the additional volume is pumped out of the storage facility as soil conditions permit. In some cases, wastewater removals for irrigation were simulated based on crop consumptive use capability. These are small pump out events. The first case study is a confinement swine operation in Nebraska which had 1600 grower pigs with an average weight of 140 lbs. This example facility has the waste storage pond emptied three times a year. The storage pond has an emergency spillway at nine feet and the depth of storage for the design storm is six inches. Several years within the simulation, the storage volume did reach the level reserved for the design storm, but pump-out was able to occur to restore the storage volume. See DCN 1–01225 for more information. The second case study is a similar facility in Georgia which uses a center pivot irrigation system. In this particular case, the landowner can irrigate almost year round since the crop is a hayfield with a winter small grain. This particular facility is designed for a 150 day storage period. This facility was simulated using a two times per year pumpdown schedule as well as a year-round pumpdown, both resulting in a no discharge system. Additional case studies may be found in EPA's record (DCN 1–01226.).

In these case studies, the AWM design is simulated using SPAW with the result of no predicted discharges. If the AWM design does not result in a system that would comply with the no discharge requirements, the CAFO could evaluate different design and management options (such as different storage periods and dewatering schedules consistent with the CAFO's NMP) that do not result in any predicted discharges, or the CAFO could conclude an open system is not appropriate for the particular site being evaluated.

Under today's proposal, EPA would require certain specified information regarding design, operation, and maintenance of the system to be included in the CAFOs NMP under 40 CFR 122.42(e)(1). This includes the key user-defined inputs and model system parameters. EPA proposes to require a site-specific analysis and require certain elements of the analysis be submitted to the Director. (*See* 40 CFR 412.46(a)(1).) These site-specific design, construction, operation, and maintenance measures would then become enforceable requirements in the CAFO's permit. As long as the CAFO complies with these requirements, the CAFO would presumptively meet the no discharge requirement. The burden would be on the CAFO to demonstrate that any open system it employed meets the new source standard. EPA believes that this would provide a clear and enforceable standard for the CAFO as well as provide assurance to the public that the proposed system would comply with the no discharge requirements.

Under today's proposal, the Director has the discretion to require additional information from a new source Subpart D CAFO owner or operator to support site-specific effluent limitations. EPA is aware that other peer-reviewed models and programs have been or may be developed that could be determined to be equivalent to AWM and SPAW. Therefore the proposed rule gives the Director the discretion to approve design software or procedures equivalent to AWM and SPAW. EPA solicits comment on this approach to demonstrating that an open storage system meets the no discharge requirements and providing an alternate approach for facilities that comply with the enforceable design, construction, operation and maintenance measures developed under the approach.

The information, design, and evaluation process in today's proposal is intended to allow CAFOs the flexibility to demonstrate compliance with the no discharge requirements for any type of open storage facility. As a practical consideration, EPA expects most CAFOs selecting this compliance alternative will submit designs for open manure storage structures accompanied by a narrow range of acceptable operation and management practices. However, for a given type of storage facility design (for example, a constant volume anaerobic digester followed by an open storage pond sized for 12 months storage of treated manure), EPA believes it is possible to conduct a series of assessments for a specified geographic area that fully encompass the range of operational and management measures that would be used across multiple CAFOs with the specified storage facility. In this case, SPAW could be run to validate a wide range of NMP and storage pond management scenarios. The Director may then determine that any CAFO using the specified facility type and submitting a plan that falls within the pre-approved range of operational and management practices would not need to conduct the assessment step (*i.e.*, the validation using SPAW) individually. EPA solicits comment on this approach to streamlining the evaluation process for those CAFOs submitting "pre-approved" designs and operational procedures.

EPA is proposing this compliance option only for new Subpart D facilities that employ open manure storage structures, because EPA believes that facilities employing other manure handling technologies (*e.g.*, under house pits) will be able to ensure zero discharge of manure, litter, and process wastewater without having to employ the detailed design, modeling, and evaluation approach described here. However, EPA recognizes that other types of new Subpart D facilities required to meet the zero discharge standard might believe that such an approach should be available to them as well. EPA thus requests comment on whether it should develop a comparable provision for facilities other than those employing open manure storage structures under which a facility could demonstrate in advance through a rigorous modeling analysis that it was designed, operated and maintained to achieve zero discharge, and subsequent compliance with the site-specific design, construction, operation and maintenance components of this demonstration would then constitute compliance with the no-discharge requirement in the rule.

(b) Superior Alternative Performance Standards

EPA proposes to delete 40 CFR 412.46(d) and remove the voluntary superior performance standards provision for new swine, poultry, and veal sources. The court ruling states that EPA cannot establish production area standards that substantially prevent discharges as equivalent to standards that prohibit discharges outright. In accordance with this ruling, EPA is proposing to withdraw this provision.

E. Remand Concerning Pathogens for BCT

1. What Were the BCT Provisions in the 2003 CAFO Rule?

The CWA requires compliance with progressively more stringent technology-based limitations. The Act requires existing point sources to comply with limitations achievable by application of the ''best practicable control technology presently available'' or ''BPT.'' These limitations control conventional, priority, and/or nonconventional pollutants, and are typically based on the average pollutant removal performance of the best facilities examined by EPA. EPA also bases limitations on the discharge of toxic or non-conventional pollutants on the ''best available technology economically achievable,'' or ''BAT.'' The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with ''best conventional pollutant control technology'' or ''BCT'' for discharges from existing industrial point sources. BCT is not an additional limitation, but replaces BAT for control of conventional pollutants. Effluent limitations based on BCT may not be less stringent than the limitations based on BPT. Thus, BPT effluent limitations are a ''floor'' below which BCT effluent limitations cannot be established. Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform (FC), pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant, on July 30, 1979 (44 FR 44501).

The Clean Water Act Amendments that created BCT also specify that the cost associated with BCT effluent limitations be ''reasonable'' with respect to the effluent reductions. Accordingly, the ''BCT Methodology'' was developed to answer the question of whether it is ''cost-reasonable'' for industry to control conventional pollutants at a level more stringent than already required by BPT effluent limitations. The BCT methodology was originally published on August 29, 1979, along with the promulgation of BCT ELGs for 41 industry subcategories (44 FR 50732). The crux of the methodology was a comparison of the costs of removing conventional pollutants for a candidate BCT technology within a particular industry segment, to the costs of removal for an average-sized publicly owned treatment works (POTW). The Fourth Circuit remanded the regulation, and directed EPA to develop an industry cost-effectiveness test in addition to the POTW test. EPA proposed a revised BCT methodology in 1982 (47 FR 49176) that addressed the industry cost-effectiveness test (the ''second'' test). EPA proposed to base the POTW benchmark on model plant costs in a 1984 notice (49 FR 37046). The final BCT methodology was published on July 9, 1986 (51 FR 24974), maintaining the basic approach of the 1982 proposed BCT methodology and adopting the use of the new POTW data.

In the 2003 CAFO rule, EPA established BPT-based effluent limitation guidelines or ''ELGs'' for large beef, dairy, veal, swine, and poultry CAFOs. These effluent limitation guidelines prohibit the discharge of manure, litter, or process wastewater into waters of the U.S. from the production areas at the CAFOs. (40 CFR 412.31(a).) However, when precipitation causes a discharge of manure, litter, or process wastewater, this may be allowed provided certain conditions are met. (40 CFR 412.31(a)(1).) In order to qualify for this allowance, the CAFO must have a properly designed and constructed storage structure with the capacity to contain all manure, litter, and process wastewater and the runoff and direct precipitation from a 25-year, 24-hour rainfall event. (40 CFR 412.31(a)(1)(i).) In addition, the CAFO's production area must be operated in accordance with specified best management practices (BMPs). (40 CFR 412.31(a)(1)(ii).) The rule also established other BMPs governing CAFO wastes applied to land under the control of the CAFO. (40 CFR 412.4.) EPA estimated that the ELGs will achieve significant reductions in the annual water pollutant load from Large CAFOs nationwide, including 155 million pounds of nutrients (*e.g.*, nitrogen and phosphorus), over two billion pounds of sediments, and a 46 percent reduction in discharges of pathogens including fecal coliform. (68 FR 7239, Table 7.2.)

In establishing the ELGs in the 2003 rulemaking, EPA also considered reductions in conventional pollutants, including BOD, fecal coliform, and TSS. However, it was difficult for EPA to assess fecal coliform loadings and reductions because they vary greatly depending on site characteristics. Moreover, quantifying discharges of conventional pollutants from land application areas is difficult due to the challenges of: Distinguishing between CAFO sources of pollutants and non-CAFO sources of pollutants; determining what share of pollutants reaching the edge of field reach surface waters; and quantifying the potential for regrowth of fecal coliform both after treatment and after land application of manure. Despite these challenges, EPA estimated approximate reductions of fecal coliform associated with the following technology options considered in the 2003 rule: Option 1 (nitrogen-based land application rates and zero discharge from the production area with an overflow allowance under specified conditions); Option 2, the final option selected (limiting nutrient-based land application rates and zero discharge from the production area with an overflow allowance under specified conditions); Option 3 (Option 2 plus permeability limitations on lagoons and ponds for protection of ground water based on synthetic lagoon liners); Option 5 (Option two except no overflow allowance for swine and poultry; Option 5a (Option 5 plus drier manure management such as composting for beef and dairy operations); and Option 6 (Option 2 plus anaerobic digestion with energy recovery for large swine and dairy operations). Pollutant reduction estimates for these options were provided in the final rule. For beef and dairy operations (subcategory C facilities), EPA also evaluated BOD and TSS reduction associated with Option 7 (Option 2 plus a national prohibition on land application of manure to frozen, snow-covered, or saturated ground), but did not present the pollutant removal estimates for this option.

Because of the difficulties associated with quantifying reductions of conventional pollutant discharges, EPA relied primarily on sediment discharges (as a surrogate for TSS) in establishing BCT requirements. Following this approach, EPA identified no BCT technology option that achieves significantly greater TSS removals than the BPT requirements eventually promulgated in 2003 *except for Option 5.* EPA determined Option 5 was not economically achievable for subcategory D (68 FR 7218). EPA therefore concluded that there were no available BCT technologies on which to base limits for conventional pollutants that were more stringent than BPT, and established BCT requirements equal to BPT in the 2003 CAFO rule (see 40 CFR 412.33 and 412.44). If EPA had identified available technology options that achieve greater reductions of conventional pollutants than are achieved by BPT, then EPA would have performed the two-part BCT cost test required by CWA section 304(b)(4)(B). (68 FR 7224).

2. Summary of the Second Circuit Court Decision

In its February 28, 2005, decision, the Second Circuit Court of Appeals remanded the 2003 CAFO rule's BCT standard for pathogens. In the court's view, the 2003 CAFO rule violated the Clean Water Act because EPA did not make an affirmative finding that the BCT-based ELGs adopted in the CAFO rule do *in fact* represent the best conventional pollutant control technology for reducing pathogens—specifically, fecal coliform. The court noted that EPA may well determine that the ELGs otherwise adopted by the CAFO rule do in fact represent the best conventional pollutant control technology for reducing pathogens. The court further noted that EPA may determine, after considering all the relevant factors, that the ELGs otherwise adopted by the 2003 CAFO rule will directly—not just incidentally—reduce pathogens and do so better than any other pollutant control technology.

3. This Proposal

In today's notice, EPA finds that the BCT-based ELGs adopted in the 2003 CAFO rule *do in fact* represent the best conventional pollutant control technology for removal of pathogens, including fecal coliform. First, EPA discusses its evaluation of various candidate technologies to assess whether they are technologically feasible for facilities in a subcategory and would achieve greater reductions of fecal coliform than the technologies selected as the basis for BPT limitations in the 2003 rule. Specifically, EPA presents pathogen reductions associated with technology Options 3, 5, 6 and 7 described previously and discussed in the 2003 docket. EPA notes that these regulatory options are discussed here even though EPA has already determined these options are either not technologically feasible or not economically achievable, because these options may provide more reductions of pathogens than the option selected for the final 2003 CAFO ELGs. EPA did not consider Options 1 and 4 because they do not provide any further pollutant reductions over the final selected Option 2. Today, EPA also presents additional candidate technologies for pathogen reductions: Fluidized bed incinerators; composting for poultry; chemical addition for disinfection; and additional storage to comply with a national prohibition of land application to frozen, saturated, or snow-covered ground (Option 7) for the swine industry (Option 7 for the beef and dairy industries was already presented in 2003).

Second, today's proposal provides results of the BCT cost-reasonableness test for the candidate technology options. EPA finds that none of these candidate technologies would pass either part of the BCT cost test. Therefore, EPA has concluded that any combination of these technologies developed into a regulatory option for a subcategory would also not pass the BCT cost test. Finally, because the traditional BCT cost test has been based on pollutants other than fecal coliform, today's proposal presents an approach to conducting the POTW cost test for CAFOs that explicitly addresses fecal coliform. Today's notice presents the results of applying this cost test to the candidate BCT technology options considered for CAFOs. None of the candidate technology options would pass the alternative BCT cost test. Each of these analyses is described in more detail below.

(a) Are There Technically Feasible Candidate Technologies That Achieve Greater Reductions for Fecal Coliform Than Technologies Selected for BCT in the 2003 Rule?

EPA evaluated numerous sources of data on CAFO manure management systems, including treatment technologies and best management practices (BMPs) for pollution prevention, as well as for the handling, storage, treatment, and land application of wastes. These data sources included available technical literature, over 11,000 comments submitted by industry and other public commenters, and insights gained from conducting over 116 site visits to CAFOs. EPA specifically identified several technologies and BMPs for the reduction of fecal coliforms and other pathogens, including digesters, fluidized bed incinerators, chemical addition for disinfection, composting, and deep stacking of poultry litter (*see* descriptions of these and other technologies in Chapter 8 of the TDD). Production area practices and land application practices were also evaluated. Each of these potential candidate BCT technologies is summarized below:

Anaerobic Digestion. EPA specifically evaluated anaerobic digesters as a candidate technology option in the 2003 rule, identified as Option 6 in the preamble and supporting documents (see Chapter 1 of the ''Cost Methodology for the Final Revisions to the NPDES and ELG for CAFOs'' or ''Cost Report,'' EPA–821–R–03–004). However, EPA rejected this technology for BCT because anaerobic digesters are not demonstrated to be technically feasible at all CAFOs. Specifically, wastes from beef, heifer, and poultry operations would not support the operation of these treatment systems. (68 FR 7217.) Even for those types of CAFOs that generate quantities and types of manure and wastes more conducive to the digestion process (*e.g.*, dairy and swine facilities above a minimum size), the use of digesters does not necessarily lead to significant reductions for many of the pollutants present (*e.g.*, nutrients, metals).

There are three basic temperature regimes for anaerobic digestion: Psychrophilic, mesophilic, and thermophilic. Psychrophilic, or low-temperature, digestion is a natural decomposition process at temperatures typically found in lagoons. The hydraulic retention time for stable operation varies from 30 days to 90 days depending on temperature. EPA notes this same time-temperature relationship occurs in typical manure storage facilities, and results in some of the reduction of pathogens (including fecal coliform) that were estimated for the 2003 CAFO rule. Mesophilic digestion reduces the retention period to 12 to 20 days. In some limited cases digesters were shown to reduce fecal coliform by as much as 99 percent, particularly by thermophilic (higher temperatures in the range of 135 to 155 degrees Fahrenheit) digestion, but regrowth of both fecal coliform and other pathogens was shown to occur during effluent storage. (68 FR 7217.) EPA did not receive any public comments or data during the 2003 rulemaking process that provided a reliable means of either quantifying this regrowth or differentiating the performance of digesters from the die-off and regrowth that occurs in untreated manure storage facilities. Most importantly, a digester does not eliminate the need for the CAFO to have liquid impoundments for process wastewater, treated wastewater, and storm water runoff. EPA previously noted that the digester process may stabilize manure, and may offer certain other benefits (*e.g.*, energy recovery, control of methane emissions), but as a result of the storage requirements (and associated potential for regrowth) the technology would not necessarily result in decreased discharges of pollutants (including pathogens) beyond the selected BPT option. (68 FR 7217.) EPA notes that digestion may also be conducted aerobically, but this variation is rarely seen at CAFOs due to process problems, design challenges, high energy requirements, and disproportionately high costs. (*See* Table 8–14 of the TDD for a list of aerobic digestion and activated sludge processes.)

EPA further notes that digesters do not reduce the total nutrients in animal wastes. Most of the phosphorus removed from the effluent is concentrated in the digested solids, which are often used for land application. Other data show that changes in pollutant composition, particularly the soluble forms of nitrogen, could result in *increased* discharges of pollutants following land application of digested manure, specifically ammonia releases and other emissions. (*See* Chapter 8 of the TDD.) Similarly, metals are not reduced and remain in the digester effluent and solids. EPA further rejects this technology as practical for all CAFOs due to the high failure rate of these systems at certain types of facilities (*see* Cost Report, page 5–119), as well as the substantial costs including significant capital costs and the large uncertainty in any potential annual cost offset due to energy recovery. As of October 2002, there were 40 CAFOs with operating digesters out of several hundred thousand AFOs nationwide, of which 35 were able to partially offset costs through biogas recovery. In addition, EPA continues to believe that mandating the use of anaerobic digesters could divert resources from or complicate the installation of other technologies that can potentially achieve better performance overall. This finding does not alter EPA's previous conclusion that the use of digesters by CAFOs on a site-specific basis may be appropriate in some circumstances (*e.g.*, as part of a manure management system to comply with the new source requirements (*see* 68 FR 7220), but today's proposal concludes that the technology is not an appropriate basis for setting national BCT standards for conventional pollutants.

Despite EPA's conclusion that digesters are not technologically feasible for many CAFOs across a subcategory, today EPA presents the BCT cost test for those CAFOs where the digester technology is most likely to be feasible—large swine and dairy facilities. This option includes treatment in a mesophilic digester (either a heated covered-lagoon digester, plug flow, or complete mix digester, with biogas recovery) prior to manure storage. Treated manure is assumed to be stored in the CAFOs existing manure storage facility and land applied consistent with the BPT requirements of 40 CFR 412.

To evaluate costs and pollutant reductions of all technologies presented today, EPA used the same 1,600 farm-based cost models EPA used in the 2003 CAFO rule (68 FR 7243; also see Chapters 2 and 5 of the Cost Report). Digester costs were determined using EPA's AgStar Farmware (version 2). As described above, quantifying pathogen reductions is difficult. For purposes of conducting the cost-reasonableness test, EPA assumes the heated digester system will reduce fecal coliforms in the stored manure by 99 percent (atwolog order reduction). EPA's digester option costs include cost-offsets due to biogas recovery and energy recovery, and a new storage pond for effluent storage if the CAFO did not already utilize a liquid storage structure. EPA's costs also include annual technical consultation and services necessary to assure effective digester system operation, and optimal biogas generation and energy recovery.

Runoff of land applied manure was simulated using the Groundwater Loading Effects of Agricultural Management Systems (GLEAMS) models EPA developed for the 2003 CAFO rule (see III–19 of ''Loads Report''). GLEAMS is a field-scale model that simulates hydrologic transport, erosion, biochemical processes such as chemical transformation and plant uptake, and nutrient losses in surface runoff, sediment, and groundwater leachate and is described in the Loads Report. The National Water Pollution Control Assessment Model (NWPCAM) is a national surface-water quality model designed to characterize water quality for the nation's network of rivers, streams, and lakes. In the 2003 CAFO rule analysis, NWPCAM simulations predicted that, on average nationwide, 75 percent of fecal coliform, 88 percent of BOD5, and 79 percent of TSS that reach the edge-of-field will reach surface waters (all calculated at the RF3 storm reach level). EPA combined the reduced discharges of conventional pollutants from modeled production area overflows (see Loads Report for more information) with the reduced land application discharges based on the edge-of-field load analyses (the GLEAMS simulations followed by attenuation in the NWPCAM model) to quantify reductions in conventional pollutant discharges from both the production area and the land application area. EPA also conducted sensitivity analyses on the range of costs of this technology by considering alternative cost offsets for biogas recovery for energy production. The specific assumptions and resulting model farm costs may be found in DCN 22177 and DCN 1–02001.

The incremental costs (annualized costs in 2001 dollars) and pollutant reductions are shown in Table E.2 which follows the discussion of technology options analyzed. 2001 dollars are used for comparability with POTW benchmark costs. The cost index used to bring forward CAFO costs to year 2001 is the same index that was used to bring forward POTW benchmark costs to year 2001 dollars. Since the POTW cost test compares cost to pollutant ratios for both industry and POTWs, applying the same cost index to both ratios would not change the overall comparison of these ratios. For this reason, EPA has determined that it is not necessary to bring the 2001 costs forward to current year dollars for any technology option presented today.

Fluidized Bed Incinerators. This technology was reviewed but not considered as a technology option in the 2003 CAFO rule. Fluidized bed incineration is a proven technology for reducing waste volume and for converting the waste to useful products (*e.g.*, energy, nutrient enriched ash), and is being used at municipal waste disposal facilities. However, even at municipal operations, incineration can be a costly method of disposal and frequently requires co-combustion with other feedstocks.

In addition, incinerators are not widely used in the United States to manage animal manure because they are generally not affordable to individual CAFOs. Application of this technology has been attempted unsuccessfully by a beef feedlot in the U.S., but the incinerator thermal output could not be sustained (TDD, 8–93 to 8–95). Fluidized bed incinerators are also sensitive to moisture content and fuel particle size, limiting incinerator effectiveness to those wastes that are no more than 15–20 percent moisture.

Individual poultry CAFOs in the U.S. do not currently use incineration as a method of handling excess poultry litter, although centralized incinerator projects have been successfully developed in the European Union in selected geographic areas with a high density of poultry operations, and several similar systems have been proposed in the U.S. These centralized incinerators reduce pathogens in the litter. However, large-scale, centralized incineration plants have not yet successfully translated into feasible, smaller-scale units for individual CAFO use. (*See* Chapter 8 of the TDD.)

EPA is aware that it is also possible to gasify manure solids on-farm, but this technology is still in the pilot stage. EPA is further aware of a demonstration project that heats the manure in a refractory oven, and uses the gasses to replace propane in a mortality handling system. EPA is not aware of any individual CAFOs using incineration due to fuel costs, the high capital costs of the incineration unit, and the inability to sustain the technology for most animal manures. EPA therefore rejects this technology as not technologically feasible for individual CAFOs.

Chemical Disinfection. Methods of disinfection include chemical addition, heat, mechanical methods, and radiation. Various types of chemical addition for the purpose of disinfection were reviewed but not selected as part of a technology option in the 2003 CAFO rule. (*See* Chapter 8 of the TDD for more information.) Commonly used disinfection technologies in the U.S. include the addition of chemicals such as chlorine, calcium hypochlorite, sodium hypochlorite, lime, and ozone. Chlorination has a history of select pathogen destruction effectiveness and is relatively inexpensive when used as a polishing step for final incremental removal of pathogens. The Occupational Safety and Health Administration (OSHA) has established intensive training and safety measures for chlorine use. (DCN 1–01198.) Organic compounds present in typical CAFO wastewater can combine with chlorine to form chloroform (a documented animal carcinogen), monochloramines, and other toxic chloro-organic compounds. Chlorine dioxide is widely used as an alternative bactericide, but requires expensive generating equipment, and produces chlorate and chlorite as potentially undesirable by-products. Chemical addition is not commonly practiced in the United States for treatment of animal wastes. In order for chlorination to be optimally effective and to minimize the generation of chlorinated by-products, the treated wastewater should have low levels of suspended solids—generally 30 to 50 mg/l or less. Therefore, to implement chlorine-based disinfection, animal wastewater would require primary and/or biological treatment prior to disinfection. Storage tanks, dosage control equipment, and mixing equipment would need to be retrofitted. The capital investment to modify a typical CAFO's existing manure management system would be costly and operation of the system would require higher levels of maintenance and operator skill.

Lime addition is used as a disinfectant for animal wastes found in barns and milking parlors. Lime addition is a proven treatment technology for achieving Class A and Class B biosolids standards. To meet Class B requirements using lime stabilization, the pH of the biosolids must be elevated to more than 12 for two hours and subsequently maintained at more than 11.5 for 22 hours. The material also needs to be kept at high temperature (70 degrees Celsius) for at least 30 minutes, which would require outside heating of the material to be treated. EPA has very little data on the scalability of the technology to individual CAFOs. What data there is suggests that the capital costs for holding tanks, dosage tanks, mixing equipment, and neutralization tanks necessary for retrofitting this technology at CAFOs would be high. The addition of lime results in an increase in sludge volume, although lime stabilization generally requires less storage space than alternatives such as composting. Most high moisture CAFO wastes would require some sort of digestion and/or dewatering prior to stabilization. EPA believes additional costs for operator training, safety controls, chemical purchases, and increased volume of materials that must be hauled and land applied may be another reason the technology has not been adopted by CAFOs given the successful application of lime addition to biosolids. Lime addition in poultry houses has been shown to interfere with pesticide functionality, and lime addition to poultry litter has been shown to cause a huge flush of ammonia emissions from the litter. EPA further notes that the addition of lime to organic wastes in general has been shown to accelerate ammonia emissions.

Ozone is a highly effective germicide against a wide range of pathogenic organisms, including bacteria, protozoa, and viruses. Ozone use in U.S. wastewater treatment is limited due to high capital and operating costs and intensive energy requirements. Ozonation, like chlorination, requires a wastewater that has relatively low levels of solids to avoid regrowth of microorganisms after disinfection and limit costs associated with oxidizing oxygen demanding solids. Ozone disinfection technology is not commonly used in the United States for treatment of animal wastes. The processes are costly and require higher levels of maintenance and operator skill. Efficient ozone disinfection requires a pH of 6–10 and temperature of at least 36 degrees Fahrenheit. (TDD, p. 8–117.) To implement this technology, animal wastewater would require primary and/or biological treatment prior to disinfection (DCN 1–01198). Therefore, EPA rejected ozonation as impractical due to high operation and maintenance requirements, high operator skill requirements, considerable worker safety concerns, and overall high costs.

For the above reasons, EPA finds that all of these chemical addition technologies are not technically feasible for individual CAFOs.

Deep Stacking and Composting of Poultry Litter. Deep stacking consists of piling litter in a conical pile or stack after it is removed from a poultry house and raising the temperature to a maximum of 140 Fahrenheit (60 Celsius) by microbes. As with anaerobic digestion, incineration, and in some cases, chemical addition, the heat (high temperature) reduces pathogens. Although the practice of deep stacking poultry litter enhances its potential value as a feedstuff for ruminants by reducing concern about possible pathogen transmission, the stacked poultry litter is not pathogen free. The stacked litter is not mixed out of concern that re-aeration will create the potential for excessive heating. Thus, outer regions of the deep stacked litter do not reach the temperatures necessary for pathogen destruction. In practice, deep stacking may be considered a specialized approach to composting in which oxygen availability limits the overall temperature and the degree to which dry matter (''volatile solids'' or ''VS'') are destroyed. (TDD, p. 8–131 to 8–132.) Due to the lack of reliable data on the overall effectiveness of the technology in reducing fecal coliform, the operational similarities to windrow composting (an option already evaluated), and limited applications to limited types of poultry CAFOs, EPA rejects deep stacking as not technically feasible for consideration as a BCT candidate.

For more general composting practices (*e.g.*, windrow composting), EPA notes that the effectiveness of the technology is weather dependent, it requires a large amount of land, and additional runoff controls and wastewater storage, and its use would impose a much higher operating cost on CAFOs. (TDD, p. 8–102 to 8–110; Cost Report, Section 5.12.) Not withstanding these limitations, some CAFOs successfully use composting technologies. Windrow composting in particular is available to a range of CAFOs, and was included in technology option 5a for beef and dairy operations in the 2003 rule. Composting is also a technically feasible technology for incremental pathogen removals at most poultry operations. Composting was therefore further evaluated for cost reasonableness for beef, dairy, and poultry operations as part of today's proposal.

As with the digester option, the model farms used in the analysis were the same as those used in the 2003 final CAFO rule. Costs were based on windrow composting, and include turning equipment, labor, berms for runoff controls, a storage pond for collection of compost site effluent, and solid-liquid separation for beef and dairy facilities. For purposes of this analysis, EPA assumes 99 percent reduction of fecal coliform in the manure or litter prior to overflows from storage ponds or runoff from land application of the manure. EPA is aware that some composting operations today offset their costs through sales of the composted material. EPA believes regulatory requirements that resulted in all facilities in a geographical area composting their manure would flood the local market and significantly reduce a CAFO's ability to offset costs through compost sales. For this reason, compost sales cannot reliably be included as cost offsets for this option.

Ground water controls. As discussed above, the ground water option (2003 CAFO rule Option 3) may result in decreased discharges of pollutants in comparison to the final BPT requirements. However, EPA concludes the conventional pollutant reductions for Option 3 are small. In analyzing this option, soil permeability was used to determine leakage values (a reflection of the pollutant mobility in the soil under the manure storage area). Estimated costs included a retrofit installation of synthetic liners plus monitoring wells in the vicinity of manure storage structures. EPA estimated national pollutant reductions by first looking at each geographical region's probability for ground water contamination. Factors influencing potential for ground water contamination include the presence of sandy soils, shallow groundwater tables, and the presence of karst or karst-like terrain (*see* Table 29 in section III.G of the Loads Report). Regional loads were summed to generate a national load estimate. The incremental costs and pollutant reductions for this option in the 2003 CAFO rule analysis are presented in Table E.2.

No discharge option. As discussed above, the no discharge option for existing swine and poultry facilities (2003 CAFO rule Option 5) would result in decreased discharges of conventional pollutants in comparison to the final BPT requirements. In the earlier rulemaking, EPA rejected this option for BAT because it was not found to be economically achievable. Consequently, this option is not an available BCT technology. The incremental costs and pollutant reductions from the 2003 CAFO rule analysis are presented in Table E.2.

Production Area Management Practices. One mechanism for pathogen discharges to surface waters is catastrophic spills. In the 2003 rule, EPA required various production area management practices to address catastrophic spills, and has not identified any additional production area management practices that would further reduce pathogen discharges from the production area.

EPA expects that the 2003 rule requirements for no discharge from the production area, as well as routine inspection and mandatory management practices for the control of liquid impoundment levels, will reduce catastrophic spills (40 CFR 412.37(a)(1) and (2)). At the production area, operators are required to handle animal mortalities in a manner so as to prevent contamination of surface water (40 CFR 412.37(a)(4)). The proper use of manure as a fertilizer is closely linked with manure storage, typically resulting in increased storage capacity and longer retention times of both liquid and solid manure allowing increased opportunity for die-off of pathogens due to competition, UV, and other factors. For example, runoff from fields receiving poultry litter that had been stored prior to application showed no significant difference in pathogen content from runoff from control fields to which manure had not been applied (GEIS, 1999), demonstrating that pathogen reductions from lengthy storage times are significant. (See Response to Comments Document, CAFO400085–16.)

Minimum storage periods, while site-specific, are nonetheless necessary to meet the land application requirements of the 2003 CAFO rule (see ''Cost Methodology'' report for more information on typical storage periods; see Chapter 2 of ''Managing Manure'' for more information on the link between adequate storage and land application practices). Adequate storage, though not specifically defined by the 2003 CAFO rule, already accomplishes significant pathogen reductions. (*See* ''Loads Report'' for pollutant reduction estimates attributed to storage and the production area management practices required by the final CAFO rules.) EPA has not identified any additional production area management practices that will result in additional reductions of pathogens.

Land Application Practices. Although the requirements of the 2003 rule related to land application of manure were not specifically designed to reduce the pathogens in animal wastes, they are effective at achieving reductions of pathogens in CAFO discharges. In addition to the production area management practices described above, CAFO discharges of pathogens are further reduced by applying manure at rates that ensure appropriate agricultural utilization of nutrients and establishing setbacks or buffers where manure, litter, and other process wastewater are not applied. Accordingly, the final rule requirements include several land application practices, such as appropriate rates and timing of application, overall consideration of whether any land application should occur, and application setbacks and buffers. The 2003 CAFO rule also requires field-specific assessments of the potential for nutrient transport for each field to which manure may be land applied. Such assessments must address the source, form, timing, and method of application. Application rates must minimize phosphorus and nitrogen transport from the field to surface waters (40 CFR 412.4(c)(2)). Application rate has been identified as the single most important factor affecting pollution of surface waters from fields receiving manure. In one case study, swine lagoon effluent applied to tile drained fields at 1.1 inches showed no difference in runoff quality from the control fields, but application at three times this rate yielded high levels of fecal coliform in the adjacent surface water.

The final selected option also specifies that manure, litter, or other process wastewaters are not to be applied within 100 feet of any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters (40 CFR 412.4(c)(5)). This setback is an area where manure, litter, or other process wastewaters are not applied, but crops may continue to be grown. The setback achieves pollutant reductions by increasing the distance pollutants have to travel to reach surface waters. The transport of nutrients and other pollutants (including pathogens) in manure to surface waters and the rate at which transport occurs is dependent on the land use, geography, topography, climate, amount and method of manure application, and the nature and density of vegetation in the area. As a compliance alternative to the setbacks requirement, CAFOs may use vegetated buffers (40 CFR 412.4(c)(5)). EPA's record shows numerous examples of buffers with trapping efficiencies as high as 91% (*e.g.*, see DCNs 385026, 321083, 22374). Buffer strips stabilize streambanks and shorelines, and prevent loss of pollutants from bank erosion and slumping. (Response to Comments Document, CAFO400085–16.) As indicated above, EPA considered and selected nutrient management and use of setbacks or buffers for the BPT ELGs (*see* 40 CFR 412.4 and 412.37). Because pathogen transport often occurs through adherence to soil or other solid particles, management practices that reduce discharges of other pollutants, particularly TSS, will also reduce pathogen discharges.

As described previously, pathogen die-off occurs during the period manure is stored prior to land application, and further die-off of pathogens occurs when the animal waste is exposed to sunlight following surface application to land. Pathogenic bacteria in particular are sensitive to changes in environmental conditions. EPA applied the GLEAMS model to estimate changes in pollutants leaving the land application areas of CAFO facilities. EPA also calculated reductions in pathogen indicator loadings from the production area of facilities. (*See* Response to Comments Document, Appendix A, Essay: CAFOs as Sources of Pathogens and Related Risks).

Additional factors affecting pathogen content in the runoff from land application areas include incorporation methods, tillage practices, saturation of the receiving field, and elapsed time following application before a rainfall. These factors are expected to be addressed, where appropriate, in the State technical standards required under 40 CFR 412.4(c)(2). For examples, see ''Managing Manure,'' 2–12 for a discussion of additional storage capacity for the winter season; Appendix L for technical guidance on minimizing risks of runoff of manure in the winter; and Appendix M for guidance on estimating the minimum level of rainfall at which runoff begins.

In the 2003 CAFO rule, 40 CFR 412.4 requires technical standards for nutrient management to address the form, source, timing, and method of application to each field. At the time EPA evaluated, but did not select, technology Option 7 (same as Option 2 plus prohibition of land application of manure to frozen, snow-covered, or saturated ground). The incremental costs and pollutant reductions from the 2003 CAFO rule analysis for this option for beef and dairy facilities are presented in Table E.3. Today, EPA also presents the costs and conventional pollutant reductions of this technology option for swine facilities. To comply with this requirement at swine facilities, EPA has calculated the costs for additional storage capacity (up to six months additional storage in the Midwest and Mid-Atlantic regions; facilities in the Southern region were assumed not to need additional containment for manure storage over the winter). In all other respects, the cost models and model farms are the same as those used in the 2003 CAFO rule. EPA notes some incremental pollutant reductions from the productions area occur as a result of this requirement due to a reduction in frequency of overflows from manure storage areas, and that minimal reductions occur from the land application areas because the technical standards and NMPs required by the 2003 CAFO rule, while not banning application of manure to frozen, snow covered and saturated fields outright, already address timing issues associated with application of manure. EPA did not identify any additional land application management practices that will result in additional reductions of pathogens.

(b) Do Any of These Technologies Pass the BCT Cost-Reasonableness Test?

In addition to other factors specified in Section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two part ''cost-reasonableness'' test. The ''cost reasonableness'' test evaluates ''the reasonableness of the relationship between costs of attaining a reduction in effluent and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge of POTWs to the cost and level of reduction of such pollutants from a class or category of industrial sources * * *'' EPA explained its methodology for the development of BCT limitations in July 1986 (51 FR 24974). In developing the BCT methodology, EPA was guided by legislative history of the Clean Water Act, in particular, Congress' concern that controls for conventional pollutants at levels more stringent than BPT were likely to be unreasonably expensive in some cases. The BCT methodology answers the question of whether it is ''cost-reasonable'' for industry to control conventional pollutants at a level more stringent than BPT already requires.

Establishing BCT effluent limitations for an industrial category or subcategory begins by identifying technology options that provide additional conventional pollutant control beyond that provided by application of BPT effluent limitations. EPA evaluates the candidate technologies by applying the two-part BCT cost test. To ''pass'' the POTW test (the first part of the cost-reasonableness test), the cost per pound of incremental conventional pollutant removed in upgrading from BPT to the candidate BCT must be less than the cost per pound of incremental conventional pollutant removed in upgrading POTWs from secondary treatment to advanced secondary treatment. The second part of the test that the ''candidate'' BCT technology must pass is the industry cost-effectiveness test, discussed below.

Historically, EPA has evaluated the cost-reasonableness of each technology option on a subcategory basis. However, the candidate BCT technologies being evaluated for CAFOs vary significantly in costs and feasibility by animal type within a subcategory of CAFOs (Cost Methodology Report, EPA–821–R–03–004). For CAFOs, the specific candidate technologies are not universally applicable. If EPA were to evaluate each technology across a subcategory, there would not be any technology that could be applied to an entire subcategory to be evaluated, and EPA would conclude no technology exists that could be used to potentially establish BCT limitations more stringent than BPT. Therefore EPA has evaluated each candidate technology on a species-specific basis (the animal species for which the technology is believed to be technologically available). These species-specific results may then be assembled into candidate technology options that are practical for a subcategory. This provides a meaningful evaluation of cost-reasonableness for the entire subcategory, and is therefore both appropriate and necessary for applying the BCT cost reasonableness methodology to CAFOs.

As described in the 1986 BCT methodology, the two conventional pollutants used in calculating the POTW pollutant removal benchmark are BOD and TSS. As previously discussed, EPA relied primarily on sediment removals as an indicator of conventional pollutant reductions. The models available for simulating pollutant reductions from land application practices (GLEAMS, EPIC, and BASINS) do not measure BOD, and EPA was not able to quantify BOD loadings from land application in the 2003 CAFO rule. Runoff from land application areas contains BOD from manure and process wastewaters, but it also contains BOD from organic matter including background soil organic materials and crop residues. In contrast to crop residues, manure BOD is highly sensitive to moisture and aerobic conditions, and quickly forms inorganic materials and nutrients after land application, as evidenced by significant off-gassing (odor) as the manure decomposes. (DCN 1–01230.) BOD deliveries to surface water are also highly variable, but current literature suggests the timing of land application in relation to future rainfall events is a key parameter.

Since the 2003 CAFO rule, models including WAM (Watershed Assessment Model) and WMM (Watershed Management Model) were developed that have some watershed level BOD modeling capability (for example, *see* ''TMDLs for Nutrient, DO, and BOD for Delaney Creek,'' March 2005, DCN 1–01222). The data required for the WMM model include: Area of all the land use categories and the area served by septic tanks; percent impervious area for each land use category; event mean concentration of runoff (EMC) for each pollutant type and land use category; percent EMC of each pollutant type that is in suspended form; and annual precipitation. The lack of data/literature to support estimation of national BOD loadings from land applied manure is a significant issue. EPA concludes the capability is still not available to model BOD runoff.

The 2003 CAFO rule prohibits dry weather discharges from land application areas, and the BPT land application requirements (including technical standards for timing, form, and rate of application, as well as the required vegetated buffer, setback, or equivalent practices) already minimize discharges of BOD from land application areas. However, the reductions in BOD in runoff from land application areas, specifically the BOD attributable to manure and process wastewater, are minimal in comparison to production area discharges of BOD. Therefore EPA's load reductions for BOD include production area discharges (overflows and runoff from manure storage), but do not include land application. (*See* the TDD for discussion of EPA's modeling of overflows from the production area and runoff from land application areas; also see ''Loads Report'.) Table E.1 provides a summary of the costs and pollutant reductions of the 2003 CAFO rule BPT.

TABLE E.1.—2003 CAFO RULE BPT COSTS AND POLLUTANT REMOVALS

Sector	Annualized costs ($2001, millions, pre tax)	BOD removed (million pounds)	TSS removed (million pounds sediment)	Total pounds removed (million pounds)
Beef	86	0	1201	1201
Dairy	128	0	99	99
Swine	25	0	113	113
Poultry	41	6	181	187

Table E.2 provides incremental costs and incremental pollutant removals of candidate technologies in relation to BPT. Incremental costs are the costs of the technology option minus the BPT costs from Table E.1. Incremental load reductions are the pounds removed by the technology option minus the BPT load reductions from Table E.1. Total incremental reductions include BOD and TSS. See Section D.1(c) of today's preamble for additional discussion of pathogens (fecal coliform) reductions.

TABLE E.2.—INCREMENTAL COSTS AND CONVENTIONAL POLLUTANT REMOVALS OF CANDIDATE TECHNOLOGIES

Candidate technology	Animal sector	Annualized cost of candidate technology option ($2001, millions, pre-tax)	Incremental costs ($2001, millions, pre-tax)	Incremental BOD removed (million pounds)	Incremental TSS removed (million pounds sediment)	Total incremental reductions (million pounds)
Ground water Controls [1]	Beef	231	145	0	0	0
	Dairy	316	188	0	0	0
	Swine	61	36	0	0	0
No Discharge	Swine	133	108	7	1	8
Composting	Beef	1,367	1281	3	25	28
	Dairy	277	149	1	7	8
	Poultry	508	467	0	0	0
Anaerobic Digestion	Dairy	505	377	2	9	11
	Swine	79	54	6	0	7
Land Application Timing Restrictions	Beef	112	26	0	0	0
	Dairy	318	190	2	7	9
	Swine	37	12	7	1	8

[1] Only reduced discharges to surface waters via a hydrologic connection are included in this analysis.

The POTW upgrade cost is referred to as the POTW benchmark; its derivation is described in the 1986 final BCT methodology notice (51 FR 24974). The upgrade cost to industry must be less than the POTW benchmark of $0.25 per pound (in 1976 dollars) or $0.65 per pound (in 2001 dollars). Table E.3 provides the cost per pound of conventional pollutants (BOD and TSS) removed by the candidate technology. (See the Addendum to the TDD, DCN 1–10227 for additional information on the POTW benchmark.)

TABLE E.3.—COST TEST PART ONE

[POTW test results]

Candidate technology	Animal sector	Incremental cost per pound removed by technology ($/lb)	POTW test result
Ground water controls	Beef	[1]NC	Fail.
	Dairy	NC	Fail.
	Swine	NC	Fail.
No discharge	Swine	13.55	Fail.
Composting	Beef	46.39	Fail.
	Dairy	17.84	Fail.
	Poultry	NC	Fail.
Anaerobic Digestion	Dairy	34.15	Fail.
	Swine	7.89	Fail.
Land Application Timing Restrictions	Beef	366.65	Fail.
	Dairy	20.90	Fail.
	Swine	1.55	Fail.

[1] Values were not calculated because no additional pollutant reductions to surface waters were expected for these options.

In all cases, the POTW benchmark is lower than the cost per pound of conventional pollutants removed by the candidate technology. Since the candidate technologies all fail the POTW cost test, the candidate technologies are not cost-reasonable. EPA notes that even though a candidate technology may be affordable for a subcategory, the candidate technologies must be cost-reasonable to be considered as a basis for setting BCT limitations.

EPA concludes that since all candidate technologies fail the POTW test for each species evaluated, any technology option developed for subcategories C or D utilizing a combination of these candidate technologies also fails the POTW test. In addition, EPA believes the results presented here for beef, dairy, swine, and poultry operations are reasonably extrapolated to veal calf operations (which are typically total confinement operations like swine) and heifer operations (which use similar waste management technologies to beef feedlots). EPA notes veal calf and heifer operations comprise approximately two percent of all Large CAFOs. Once the candidate technology fails the POTW test, the candidate technology fails the cost-reasonableness test. The industry cost-effectiveness test (the second test for determining cost reasonableness) is only relevant if the POTW test (the first test) is passed. The following discussion of the industry cost-effectiveness test is provided today for completeness.

The second test that the candidate BCT technology must pass to be considered cost-reasonable is the industry cost-effectiveness test. To pass the industry cost test, EPA computes a ratio of two incremental costs. The first incremental cost is the cost per pound removed by the candidate technology relative to BPT. The second incremental cost is the cost per pound removed by BPT relative to no treatment (*i.e.*, raw wasteload). As in the POTW test, the ratio of the first cost divided by the second cost is compared to an industry cost benchmark. The industry cost benchmark is the ratio of two incremental costs: The cost per pound to upgrade a POTW from secondary treatment to advanced secondary treatment is divided by the cost per pound to initially achieve secondary treatment. If the industry ratio is lower than the benchmark, then the candidate technology passes the cost test. The industry cost benchmark is 1.29 (*see* 51 FR 24974; also see the Pulp and Paper Final Rule Technical Development Document, EPA–821–R–97–011). Table E.4 shows the ratio of the incremental costs for the candidate technology options. (*See* Addendum to the TDD for additional information on the cost ratio calculations.)

TABLE E.4.—COST TEST PART TWO

[Industry cost-effectiveness test results]

Candidate technology	Animal sector	Candidate technology cost ratio	Industry cost benchmark	Industry cost test result
Ground water controls	Beef	NC	1.29	Fail.
	Dairy	NC	1.29	Fail.
	Swine	NC	1.29	Fail.
No discharge	Swine	61.15	1.29	Fail.
Composting	Beef	647.70	1.29	Fail.
	Dairy	13.86	1.29	Fail.
	Poultry	NC	1.29	Fail.
Anaerobic digestion	Dairy	26.52	1.29	Fail.
	Swine	35.63	1.29	Fail.
Land Application Timing Restrictions	Beef	5,119.52	1.29	Fail.
	Dairy	16.23	1.29	Fail.
	Swine	6.99	1.29	Fail.

In all cases, the candidate technology's cost ratio is higher than the industry cost benchmark, and the technology would fail the second test. EPA concludes that since all candidate technologies fail the industry cost-effectiveness test for each species evaluated, any technology option developed for subcategories C or D utilizing a combination of these candidate technologies also fails the industry cost test for similar reasons described above.

(c) How Is EPA Evaluating Pathogens in Its BCT Cost Reasonableness Analysis?

As stated above, EPA establishes BCT effluent limitations for an industrial category or subcategory by identifying technology options that provide additional conventional pollutant control beyond that provided by application of BPT technologies. EPA evaluates candidate technologies by applying the two-part BCT cost test where one requirement is that the cost per pound of conventional pollutant removed in upgrading from BPT to the candidate BCT must be less than the cost per pound of conventional pollutant removed in upgrading POTWs from secondary treatment to advanced secondary treatment. The two conventional pollutants used in calculating the POTW pollutant removal benchmark are BOD and TSS.

For the candidate technology's cost comparison, the 1986 BCT methodology describes the use of BOD and TSS, and also oil and grease when appropriate in the context of the industry and technology being evaluated. When the Agency promulgated the BCT methodology (including descriptions of how to apply the cost test), fecal coliform and pH were not included in the calculations because, unlike BOD and TSS, these pollutants were not measurable as ''pounds removed.'' Section 304(b)(4)(B) authorizes EPA to consider other appropriate factors in establishing BCT. The 1986 methodology envisioned the need for adjustments to the BCT cost test methodology in future rulemakings to account for lack of comparable data or other industry-specific factors. (51 FR 24974, 24976 (July 9, 1986).) For CAFOs, where pathogen reductions are a factor to be considered, including fecal coliform for the determination of BCT cost reasonableness is an appropriate application of such flexibility.

The Second Circuit directed EPA to make an affirmative finding that the BCT-based ELGs adopted in the 2003 CAFO rule do in fact represent the best conventional pollutant control technology for reducing *pathogens*, specifically fecal coliform. Although fecal coliform is not typically used in BCT cost calculations, in light of the Second Circuit's direction and the flexibility inherent in the BCT methodology, EPA developed procedures to evaluate cost-reasonableness for fecal coliform removal for this industry. Therefore, today's proposal includes an additional set of cost comparisons to directly account for pathogens by specifically including fecal coliform, the only conventional pollutant that is a possible pathogen. EPA thus adds fecal coliform to the BCT determination, which is an appropriate adjustment to the BCT methodology for the CAFO industry. The proposed approach parallels the two-part cost-reasonableness test conducted above for pounds of conventional pollutants, but here, pounds of conventional pollutants is replaced by colony forming units (CFU) of fecal coliform. Table E.5 presents the costs and fecal coliform (FC) removals of the 2003 CAFO rule (BPT).

TABLE E.5.—2003 CAFO RULE BPT COSTS AND FC REMOVALS

Sector	Annualized costs ($2001, millions, pre-tax)	FC removed (million CFU)
Beef	86	10.56×10^{13}
Dairy	128	0.97×10^{13}
Swine	25	0.42×10^{13}
Poultry	41	6.74×10^{13}

Table E.6 provides incremental costs and incremental fecal coliform (FC) removals of candidate technologies in relation to BPT. In this analysis, EPA has again evaluated the candidate technologies first on a species-specific basis. These results may then be combined to form candidate technology options that can be used to conduct the cost-reasonableness test on a subcategory wide basis. Costs are the same as those presented in Table E.2. Fecal coliform removals were determined using the 2003 CAFO rule methodology as described above in section E.3(a).

TABLE E.6.—INCREMENTAL COSTS AND FC REMOVALS OF CANDIDATE TECHNOLOGIES

Candidate technology	Animal sector	Incremental annualized cost ($2001, millions, pre-tax)	Incremental FC removed (million CFU)
Ground water controls	Beef	145	[1] ND
	Dairy	188	ND
	Swine	36	ND
No discharge	Swine	108	7.4×10^{13}
Composting	Beef	1281	250×10^{13}
	Dairy	149	30.4×10^{13}
	Poultry	467	0.460×10^{13}
Anaerobic digestion	Dairy	377	22.9×10^{13}
	Swine	54	136×10^{13}
Land Application Timing Restriction	Beef	26	0.560×10^{13}
	Dairy	190	22.9×10^{13}

TABLE E.6.—INCREMENTAL COSTS AND FC REMOVALS OF CANDIDATE TECHNOLOGIES—Continued

Candidate technology	Animal sector	Incremental annualized cost ($2001, millions, pre-tax)	Incremental FC removed (million CFU)
	Swine	12	136×10^{13}

[1] Values were non-zero, but too small to report in the indicated units.

EPA needed to develop a new benchmark to use for this alternative POTW part of the BCT cost test which reflects the cost to reduce fecal coliform at a POTW. To do this, EPA first examined the costs of removal of fecal coliform at secondary and advanced secondary plants. EPA defined both secondary and advanced secondary plants in the same way as in the 1986 BCT cost methodology. Secondary plants are assumed to be activated sludge plants and advanced secondary plants are activated sludge plants with polymer addition. EPA reviewed the POTW costs presented in the July 9, 1986, **Federal Register** Notice, and confirmed that the costs reflect both chlorination and biological treatment (*see* 51 FR 24982). Performance data show that the majority of fecal coliform removal (90 to 98 percent) occurs during secondary treatment and is accomplished through removal of the biosolids. Disinfection, such as through chlorination or ultraviolet decomposition, is used as a polishing step to reduce fecal coliform to below 200 CFU/100 mL. EPA concludes that the POTW benchmark must reflect the cost of biological treatment as well as a polishing step for disinfection.

Second, EPA evaluated the amount of fecal coliform removed at POTWs. EPA evaluated reported influent and effluent fecal coliform data reported by POTWs on their discharge monitoring reports (as assembled in EPA's Permit Compliance System). EPA determined, however, that there were insufficient *influent* data to develop a representative national influent concentration for fecal coliform. Therefore, EPA used reference data on typical domestic wastewater concentrations of fecal coliform (Metcalf and Eddy, *Wastewater Engineering: Treatment, Disposal, and Reuse* (1991 3d ed.), DCN 1–01002.) EPA notes that the limited PCS influent data falls within the range of the domestic wastewater reference data. (See DCN 1–01002.)

Final effluent fecal coliform concentration from POTWs with secondary treatment was set at 200 CFU per 100 mL (Ambient Water Quality Criteria for Bacteria, DCN 1–01004). EPA used data from EPA's Permit Compliance System to evaluate national effluent concentrations of fecal coliform from POTWs with advanced secondary treatment. The data shows those POTWs with advanced secondary treatment generally achieved fecal coliform effluent concentrations of 20 to 40 CFU/100 mL, with a median effluent of 21 CFU per 100 mL. (See DCN 1–01005.)

Finally, EPA estimated the benchmark cost to remove a trillion CFU per year for each of the five flow categories evaluated in the 1986 BCT cost methodology, and weighted the costs by total POTW flow for the category. The resulting incremental cost per trillion CFU removed was $0.33 (2001). (See Addendum to the TDD for additional information on the POTW benchmark calculations.) Table E.7 shows the POTW test results using this fecal coliform POTW benchmark for conducting part one of the cost-reasonableness test.

TABLE E.7.—FECAL COLIFORM COST TEST PART ONE

[POTW test results]

Candidate technology	Animal sector	Cost per trillion CFU removed by technology	POTW test result
Ground water controls	Beef	[1] NC1	Fail.
	Dairy	NC	Fail.
	Swine	NC	Fail.
No discharge	Swine	1.46	Fail.
Composting	Beef	0.51	Fail.
	Dairy	0.49	Fail.
	Poultry	101.44	Fail.
Anaerobic digestion	Dairy	1.64	Fail.
	Swine	0.04	Pass.
Land Application Timing Restrictions	Beef	4.58	Fail.
	Dairy	0.83	Fail.
	Swine	0.01	Pass.

[1] NC means not calculated.

For most sectors, the alternate POTW benchmark is lower than the cost per CFU removed by the candidate technology. In these cases, the candidate technologies fail the POTW test for fecal coliform. The remaining candidate technologies are assumed to pass the POTW test and move on to the second cost test.

The second test that the candidate BCT technology must pass to be considered cost-reasonable is the industry cost-effectiveness test. As described previously, to pass the industry cost test, EPA computes a ratio of two incremental costs. In the alternative cost test, the fecal coliform reductions are used in lieu of pounds of TSS and BOD. The first incremental cost is therefore the cost per trillion CFU removed by the candidate technology relative to BPT. This is divided by the cost per trillion CFU removed by BPT relative to no treatment (*i.e.*, raw wasteload). The industry cost benchmark is the ratio of two incremental costs: The cost per trillion CFU to upgrade a POTW from secondary treatment to advanced secondary treatment over the cost per trillion CFU to initially achieve secondary treatment. If the industry ratio is lower than the benchmark, then the candidate technology passes the cost test. The industry cost benchmark is 0.04. Table E.8 shows the ratio of the incremental costs for the candidate technology options and the results of the second test. (See Addendum to the TDD for detailed calculations of the industry cost benchmark.)

TABLE E.8.—COST TEST PART TWO

[Industry cost-effectiveness test results for the fecal coliform cost test]

Candidate technology	Animal sector	Candidate technology cost ratio	Industry cost benchmark	Industry cost test result
Anaerobic digestion	Swine	6.63	0.04	Fail.
Land Application Timing Restrictions	Swine	1.48	0.04	Fail.

In both cases, the industry cost ratio is higher than the benchmark. Therefore, none of the candidate technologies pass the industry cost-effectiveness test. Since all candidate technologies fail the BCT cost test for each species evaluated, any technology option developed for subcategories C or D utilizing a combination of these candidate technologies also fails the cost test. EPA notes the reductions in fecal coliform achieved by the candidate technologies (*i.e.*, greater than 99 percent fecal coliform removal in the case of digesters and composting) represent the upper bound attainable by any technology. Finally, EPA's record shows all candidate technologies would fail the second test even under EPA's sensitivity analyses that assume considerable cost-offsets and cost-sharing. (See Addendum to TDD for additional information on the sensitivity analysis for cost-offsets. EPA solicits comment on all of these data and analyses.)

(d) What BCT Limitations Are Proposed Today?

EPA found that the primary sources of discharges from CAFOs were production area overflows due to inadequate operation and maintenance of the infrastructure for containing and transporting liquid manure and wastewater, and discharges from the application area due to agriculturally improper application of manure, litter, and process wastewater. EPA previously concluded that the BPT standards requiring operation, maintenance, and record-keeping BMPs along with no discharge from the production area, and land application BMPs that require appropriate agricultural utilization of manure, litter, and process wastewater, significantly reduce water pollutant discharges, including pathogen loads.

The technologies already evaluated by EPA generally show high removals (99 percent) of conventional pollutants. In order to pass the cost-reasonableness test, EPA believes any additional candidate technologies would need to show similar pollutant removals and significantly lower costs. EPA is also aware of technologies that may, on a site-specific basis, be used to provide further reductions of conventional pollutants. However, EPA's record shows these other technologies are not available engineering alternatives for most CAFOs, and they are therefore not technologically feasible candidates. (*See* Chapter 8 of the TDD and the docket accompanying today's proposal for descriptions of these additional technologies.) EPA further assumes variations of the technologies evaluated today (for example, plug-flow or complete mix anaerobic digesters versus activated sludge systems) will have comparable or higher costs and comparable pollutant reductions. Therefore, EPA concludes that variations of the candidate technologies evaluated today will not pass the cost-reasonableness test. EPA solicits comment on these findings.

In summary, EPA identified several candidate technologies that can potentially achieve greater removals of conventional pollutants than the BPT standards. EPA evaluated these candidate technologies by conducting the two-part cost reasonableness test. If any candidate technologies are feasible and pass both the POTW and the industry cost test, then the most stringent technology option among them becomes the basis for setting BCT effluent limitations. Alternatively, if no candidate technology more stringent than BPT passes, then BCT effluent limitations are set equal to BPT effluent limitations. Today EPA finds that all candidate technologies fail the cost-reasonableness test. EPA also finds that all candidate technologies fail the alternative cost-reasonableness test that is based on fecal coliform. Accordingly, EPA proposes BCT effluent limitations equal to the 2003 CAFO rule BPT limitations, and affirms that the 2003 CAFO rule BPT limitations do in fact represent the best conventional pollutant control technology. EPA solicits comment on all aspects of the cost-reasonableness analysis and the alternative cost test presented today.

IV. Impact Analysis

A. Environmental Impacts

When EPA issued the revised CAFO regulations on February 12, 2003, it estimated annual pollutant reductions for the rule at 56 million pounds of phosphorus, 110 million pounds of nitrogen, and two billion pounds of sediment. The new proposed rule will retain these environmental benefits since the technical requirements for facilities that discharge are not affected and all facilities will still need to control nutrient releases from the production and land application areas. The overall magnitude of the benefits will increase over 2003 due to growth in the industry, but the analysis for today's proposed rule does not recalculate these effects since the increase is not due to changes in the CAFO regulations.

The premise that environmental benefits are retained is based in large part on the assumption that facilities that do not apply for permits will, in fact, not discharge and will still manage wastewater, manure and litter appropriately at both production and land application areas. The preamble for the proposed rule makes clear that, although it is not necessary for a CAFO to be covered by an NPDES permit in order to qualify for the agricultural storm water exemption, it is the Agency's view that if a facility wants to claim that precipitation-related discharges from land-application areas are agricultural storm water runoff, the CAFO should be land-applying at agronomic rates that correspond to the requirements in 40 CFR 122.42(e)(1)(vi)–(ix) for land application.

The premise that benefits are retained is also based on the conventional modeling assumption of ''full compliance,'' which in this case involves assuming that all facilities that discharge will seek permit coverage. EPA is aware that the permitting history of CAFOs to date could be viewed as calling into question the validity of this assumption. At the time of the 2003 CAFO rule, current estimates indicated that only 4,000 CAFOs were permitted out of a total universe of approximately 13,000 CAFOs potentially covered under the pre-2003 CAFO regulations. (*See* the Technical Development Document for the 2003 rule, Chapter 9.) This difference was driven by two key factors. First, many operations claimed the 25-year, 24-hour storm exemption available under the old regulations. Second, many authorized States were at that point still developing their NPDES CAFO programs and were using a variety of mechanisms to control discharges from CAFOs.

The ongoing reporting on NPDES CAFO permitting completed by EPA since passage of the 2003 rule continues to augment information on CAFOs, and indicates that the number of permitted CAFOs is growing. Currently, EPA estimates that approximately 8,500 CAFOs are covered by NPDES permits. EPA plans to continue to work to ensure full NPDES coverage for discharging CAFOs by expanding its partnership with industry stakeholders.

EPA seeks comment on its assumptions regarding the benefits of the rule (no change from the 2003 rule).

B. Administrative Burden Impacts

Since there is no change in technical requirements, changes in impacts on respondents are estimated to result exclusively from changes in the information collection burden. To determine the administrative burden for the Paperwork Reduction Act (PRA) analysis for today's proposed rule, the Agency examined the two key permitting changes resulting from the *Waterkeeper* decision and how they would be implemented under the proposal. These two permitting features are the change in the duty to apply for CAFOs and the change to the NMP-related provisions for CAFO permits.

The 2003 CAFO rule had a universal duty to apply requirement which required virtually all CAFOs to obtain NPDES permit coverage. The supporting analysis for the rule estimated that as a result of this requirement, approximately 15,500 CAFOs would ultimately receive NPDES permits. (*See* the Technical Development Document for the 2003 rule, Chapter 9.) Today's proposed rule changes the duty to apply requirement so that only CAFOs that discharge or propose to discharge would need to seek NPDES coverage. To derive the number of CAFOs that could ultimately fall into this category, EPA first estimated industry size for 2005 by projecting industry growth from the 2003 estimates using both USDA 2002 Census of Agriculture statistics as well as Agency-based sector expertise. This exercise yielded an estimate of approximately 18,800 total CAFOs for 2005. EPA then combined the 2005 projections for each animal sector with information on standardized operational profiles to anticipate the numbers of facilities as of 2005 that might experience discharges. For example, when inclement weather precludes land application or dewatering activities, open lot type facilities, such as beef lots and dairy operations, are more likely to experience conditions that could result in a discharge due to the use of open on-site lagoons common at many of these facilities. Additionally, EPA assumed that all dairies generate wastewater from the production area and generally have uncovered on-site lagoons. Thus, for purposes of burden estimates, EPA assumed that all dairies and most beef feedlots would apply for permits.

Even though the industry grew to roughly 18,800 CAFOs from 2002 to 2005 (an aggregate growth factor of approximately 22% due to industry expansion and the trend toward larger, more concentrated facilities), the change in the duty to apply requirement is anticipated to reduce the number of facilities needing permit coverage to approximately 14,000 CAFOs. Based on these updated figures, EPA estimates that approximately 25 percent fewer CAFOs would ultimately receive permits under today's proposed rule than under the requirements of the 2003 rule. These projections are discussed in more detail in documentation available in the public record for today's proposal.

These figures may overestimate CAFO NPDES permits in that they make conservative categorical assumptions about the likelihood of a discharge based on broad operational profiles and do not account for more subtle stratifications within specific operational categories. For instance, although most dairies generate washwater from the production area and have on-site lagoons, there do, in fact, exist dairies designed to be zero-discharge operations.

Using the CAFO universe numbers discussed above, EPA projects that CAFO operators will experience an aggregate administrative burden reduction of nearly $15.5 million annually as a result of the court decision to vacate the duty to apply requirement since fewer facilities will need to apply and submit the paperwork for NPDES permits. Similarly, permit authorities (''State respondents'') will experience a roughly $5.2 million reduction in administrative burden due to the court decision to vacate the duty to apply requirement.

In contrast, the administrative burden impacts from the NMP-related changes made in response to the court ruling go up. EPA is revising the permitting process for both individual and general permits to ensure that CAFOs seeking permits submit their NMPs with their permit application. (NMPs were already required for all CAFOs under the 2003 rule.) EPA projects that facilities collectively would only experience a minimal increase in administrative burden—nearly $111,000 for all facilities annually—as a consequence of this change. However, State permitting authorities would face a $5.7 million annual increase in administrative burden as a result of the significant effort needed to review the NMPs for each permittee, arrange for public review and conduct public hearings if requested, respond to comments, and incorporate the terms of the NMP into the NPDES CAFO permit. For permit authorities, these costs would more than offset the burden reduction from the change in the duty to apply and the resulting decline in the number of CAFO permits.

Table 1 below summarizes the administrative burden changes expected to occur as a result of the proposed rule. Baseline A presents the costs to facilities and permitting authorities of implementing the 2003 CAFO rule as described above. In addition, Table 1 provides an illustration in Baseline B of the administrative burden costs in the absence of EPA's proposed rule. The permit processing burden (''duty to apply'') for State permitting authorities in this scenario would increase rather than decrease due to a lack of clarity on the appropriate permitting processes for implementing the court ruling. Specifically, under this baseline, EPA assumes that States would not be able to realize time savings from the use of general permits for CAFOs because of the Court's directive that CAFO permits include facility-specific terms of the CAFO's NMP. EPA instead used burden estimates associated with the individual permit process when costing the burden for CAFO permits under Baseline B. The proposed rule provides a mechanism for States to realize some time savings through the use of general permits while still complying with the Court's directive.

BILLING CODE 6560–50–P

Table 1: PRA Burden Impact Changes

Note: Numbers may not add due to rounding.

			Baseline A: Total PRA Burden under 2003 CAFO Rule Requirements [1]		Baseline B: Total PRA Burden under 2005 Court Ruling (Proposed Rule not Promulgated)		Total PRA Burden Under Proposed Rule		***Net Paperwork Burden Change(Baseline A to Proposed Rule)***	
Permitting universe			*All CAFOs need permits*		*CAFOs that discharge need permits*		*CAFOs that discharge need permits*			
Total CAFOs in 2005				18,800		18,800		18,800		--
CAFOs needing permits [2]				18,800		14,100		14,100		***-4,700***
Annualized Costs ($000) [3]	CAFOs	Duty to Apply	$58.8		$43.3		$43.3		***-$15.5***	
		New NMP Provisions	n/a		$0.1		$0.1		***$0.1***	
		Total CAFO Burden		$58.8		$43.4		$43.4		***-$15.4***
	Permitting Authorities	Duty to Apply	$19.9		$20.7		$14.7		***-$5.2***	
		New NMP Provisions	n/a		$5.7		$5.7		***$5.7***	
		Total Permit Authority Burden		$19.9		$26.4		$20.4		***$0.5***
	All Respondents			$78.7		$69.8		$63.8		***-$14.9***

[1] 2003 baseline impacts adjusted to reflect 2005 labor rates, 2005 growth in facilities.

[2] Facility totals are annualized over 5 years in burden calculations presented in the table to reflect CWA requirement for NPDES permit renewal every 5 years.

[3] Annualized costs represent labor, capital and O&M costs.

Overall, under Baseline A as previously described, the administrative burden under the proposed rule (*i.e.*, the difference between Baseline A and the proposed costs of the proposal) is projected to decline to a total of approximately $64 million, which constitutes a reduction of roughly $15 million compared to the 2003 CAFO rule. This burden impact estimate accounts both for growth in the industry and changes in labor rates since the 2003 rule was issued. In addition, the changes are based on annualized impacts, and assume a permit term of five years as stipulated in the Clean Water Act. More documentation on the administrative burden impacts is available in the public record for today's proposal in the supporting documents for the Paperwork Reduction Act analysis.

V. Cross Media Approaches

Since 2003, EPA and some stakeholders have been interested in developing a framework to enable CAFOs to pursue superior environmental performance across all media. We are aware that today some CAFOs voluntarily conduct whole-farm audits to evaluate releases of pollutants to all media through Environmental Management Systems, self-assessment tools, EPA's performance track, ISO 14001 certification, and state-approved trade offs in reducing discharges to water and emissions to air that accomplish the best overall level of protection given state and local conditions. EPA continues to believe that the development of new and emerging technologies offers the potential to achieve equivalent or greater pollutant reductions relative to those achieved by the effluent guidelines and standards. Many of these are superior from a cross media perspective, and EPA would like to encourage superior cross media solutions. These regulations regarding nutrient management plans may provide a unique opportunity for EPA to encourage cross media approaches at CAFOs. For example, the nutrient value in the animal byproducts provides a valuable source of fertilizer for crops. However, inappropriate application can lead to preventable discharges to water and emissions to air. Optimal application technologies and rates reduce potential water quality and air quality standards violations.

EPA would like to take comment on the feasibility (including consideration of legal, technical, and implementation issues) of allowing flexibility in how facilities can meet various programmatic requirements, for instance those of the Clean Air Act and the Clean Water Act, in order to achieve greater cross-media pollutant reductions. We are interested in exploring this type of approach for both existing and new CAFOs.

EPA continues to believe the development of new and emerging technologies offers the potential to match or surpass the pollutant reductions achieved by today's effluent guidelines and standards. EPA does not want to discourage approaches that are superior from a cross media perspective. Some CAFOs today voluntarily conduct whole-farm audits to evaluate releases of pollutants to all media. EPA plans to consider future opportunities and incentives for CAFOs to participate in such activities. We are not currently proposing such an approach through this action. The development of any such approach would proceed through future notice and comment rulemaking.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

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

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

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

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

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 1989.03.

Under the 2003 rule, all CAFOs were required to apply for a permit and develop and implement a nutrient management plan. Today's proposed rule would reduce the universe of CAFOs that are subject to these requirements specifically to those CAFOs that discharge or propose to discharge.

Overall, the administrative burden under the proposed rule is projected to decline to a total of approximately $64 million, which constitutes a reduction of approximately $15 million compared to the 2003 CAFO rule. The overall labor burden decreases by 777,366 hours. Much of this burden reduction arises from the reduced burden to facility respondents—*i.e.*, those CAFOs subject to permitting. EPA estimates that these operations will experience an aggregate administrative burden reduction of nearly $15.5 million annually (810,751 labor hours) as a result of the portion of the court decision that vacates the duty to apply requirement since fewer facilities will need to apply and submit the paperwork for NPDES permits. However, State permitting authorities would face an increase in administrative burden as a result of the significant effort needed to review the NMPs for each permittee, arrange for public review and conduct public hearings if requested, respond to comments, and incorporate the terms of the NMP into the NPDES CAFO permit. This increase in burden to States offsets the burden reduction experienced by CAFOs, and is explained in more detail in Section IV of the impact analysis for today's proposal.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR Part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OW–2005–0037. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after June 30, 2006, a comment to OMB is best assured of having its full effect if OMB receives it by July 31, 2006. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration (SBA) at 13 CFR 121.201 size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant adverse economic impact on a substantial number of small entities since the proposed rule involves a net burden reduction compared to the burden placed on facilities under the 2003 CAFO rule. Additionally, this proposed rule would not affect small governments as the permitting authorities are State or federal agencies. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the

Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule would not contain a federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The proposed rule would increase the burden to the States by $502,000 (30,300 hours) annually, which reflects the fact that although States will need to process fewer permits, the effort associated with each permit is greater. The proposed rule would also decrease the burden to CAFO respondents by nearly $15.4 million (807,659 hours) annually due to the smaller number of facilities that will need permits. In total, EPA estimates a net reduction of $15 million annually (777,366 hours) in the information collection burden as a result of the proposed rule. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's proposed rule is not subject to the requirements of section 203 of UMRA.

E. Executive Order 13132: Federalism

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

Under section 6(b) of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. Under section 6(c) of Executive Order 13132, EPA may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

EPA has concluded that this proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. EPA estimates that the average annual impact on all authorized States together is $502,000. EPA does not consider an annual impact of this magnitude on States to be a substantial effect. In addition, EPA does not expect this rule to have any impact on local governments.

Further, the revised regulations would not alter the basic State-federal scheme established in the Clean Water Act under which EPA authorizes States to carry out the NPDES permitting program. EPA expects the revised regulations to have little effect on the relationship between, or the distribution of power and responsibilities among, the federal and State governments. Thus, Executive Order 13132 does not apply to this rule.

Consistent with EPA policy, EPA nonetheless consulted with representatives of State governments early in the process of developing the proposed regulation to permit them to have meaningful and timely input into its development. Through a variety of meetings with State associations, States have been apprized of the issues related to addressing the court's decisions. States provided input during these meetings. State concerns generally focused on the process for incorporating NMPs into permits and the related public review process, and also on guidance related to what is a discharge from a CAFO given that the proposal would now require only those operations that have a discharge to apply for a permit. These concerns have been addressed in detail in this proposal in such a way as to build in flexibility, yet accountability, for the new permit application requirements and review processes proposed herein today.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

Executive Order 13175, entitled, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This regulation is not subject to Executive Order 13045 because it is not economically significant as defined under E.O. 12866, and because the Agency does not have reason to believe the environmental health and safety risks addressed by this action present a disproportionate risk to children. The benefits analysis performed for the 2003 CAFO rule determined that the rule would result in certain significant benefits to children's health. (Please refer to the *Benefits Analysis* in the record for the 2003 CAFO final rule.) Today's action does not affect the environmental benefits of the rule.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's proposal does involve the use of technical standards for land application of manure and elimination of discharges from the production area. However, the specific standards applicable to a specific operator are generally determined by the permitting authority on a State-wide or site-specific BPJ basis. EPA encourages the use by permitting authorities of voluntary consensus standards, such as those developed by USDA, in establishing the site-specific technical requirements in CAFO permits.

BILLING CODE 6560–50–P

APPENDIX – FORM 2B

NPDES Application Form for Concentrated Animal Feeding Operations (and Concentrated Aquatic Animal Production Facilities)

EPA I.D. NUMBER *(copy from Item 1 of Form 1)*

FORM 2B NPDES	EPA	U.S. ENVIRONMENTAL PROTECTION AGENCY APPLICATIONS FOR PERMIT TO DISCHARGE WASTEWATER CONCENTRATED ANIMAL FEEDING OPERATIONS AND AQUATIC ANIMAL PRODUCTION FACILITIES

I. GENERAL INFORMATION Applying for: Individual Permit ☐ Coverage Under General Permit ☐

A. TYPE OF BUSINESS	B. CONTACT INFORMATION	C. FACILITY OPERATION STATUS
❑ 1. Concentrated Animal Feeding Operation (complete items B, C, D, and Section II) ❑ 2. Concentrated Aquatic Animal Production Facility (complete items B, C, and section III)	Owner/or Operator Name: .... Telephone: (..........) .... Address: .... Facsimile: (..........) .... City: .... State: .... Zip Code:	❑ 1. Existing Facility ❑ 2. Proposed Facility

D. FACILITY INFORMATION

Name: .... Telephone: (..........) ....
Address: Facsimile: (..........) ....
City: .... State: .... Zip Code: ....
County: .... Latitude: .... Longitude: ....

If contract operation: Name of Integrator: ....
Address of Integrator: ....

II. CONCENTRATED ANIMAL FEEDING OPERATION CHARACTERISTICS

A. TYPE AND NUMBER OF ANIMALS

1. TYPE	2. ANIMALS	
	NO. IN OPEN CONFINEMENT	NO. HOUSED UNDER ROOF
❑ Mature Dairy Cows		
❑ Dairy Heifers		
❑ Veal Calves		
❑ Cattle (not dairy or veal)		

B. Manure, Litter and/or Wastewater Production and Use

1. How much manure, litter and wastewater is generated annually by the facility? ....tons .... gallons
2. If land applied how many acres of land under the control of the applicant are available for applying the CAFOs manure/litter/wastewater? .... acres
3. How many tons of manure or litter, or gallons of wastewater produced by the CAFO will be transferred annually to other persons? .... tons/gallons *(circle one)*

❑ Swine (55 lbs. or over)		
❑ Swine (under 55 lbs.)		
❑ Horses		
❑ Sheep or Lambs		
❑ Turkeys		
❑ Chickens (Broilers)		
❑ Chickens (Layers)		
❑ Ducks		
❑ Other Specify		
3. TOTAL ANIMALS		

C. ❑ TOPOGRAPHIC MAP

D. TYPE OF CONTAINMENT, STORAGE AND CAPACITY

1. Type of Containment	Total Capacity (in gallons)
❑ Lagoon	
❑ Holding Pond	
❑ Evaporation Pond	
❑ Other: Specify	

2. Report the total number of acres contributing drainage: .... acres

3. Type of Storage	Total Number of Days	Total Capacity (gallons/tons)
❑ Anaerobic Lagoon		
❑ Storage Lagoon		
❑ Evaporation Pond		
❑ Aboveground Storage Tanks		
❑ Belowground Storage Tanks		
❑ Roofed Storage Shed		
❑ Concrete Pad		
❑ Impervious Soil Pad		
❑ Other: Specify.................................		

E. NUTRIENT MANAGEMENT PLAN

1. Has a nutrient management plan been developed for the facility and included with this permit application? ☐ Yes ☐ No

2. If no, when will the nutrient management plan be developed? Date: ____________

3. Is a nutrient management plan being implemented for the facility? ☐ Yes ☐ No

4. The date of the last review or revision of the nutrient management plan. Date: ....

5. If not land applying, describe alternative use(s) of manure, litter and or wastewater:

Note: Permit application is not complete until a nutrient management plan is submitted to the Permitting Authority.

F. LAND APPLICATION BEST MANAGEMENT PRACTICES

Please check any of the following best management practices that are being implemented at the facility to control runoff and protect water quality:

❑ Buffers ❑ Setbacks ❑ Conservation tillage ❑ Constructed wetlands ❑ Infiltration field ❑ Grass filter ❑ Terrace

III. CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITY CHARACTERISTICS

A. For each outfall give the maximum daily flow, maximum 30- day flow, and the long-term average flow.				B. Indicate the total number of ponds, raceways, and similar structures in your facility.		
1. Outfall No.	2. Flow (*gallons per day*)			1. Ponds	2. Raceways	3. Other
	a. Maximum. Daily	b. Maximum 30 Day	c. Long Term Average	C. Provide the name of the receiving water and the source of water		
				1. Receiving Water	2. Water Source	

D. List the species of fish or aquatic animals held and fed at your facility. For each species, give the total weight produced by your facility per year in pounds of harvestable weight, and also give the maximum weight present at any one time.

1. Cold Water Species			2. Warm Water Species		
a. Species	b. Harvestable Weight *(pounds)*		a. Species	b. Harvestable Weight *(pounds)*	
	(1) Total Yearly	(2) Maximum		(1) Total Yearly	(2) Maximum
E. Report the total pounds of food during the calendar month of maximum feeding.			1. Month	2. Pounds of Food	

IV. CERTIFICATION	
I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.	
A. Name and Official Title *(print or type)*	B. Phone No. ( )
C. Signature	D. Date Signed

INSTRUCTIONS

GENERAL

This form must be completed by all applicants who check "yes" to Item II-B in Form 1. Not all animal feeding operations or fish farms are required to obtain NPDES permits. Exclusions are based on size. See the description of these statutory and regulatory exclusions in the General Instructions that accompany Form 1.

For aquatic animal production facilities, the size cutoffs are based on whether the species are warm water or cold water, on the production weight per year in harvestable pounds, and on the amount of feeding in pounds of food (*for cold water species*). Also, facilities which discharge less than 30 days per year, or only during periods of excess runoff (*for warm water fish*) are not required to have a permit.

Refer to the Form 1 instructions to determine where to file this form.

Item I-A

See the note above and the General Instructions which accompany Form 1 to be sure that your facility is a "concentrated animal feeding operation" (CAFO).

Item I-B

Use this space to give owner/operator contact information.

Item I-C

Check "proposed" if your facility is not now in operation or is expanding to meet the definition of a CAFO in accordance with the information found in the General Instructions that accompany Form 1.

Item I-D

Use this space to give a complete legal description of your facility's location including name, address, and latitude/longitude. Also, the if a contract grower, the name and address of the integrator.

Item II

Supply all information in item II if you checked (1) in item I-A.

Item II-A

Give the maximum number of each type of animal in open confinement or housed under roof (either partially or totally) which are held at your facility for a total of 45 days or more in any 12 month period. Provide the total number of animals confined at the facility.

Item II-B

Provide the total amount of manure, litter and wastewater generated annually by the facility. Identify if manure, litter and wastewater generated by the facility is to be land applied and the number of acres, under the control of the CAFO operator, suitable for land application. If the answer to question 3 is yes, provide the estimated annual quantity of manure, litter and wastewater that the applicant plans to transfer off-site.

Item II-C

Check this box if you have submitted a topographic map of the of the entire operation, including the production area and land under the operational control of the CAFO operator where manure, litter and/or wastewater are applied with Form 1.

Item II-D

1. Provide information on the type of containment and the capacity of the containment structure (s).
2. The number of acres that are drained and collected in the containment structure (s).
3. Identify the type of storage for the manure, litter and/or wastewater. Give the capacity of this storage in days.

Item II-E

Provide information concerning the status of the development and implementation of a nutrient management plan for the facility. In those cases where the nutrient management plan has not been completed, provide an estimated date of development and implementation. If not land applying, describe the alternative uses of the manure, litter and wastewater (e.g., composting, pelletizing, energy generation, etc.).

Item II-F

Check any of the identified conservation practices that are being implemented at the facility to control runoff and protect water quality.

Item III

Supply all information in Item III if you checked (2) in Item I-A.

Item III-A

Outfalls should be numbered to correspond with the map submitted in Item XI of Form 1. Values given for flow should be representative of your normal operation. The maximum daily flow is the maximum measured flow occurring over a calendar day. The maximum 30-day flow is the average of measured daily flow over the calendar month of highest flow. The long-term average flow is the average of measure daily flows over a calendar year.

Item III-B

Give the total number of discrete ponds or raceways in your facility. Under "other," give a descriptive name of any structure which is not a pond or a raceway but which results in discharge to waters of the United States.

Item III-C

Use names for receiving water and source of water which correspond to the map submitted in Item XI of Form 1.

Item III-D

The names of fish species should be proper, common, or scientific names as given in special Publication No. 6 of the American Fisheries Society. "A List of Common and Scientific Names of Fishes from the United States and Canada." The values given for total weight produced by your facility per year and the maximum weight present at any one time should be representative of your normal operation.

Item III-E

The value given for maximum monthly pounds of food should be representative of your normal operation.

Item IV

The Clean Water Act provides for severe penalties for submitting false information on this application form.

Section 309(C)(2) of the Clean Water Act provides that "Any person who knowingly makes any false statement, representation, or certification in any application...shall upon conviction, be punished by a fine of no more than $10,000 or by imprisonment for not more than six months, or both."

Federal regulations require the certification to be signed as follows:

A. For corporation, by a principal executive officer of at least the level of vice president.

B. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

C. For a municipality, State, federal, or other public facility, by either a principal executive officer or ranking elected official.

Paper Reduction Act Notice

The public reporting burden for this collection of information estimated to average 6 hours per response. The estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information to the Chief, Information Strategies Branch (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please refer to EPA ICR No. 1989.04 for additional information.

******DRAFT 6/15/2005******

BILLING CODE 6560–50–C

OMB No. 2040–0250

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 412

Feedlots, Livestock, Waste treatment and disposal, Water pollution control.

Dated: June 22, 2006.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.21 is amended by revising the last sentence in paragraph (a)(1), and revising paragraph (i)(1)(x), to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

(a) * * *

(1) * * * The requirements for concentrated animal feeding operations to seek coverage under an NPDES permit are described in § 122.23(d).

* * * * *

(i) * * *

(1) * * *

(x) A nutrient management plan that at a minimum satisfies the requirements specified in § 122.42(e)(1). In addition, the nutrient management plan for all CAFOs subject to 40 CFR part 412, subpart C or subpart D, must satisfy the applicable requirements of 40 CFR 412.4(c).

* * * * *

3. Section 122.23 is amended by revising paragraphs (a), (d)(1), (d)(2), (f), and (g) and by removing paragraph (h) to read as follows:

§ 122.23 Concentrated animal feeding operations (applicable to State NPDES programs, see § 123.25).

(a) Permit requirement for CAFOs. Concentrated animal feeding operations, as defined in paragraph (b) of this section, are point sources. Once an operation is defined as a CAFO, the NPDES requirements for CAFOs that discharge or propose to discharge pollutants apply with respect to all animals in confinement at the operation and all manure, litter and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

* * * * *

(d) * * *

(1) *All owners or operators of a CAFO that discharges or proposes to discharge pollutants must apply for a permit.* All owners or operators of a CAFO that discharges or proposes to discharge pollutants must seek coverage under an NPDES permit. Specifically, the CAFO owner or operator must either apply for an individual NPDES permit or submit a notice of intent for coverage under an NPDES general permit. If the Director has not made a general permit available to the CAFO, the CAFO owner or operator must submit an application for an individual permit to the Director.

(2) *Information to submit with permit application.* A permit application for an individual permit must include the information specified in § 122.21. A notice of intent for a general permit must include the information specified in §§ 122.21 and 122.28.

* * * * *

(f) *When must the owner or operator of a CAFO seek coverage under an NPDES permit?* (1) *Operations defined or designated as CAFOs as of [the effective date of the final rule].* The owner or operator of a CAFO that discharges or proposes to discharge pollutants must seek to obtain coverage under an NPDES permit by a date specified by the Director, but no later than July 31, 2007.

(2) *Operations that become defined as CAFOs after [the effective date of the final rule], but which are not new sources.* For newly constructed AFOs that discharge or propose to discharge pollutants and AFOs that make changes to their operations that result in becoming defined as CAFOs for the first time, after [the effective date of the final rule], but are not new sources and that discharge or propose to discharge pollutants, the owner or operator must seek to obtain coverage under an NPDES permit, as follows:

(i) For newly constructed operations not subject to effluent limitations guidelines, 180 days prior to the time CAFO commences operation; or

(ii) For other operations (*e.g.*, resulting from an increase in the number of animals), as soon as possible, but no later than 90 days after becoming defined as a CAFO.

(3) *New sources.* The owner or operator of a new source that discharges or proposes to discharge pollutants must seek to obtain coverage under a permit at least 180 days prior to the time that the CAFO commences operation.

(4) *Operations that are designated as CAFOs after [the effective date of the final rule].* For operations designated as a CAFO in accordance with paragraph (c) of this section, the owner or operator must seek to obtain coverage under a permit no later than 90 days after receiving notice of the designation.

(g) *Duty to Maintain Permit Coverage.* No later than 180 days before the expiration of the permit, or as provided by the Director, the permittee must submit an application to renew its permit, in accordance with § 122.21(d), unless permit coverage has been terminated consistent with § 122.64(b).

4. Section 122.28 is amended by adding a sentence before the last sentence of paragraph (b)(2)(iv), and by adding paragraph (d), to read as follows:

§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).

* * * * *

(b) * * *

(2) * * *

(iv) * * * Except that CAFO owner or operators seeking coverage under a general permit must undertake the process described in paragraph (d) of this section. * * *

* * * * *

(d) *Concentrated animal feeding operations.* (1) The Director must review notices of intent submitted by CAFO owners or operators to ensure that the information meets the requirements of §§ 122.21(i)(1) and 122.42(e)(1) and to identify the terms of the nutrient management plan to be incorporated into the permit. When additional information is necessary to complete the notice of intent or clarify, modify, or supplement previously submitted material, the Director may request such information from the owner or operator. If the Director tentatively decides that the notice of intent meets the requirements of §§ 122.21(i)(1) and 122.42(e)(1), the Director must notify the public of its receipt and make it available for public review and comment along with the identified terms of the nutrient management plan to be incorporated into the permit. The Director must specify by regulation or in the permit an appropriate period of time for the public to comment and request a hearing on the information submitted and the terms of the facility's nutrient management plan to be incorporated into the permit. The hearing and public comment process must follow the procedures for draft permits set forth in 40 CFR 124.11 through 124.13. The Director must respond to all significant comments received during the comment period, and, as appropriate, require the CAFO owner or operator to revise the terms of the nutrient management plan to be incorporated into the permit. When the Director grants permit coverage to the CAFO owner or operator, the draft terms of the nutrient management plan, as revised by the Director, shall become incorporated as terms and conditions of the permit. The Director must notify the owner or operator of the terms and conditions that are incorporated into the permit.

(2) *For EPA-issued permits only.* Upon incorporation of the terms of the nutrient management plan into the general permit, any person who submitted comments or participated in the public hearing and who objects to the incorporation of the terms of the nutrient management plan into the permit may appeal the permit decision in accordance with the procedures of 40 CFR 124.19.

(3) Nothing in this paragraph (d) shall affect the authority of the Director to require an individual permit under paragraph (b)(3) of this section.

5. Section 122.42 is amended by revising paragraphs (e) introductory text and (e)(1) introductory text, and by adding paragraph (e)(5), to read as follows:

§ 122.42 Additional conditions applicable to specified categories of NPDES permits (applicable to State NPDES programs, see § 123.25).

* * * * *

(e) *Concentrated animal feeding operations (CAFOs).* Any permit issued to a CAFO must include the requirements in paragraphs (e)(1) through (e)(4) of this section:

(1) *Requirements of a nutrient management plan.* Any permit issued to a CAFO must include and require the CAFO owner or operator to implement the terms of the most current version of a facility-specific nutrient management plan submitted in accordance with 40 CFR 122.21(i) that meets the requirements of this paragraph and the applicable effluent limitations and standards of 40 CFR 412.4(c). At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards, including, for CAFOs subject to 40 CFR part 412, subpart C or subpart D, the limitations and standards specified in 40 CFR 412.4(c). The nutrient management plan must, to the extent applicable:

* * * * *

(5) *Changes to a CAFO Nutrient Management Plan.* (i) When a CAFO owner or operator changes a CAFO's nutrient management plan, the CAFO owner or operator must provide the permitting authority with the most current version of the CAFO's nutrient management plan and identify changes from the previous version. The Director must review the submitted information to ensure that it meets the requirements of 40 CFR 122.42(e)(1) and 40 CFR 412.4(c) of this chapter and decide whether to allow any changes to the terms of the nutrient management plan that have been incorporated into a permit issued to the CAFO. If the Director determines that the changes to the nutrient management plan are not substantial, the Director must include the revised NMP in the permit record and make any necessary revisions to the terms of the nutrient management plan incorporated into the permit. If the Director determines that the changes to the nutrient management plan are substantial, the Director must modify the permit to incorporate such changes in accordance with the procedures identified in paragraph (e)(5)(ii) of this section. The Director must notify the public of any changes to the terms of the nutrient management plan that are incorporated into the permit.

(ii) If the Director determines that the changes to the nutrient management plan are substantial, the Director must notify the public of the substantial changes; identify those changes to the terms of the nutrient management plan proposed to be incorporated into the permit; and make the proposed changes and the information submitted by the CAFO owner or operator available for public review and comment. The Director must specify by regulation or in the permit an appropriate period of time for the public to comment and request a hearing on the information submitted and the revised terms of the facility's nutrient management plan to be incorporated into the permit. The hearing and public comment process must follow the procedures for draft permits set forth in 40 CFR 124.11 through 124.13. The Director must respond to all significant comments received during the comment period, and, as appropriate, require the CAFO owner or operator to further revise the terms of the nutrient management plan to be incorporated into the permit. Once the Director incorporates the revised terms of the nutrient management plan into the permit, the Director must notify the owner or operator of the revised terms and conditions of the permit.

(iii) *For EPA-issued permits only.* Upon incorporation of the revised terms of the nutrient management plan into the permit, any person who submitted comments or participated in the public hearing and who objects to the incorporation of the revised terms of the nutrient management plan into the permit may appeal the permit decision in accordance with the procedures of 40 CFR 124.19.

(iv) Substantial changes to a nutrient management plan include, but are not limited to: changes that could result in an increase in runoff of manure, litter, or process wastewater from the facility that would otherwise not occur under the terms of the nutrient management plan that were incorporated into the permit; an increase in the rate of nutrients from manure, litter, or process wastewater applied to the land application area that is significant in relation to the technical standards established by the Director; a significant change in the nutrient balance at the CAFO caused by an increase in the ratio of animals or manure, litter, or process wastewater to the available land application acreage or storage capacity; changes in the CAFO's methods for handling, storage, treatment, or land application of manure, litter, or process wastewater; a significant increase in the number of animals; or a significant reduction of manure, litter, or process wastewater transferred to other persons when there is no equivalent decrease in the amount of manure, litter, or process wastewater produced; and the addition of land application areas not previously included in the nutrient management plan.

(v) Upon request by a CAFO owner or operator to implement substantial changes to the nutrient management plan, the Director may allow an owner or operator to implement such changes before completion of the public notification procedures identified in paragraph (e)(5)(ii) of this section for no more than 180 days if the Director determines that the changes to a nutrient management plan will not result in increased runoff of manure, litter, or process wastewater from the CAFO. The Director must append such changes to the CAFO's permit and make them publicly available so that other persons have access to such information. Appropriate notice to the public of such expedited decisions must take place within 14 days of the effective date.

6. Section 122.62 is amended by adding paragraph (a)(17) to read as follows:

§ 122.62 Modification or revocation and reissuance of permits (applicable to State programs, see § 122.25).

* * * * *

(a) * * *

(17) *Nutrient Management Plans.* The incorporation of the terms of a CAFO nutrient management plan into the terms and conditions of a general permit when a CAFO obtains coverage under a general permit in accordance with § 122.28(d)(1) is not a cause for modification pursuant to the requirements of this section.

* * * * *

7. Section 122.63 is amended by adding paragraph (h) to read as follows:

§ 122.63 Minor modification of permits.

* * * * *

(h) Incorporate changes to the terms of a CAFO's nutrient management plan that have been revised in accordance with the requirements of § 122.42(e)(5).

PART 412—CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) POINT SOURCE CATEGORY

8. The authority citation for part 412 continues to read as follows:

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, 1361.

9. Section 412.2 is amended by revising paragraph (i) to read as follows:

§ 412.2 General definitions.

* * * * *

(i) *Ten (10)-year, 24-hour rainfall event and 25-year, 24-hour rainfall event* mean precipitation events with a probable recurrence interval of once in ten years, or twenty five years, respectively, as defined by the National Weather Service in Technical Paper No. 40, ''Rainfall Frequency Atlas of the United States,'' May, 1961, or equivalent regional or State rainfall probability information developed from this source.

* * * * *

10. Section 412.37 is amended by revising paragraph (a)(2) to read as follows:

§ 412.37 Additional measures.

(a) * * *

(2) *Depth marker.* All open surface liquid impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event.

* * * * *

11. Section 412.46 is amended by revising paragraphs (a)(1), (a)(2) and (d) to read as follows:

§ 412.46 New source performance standards (NSPS).

* * * * *

(a) * * *

(1) Any CAFO subject to this subpart may request that the Director establish NPDES permit best management practice effluent limitations designed to ensure no discharge of manure, litter or process wastewater based upon a site-specific evaluation of the CAFO's open surface manure storage structure. In the case of any CAFO using an open surface manure storage structure for which the Director establishes such effluent limitations, ''no discharge of manure, litter, or process wastewater pollutants,'' as used in this section, means that the storage structure is designed, operated and maintained in accordance with best management practices established by the Director on a site-specific basis after a technical evaluation of the storage structure. The technical evaluation must include the following elements:

(i) Information to be used in the design of an open manure storage structure including but not limited to minimum storage periods for rainy seasons, additional minimum capacity for chronic rainfalls, applicable technical standards that prohibit or otherwise limit land application to frozen, saturated, or snow-covered ground, planned emptying and dewatering schedules consistent with the CAFO's Nutrient Management Plan, adequate storage capacity for manure intended to be transferred to another recipient at a later time, and any other factors that would impact the sizing of the open manure storage structure.

(ii) The design of the open manure storage structure as determined by the most recent version of the National Resource Conservation Service's Animal Waste Management (AWM) software. CAFOs may use equivalent design software or procedures as approved by the Director.

(iii) All inputs used in the open manure storage structure design including actual climate data for the previous 30 years consisting of historical average monthly precipitation and evaporation values, the number and types of animals, anticipated animal sizes or weights, any added water and bedding, any other process wastewater, and the size and condition of outside areas exposed to rainfall and contributing runoff to the open manure storage structure.

(iv) The planned minimum period of storage in months. Alternatively the CAFO may indicate months when the storage pond will be emptied consistent with the CAFO's Nutrient Management Plan.

(v) Site-specific predicted design specifications including dimensions of the storage facility, daily manure and wastewater additions, the size and characteristics of the land application areas, and the total calculated storage period in months.

(vi) An evaluation of the adequacy of the designed manure storage structure using the most recent version of the Soil Plant Air Water (SPAW) Hydrology Tool. The evaluation must include all inputs to SPAW including but not limited to daily precipitation, temperature, and evaporation data for the previous 100 years, user-specified soil profiles representative of the CAFO's land application areas, planned crop rotations consistent with the CAFO's Nutrient Management Plan, and the final modeled result of no overflows from the designed open manure storage structure. CAFOs may use equivalent evaluation procedures as approved by the Director.

(vii) Waste management and storage facilities designed, constructed, operated, and maintained consistent with the site-specific analysis conducted in paragraphs (a)(1)(i) through (a)(1)(vi) of this section and operated in accordance with the additional measures and records required by § 412.47(a) and (b), will fulfill the requirements of this section.

(2) The production area must be operated in accordance with the additional measures required by § 412.47(a) and (b).

* * * * *

(d) Any source subject to this subpart that commenced discharging after April 14, 1993, and prior to [X# days from effective date of the final rule], which was a new source subject to the standards specified in § 412.15, revised as of [X# days from effective date of the final rule], must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1). Thereafter, the source must achieve the standards specified in § 412.43(a) and (b).

* * * * *

[FR Doc. 06–5773 Filed 6–29–06; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Friday,

June 30, 2006

Part V

Department of Veterans Affairs

38 CFR Part 5

Benefits for Certain Filipino Veterans and Survivors; Proposed Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 5

RIN 2900–AL76

Benefits for Certain Filipino Veterans and Survivors

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to reorganize and rewrite in plain language provisions concerning benefits payable to certain Filipino veterans and their survivors. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension rules in a logical, claimant-focused, and user-friendly format. The intended effect of the proposed revisions is to assist claimants and VA personnel in locating and understanding these provisions. We also propose to further amend two previously proposed part 5 sections to make them consistent with other changes that have occurred since they were initially proposed.

DATES: Comments must be received by VA on or before August 29, 2006.

ADDRESSES: Written comments may be submitted by: Mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AL76.'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Bob White, Chief, Regulations Rewrite Project (00REG2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6428.

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs has established an Office of Regulation Policy and Management to provide centralized management and coordination of VA's rulemaking process. One of the major functions of this office is to oversee a Regulation Rewrite Project (the Project) to improve the clarity and consistency of existing VA regulations. The Project responds to a recommendation made in the October 2001 ''VA Claims Processing Task Force: Report to the Secretary of Veterans Affairs.'' The Task Force recommended that the compensation and pension regulations be rewritten and reorganized in order to improve VA's claims adjudication process. Therefore, the Project began its efforts by reviewing, reorganizing, and redrafting the content of the regulations in 38 CFR part 3 governing the compensation and pension program of the Veterans Benefits Administration. These regulations are among the most difficult VA regulations for readers to understand and apply.

Once rewritten, the proposed regulations will be published in several portions for public review and comment. This is one such portion. It includes proposed rules regarding benefits payable to certain Filipino veterans and their survivors. After review and consideration of public comments, final versions of these proposed regulations will ultimately be published in a new part 5 in 38 CFR.

Outline

Overview of New Part 5 Organization

We plan to organize the part 5 regulations so that all provisions governing a specific benefit are located in the same subpart, with general provisions pertaining to all compensation and pension benefits also grouped together. We believe this organization will allow claimants, beneficiaries, and their representatives, as well as VA personnel, to find information relating to a specific benefit more quickly than the organization provided in current part 3.

The first major subdivision would be ''Subpart A—General Provisions.'' It would include information regarding the scope of the regulations in new part 5, delegations of authority, general definitions, and general policy provisions for this part. This subpart was published as proposed on March 31, 2006. *See* 71 FR 16464.

''Subpart B—Service Requirements for Veterans'' would include information regarding a veteran's military service, including the minimum service requirement, types of service, periods of war, and service evidence requirements. This subpart was published as proposed on January 30, 2004. *See* 69 FR 4820.

''Subpart C—Adjudicative Process, General'' would inform readers about claims and benefit application filing procedures, VA's duties, rights and responsibilities of claimants and beneficiaries, general evidence requirements, and general effective dates for new awards, as well as revision of decisions and protection of VA ratings. This subpart will be published as three separate Notices of Proposed Rulemaking (NPRM)s due to its size. The first of these three separate NPRMs, concerning VA's duties and the rights and responsibilities of claimants and beneficiaries, was published as proposed on May 10, 2005. *See* 70 FR 24680.

''Subpart D—Dependents and Survivors'' would inform readers how VA determines whether an individual is a dependent or a survivor for purposes of determining eligibility for VA benefits. It would also provide the evidence requirements for these determinations.

''Subpart E—Claims for Service Connection and Disability Compensation'' would define service-connected disability compensation and service connection, including direct and secondary service connection. This subpart would inform readers how VA determines service connection and entitlement to disability compensation. The subpart would also contain those provisions governing presumptions related to service connection, rating principles, and effective dates, as well as several special ratings. This subpart will be published as three separate NPRMs due to its size. The first, concerning presumptions related to service connection, was published on July 27, 2004. *See* 69 FR 44614.

''Subpart F—Nonservice-Connected Disability Pensions and Death Pensions'' would include information regarding the three types of nonservice-connected pension: Improved Pension, Old-Law Pension, and Section 306 Pension. This subpart would also include those provisions that state how to establish entitlement to Improved Pension, and the effective dates governing each pension. This subpart will be published as two separate NPRMs due to its size. The portion concerning Old-Law Pension, Section 306 Pension, and elections of Improved Pension was published as proposed on December 27, 2004. *See* 69 FR 77578.

''Subpart G—Dependency and Indemnity Compensation, Death Compensation, Accrued Benefits, and Special Rules Applicable Upon Death of a Beneficiary'' would contain regulations governing claims for dependency and indemnity compensation (DIC); death compensation; accrued benefits; benefits awarded, but unpaid at death; and various special rules that apply to the disposition of VA benefits, or proceeds of VA benefits, when a beneficiary dies. This subpart would also include related definitions, effective-date rules, and rate-of-payment rules. This subpart will be published as two separate NPRMs due to its size. The portion concerning accrued benefits, death compensation, special rules applicable upon the death of a beneficiary, and several effective-date rules, was published as proposed on October 1, 2004. *See* 69 FR 59072. The portion concerning DIC benefits and general provisions relating to proof of death and service-connected cause of death was published on October 21, 2005. *See* 70 FR 61326.

''Subpart H—Special and Ancillary Benefits for Veterans, Dependents, and Survivors'' would pertain to special and ancillary benefits available, including benefits for children with various birth defects.

''Subpart I—Benefits for Certain Filipino Veterans and Survivors'' would pertain to the various benefits available to Filipino veterans and their survivors. This subpart is the subject of this document.

''Subpart J—Burial Benefits'' would pertain to burial allowances.

''Subpart K—Matters Affecting the Receipt of Benefits'' would contain provisions regarding bars to benefits, forfeiture of benefits, and renouncement of benefits. This subpart was published as proposed on May 31, 2006. See 71 FR 31056.

''Subpart L—Payments and Adjustments to Payments'' would include general rate-setting rules, several adjustment and resumption regulations, and election-of-benefit rules. Because of its size, proposed regulations in subpart L will be published in two separate NPRMs.

The final subpart, ''Subpart M—Apportionments and Payments to Fiduciaries or Incarcerated Beneficiaries,'' would include regulations governing apportionments, benefits for incarcerated beneficiaries, and guardianship.

Some of the regulations in this NPRM cross-reference other compensation and pension regulations. If those regulations have been published in this or earlier NPRMs for the Project, we cite the proposed part 5 section. We also include, in the relevant portion of the Supplementary Information, the **Federal Register** page where a proposed part 5 section published in an earlier NPRM may be found. However, where a regulation proposed in this NPRM would cross-reference a proposed part 5 regulation that has not yet been published, we cite to the current part 3 regulation that deals with the same subject matter. The current part 3 section we cite may differ from its eventual part 5 counterpart in some respects, but we believe this method will assist readers in understanding these proposed regulations where no part 5 counterpart has yet been published. If there is no part 3 counterpart to a proposed part 5 regulation that has not yet been published, we have inserted ''[regulation that will be published in a future Notice of Proposed Rulemaking]'' where the part 5 regulation citation would be placed.

Because of its large size, proposed part 5 will be published in a number of NPRMs, such as this one. VA will not adopt any portion of part 5 as final until all of the NPRMs have been published for public comment.

In connection with this rulemaking, VA will accept comments relating to a prior rulemaking issued as a part of the Project, if the matter being commented on relates to both NPRMs.

Overview of Proposed Subpart I Organization

This NPRM pertains to regulations governing benefits for certain Filipino veterans and their survivors. These regulations would be contained in proposed Subpart I of new 38 CFR part 5. Although these regulations have been substantially restructured and rewritten for greater clarity and ease of use, most of the basic concepts contained in these proposed regulations are the same as in their existing counterparts in 38 CFR part 3. However, a few substantive changes are proposed.

Table Comparing Current Part 3 Rules With Proposed Part 5 Rules

The following table shows the relationship between the current regulations in part 3 and the proposed regulations contained in this NPRM:

Proposed part 5 section or paragraph	Based in whole or in part on 38 CFR part 3 section or paragraph (or "New")
5.610	3.40
5.611	3.41
5.612	New
5.613	3.42
5.614	3.405
5.615(a)	3.251(a)(3)
5.615(b)	3.251(a)(1), (3)
5.616	3.1605(a) second sentence
5.617(a)	3.43(a)
5.617(b)	3.43(b)
5.617(c)	3.43(c)
5.618(a), (b)	3.500(p)
5.618(c)	3.505

Readers who use this table to compare existing regulatory provisions with the proposed provisions, and who observe a substantive difference between them, should consult the text that appears later in this document for an explanation of significant changes in each regulation. Not every paragraph of every current part 3 section regarding the subject matter of this rulemaking is accounted for in the table. In some instances, other portions of the part 3 sections that are addressed in these proposed regulations will appear in subparts of part 5 that are being published separately for public comment. For example, a reader might find a reference to paragraph (a) of a part 3 section in the table, but no reference to paragraph (b) of that section because paragraph (b) will be addressed in a separate NPRM. The table also does not include provisions from part 3 regulations that will not be repeated in part 5. Such provisions are discussed specifically under the appropriate part 5 heading in this preamble. Readers are invited to comment on the proposed part 5 provisions and also on our proposals to omit those part 3 provisions from part 5.

Content of Proposed Regulations

Section 5.610 Eligibility for VA Benefits Based on Philippine Service

Proposed § 5.610 is based on current § 3.40. We propose to use consistent terms to describe the two types of Philippine Scouts. Scouts who enlisted prior to October 6, 1945, are variously referred to in regulations, manuals, and case law as Regular Philippine Scouts or Old Philippine Scouts. Those who enlisted during the period from October 6, 1945, to June 30, 1947, inclusive, are referred to as Other Philippine Scouts, Special Philippine Scouts, or New Philippine Scouts. Since the date of enlistment is the distinguishing factor between the two groups, it is clearer to refer to them as Old Philippine Scouts and New Philippine Scouts. We propose to use these two terms exclusively throughout the Filipino regulations in subpart I. This will provide consistent terminology and reduce any confusion caused by using more than one term for a particular group.

One purpose of proposed subpart I of part 5 is to assemble in one place all of the adjudication regulations dealing with benefits for certain Filipino veterans and their survivors. Consistent with this purpose we believe that proposed subpart I should not make references to groups of non-Filipino veterans. Proposed § 5.610(a) is based on current § 3.40(a), which references the service of three non-Filipino groups: the Insular Force of the Navy, the Samoan Native Guard, and the Samoan Native Band of the Navy. We propose not to repeat those references in proposed § 5.610(a). Instead, we propose to include those groups in a more appropriate section of proposed part 5 dealing with service requirements for veterans.

On January 30, 2004, we published proposed rules on service requirements in the **Federal Register** (69 FR 4820). Proposed § 5.28 listed 16 individuals and groups that are considered to have performed active military service. Proposed § 5.28(k) was titled ''Philippine Scouts and others'' and simply referred readers to current § 3.40 for more specific information. We propose to further amend proposed § 5.28(k) to state that certain Philippine service will constitute active military service for purposes of certain VA benefits as specified in § 5.610, and to include the three non-Filipino groups noted above along with the specific benefits eligibility conferred on those groups by such active military service, namely pension, compensation, dependency and indemnity compensation, and burial benefits at the full-dollar rate. This listing will make it easier for readers to identify each type of insular force that performed active military service.

Section 5.611 Philippine Service: Determination of Periods of Active Military Service, Including Periods of Active Military Service While in Prisoner of War Status

Proposed § 5.611 is based on current § 3.41, and except for a few minor nonsubstantive changes for clarity and readability, the regulatory texts of both sections are identical. We propose to remove the term ''a Regular Philippine Scout'' and insert the term ''an Old Philippine Scout'' in its place, consistent with the new terminology in proposed § 5.610.

Section 5.612 Overview of Benefits Available to Filipino Veterans and Their Survivors

Proposed § 5.612 is a new regulation describing all part 5 benefits available to Filipino veterans, dependents, and/or their survivors based on the type of service performed by the veteran. Proposed paragraph (a) presents that information in chart form so that readers can more easily identify the available benefits. *See* 38 U.S.C. 107(a)(3) and (b)(2). We do not intend that proposed § 5.612 confer any substantive right to the benefits listed. Proposed paragraph (b) refers readers to certain other regulations that are pertinent to Filipino veterans and their survivors but appear in other subparts of proposed part 5.

Section 5.613 Compensation at the Full-Dollar Rate for Certain Filipino Veterans or Their Survivors Residing in the United States

Proposed § 5.613 is a restatement of current § 3.42, concerning the payment of compensation at the full-dollar rate for certain Filipino veterans or their survivors residing in the United States. Proposed § 5.613(d) provides the general authority for reduction from the full-dollar rate when certain eligibility criteria are not satisfied as well as the general authority for resumption of the full-dollar rate when those eligibility criteria are again satisfied. These provisions are based on current § 3.42, which sets forth requirements for continued eligibility for the full-dollar rate, but does not in all instances clearly explain how VA will reduce benefits based on failure to meet those criteria or how VA will reinstate benefits once the criteria are again satisfied. We propose to provide this information in § 5.613(d). Proposed § 5.613(d)(1) is based on current § 3.42(d)(1). We have added information to more clearly explain how VA will reduce benefits based on absence from the United States and how VA will resume full-dollar benefits based on return to the United States. Proposed § 5.613(d)(2)-(4) are based on current § 3.42(d)(2)-(4). We have added information to more clearly explain how VA will resume full-dollar rate payments under these provisions when a payee regains U.S. citizenship or lawful permanent resident alien status, when VA receives requested evidence of continued eligibility, and when VA receives evidence of a valid U.S. mailing address. There are also some nonsubstantive changes. In the introductory text of paragraph (b), we propose to replace ''§ 3.40(b), (c), or (d)'' with ''§ 5.610(b), (c), or (d).'' Also, in paragraphs (d)(2) and (d)(4), we propose to replace current ''§ 3.505'' with ''§ 5.618''. These nonsubstantive changes make the provisions consistent with the renumbering of the regulations proposed herein. In addition, we are proposing a minor change in the text of paragraph (a)(4) to improve readability.

While reviewing proposed § 5.613 for consistency with current § 3.42 we noted technical errors in § 3.42(c)(4)(ii). Because this section deals with veterans or their survivors who are alive, it should be written in the present tense, and the words ''on the date of death'' are not appropriate. Proposed § 5.613(c) does not contain these technical errors. Current § 3.42(c)(4)(ii) will be corrected in a separate NPRM.

Section 5.614 Filipino Veterans and Their Survivors: Effective Dates for Benefits at the Full-Dollar Rate

Proposed § 5.614 is based on current § 3.405. We have added provisions to specify the effective dates for resumption of benefits at the full-dollar rate following reductions under proposed § 5.613(d)(3) and (4). Part 3 citations are replaced with Part 5 citations. In addition we have added the provisions of § 3.42(e) because it will be more convenient for readers to have all effective date provisions in one regulation.

Section 5.615 Parents' Dependency and Indemnity Compensation Based on Certain Philippine Service

Proposed § 5.615(b) restates current § 3.251(a)(1) and (3), which govern parents' dependency and indemnity compensation for survivors of certain Filipino veterans. For clarity, we propose to restate here the provision contained in current § 3.251(a)(1) (proposed § 5.510(d)) which provides that dependency and indemnity compensation is not payable to a parent or parents whose annual income exceeds the limitations set forth in 38 U.S.C. 1315(b), (c), or (d). The income limitations under 38 U.S.C. 1315 and the benefits paid are calculated at the half-dollar rate, unless the surviving parent is a U.S. resident and either a U.S. citizen or a lawful permanent resident alien. If so, the parent is paid at the full-dollar rate.

Section 5.616 Hospitalization in the Philippines

This regulation restates the rule in current § 3.1605(a) that death while hospitalized in the Philippines under 38 U.S.C. 1731, 1732, and 1733 does not qualify the deceased for burial benefits based on death while properly hospitalized by VA. While this regulation could affect non-Filipinos hospitalized in the Philippines, it is duplicated here because it most frequently affects Filipino veterans. We also propose to correct the authority citations that appear in current § 3.1605(a) which refer to 38 U.S.C. 631, 632, and 633. The correct citations are 38 U.S.C. 1731, 1732, and 1733.

Section 5.617 Burial Benefits at the Full-Dollar Rate for Certain Filipino Veterans Residing in the United States on the Date of Death

Proposed § 5.617 restates, without substantive change, current § 3.43 concerning the payment of burial benefits at the full-dollar rate based on the service of certain Filipino veterans who were residing in the United States at the time of death. We propose to replace the term ''active military, naval, or air service'' with ''active military service.'' VA explained its reasoning for adopting the term ''active military service'' in the NPRM for subpart B (Service Requirements for Veterans). *See* 69 FR 4820, 4822 (January 30, 2004).

Section 5.618 Filipino Veterans and Their Survivors: Effective Dates of Reductions and Discontinuances for Benefits at the Full-Dollar Rate

Proposed § 5.618(a) is a cross reference to the general effective date rule on reductions and discontinuances. Proposed § 5.618(b) restates the effective date provision in current § 3.500(p) (effective date for reduction or discontinuance based on the withdrawal of recognition of service). This is consistent with our effort throughout the proposed part 5 regulations to separate all the various provisions for effective dates for award reductions and discontinuances contained in § 3.500, and to associate them with the regulations governing the specific benefit to which they pertain. We believe this will make these provisions easier to locate. We propose to replace the language ''date of last payment'' with ''the first day of the month that follows the month for which VA last paid benefits,'' which we believe is more clear and specific. We propose no substantive changes to the regulatory text.

Proposed § 5.618(c) is based on current § 3.505 which does not clearly specify the effective date for reductions under § 3.42(d)(3) for failure to verify continued eligibility. In such cases the effective date would be determined under current § 3.652 (proposed § 5.104). Therefore we have included a reference to the part 5 counterpart to § 3.652 in § 5.618(c)(4). We have also made a few minor nonsubstantive changes for clarity and readability.

Amendment of Previously Proposed Part 5 Rules

As noted earlier in this document in connection with the discussion about proposed § 5.610, we are proposing to further amend previously proposed § 5.28(k) to list the certain Philippine service and the three non-Filipino groups mentioned in current § 3.40(a) as having performed active military service along with the specific benefits eligibility conferred on those groups by virtue of such service.

In addition, on July 27, 2004, we published proposed rules in the **Federal Register** dealing with presumptions of service connection (69 FR 44614). One of those proposed rules, § 5.264, dealt with presumptive service connection for certain diseases based on status as a former prisoner of war, and paragraph (b) of that proposal listed five diseases that could be presumptively service connected regardless of the length of internment. Proposed § 5.264(b) was based on the then-current § 3.309(c) and section 201 of the Veterans Benefits Act of 2003, Pub. L. 108–183, 117 Stat. 2651 (Dec. 16, 2003) which eliminated the 30-day length-of-internment requirement for those five listed diseases. Subsequently, we amended 3.309(c), through an interim final rule in the **Federal Register** on October 7, 2004 (69 FR 60083), by adding three more diseases and their complications to the list of diseases that could be presumptively service connected regardless of the length of internment. Those additional diseases are atherosclerotic heart disease, hypertensive vascular disease, and stroke and their complications. That interim final rule became a final rule, without change, on June 28, 2005 (70 FR 37040).

Therefore, we must now add those three diseases to § 5.264(b) (which was previously published as proposed on July 27, 2004, as noted above). That would make proposed § 5.264(b) consistent with current § 3.309(c) on which it is based.

Endnote Regarding Amendatory Language

We intend to ultimately remove part 3 entirely, but we are not including amendatory language to accomplish that at this time. VA will provide public notice before removing part 3.

Paperwork Reduction Act

All collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) referenced in this proposed rule have existing OMB approval. No changes are made in this proposed rule to those collections of information.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed amendment would not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: having an annual effect on the economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this proposed rule and has concluded that it is a significant regulatory action because it may raise novel legal or policy issues.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; and 64.115, Veterans Information and Assistance.

List of Subjects in 38 CFR Part 5

Administrative practice and procedure, Claims, Disability benefits, Pensions, Veterans.

Approved: April 13, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to further amend 38 CFR part 5, as proposed to be added at 69 FR 4832, January 30, 2004, and as proposed to be amended at 69 FR 44624, July 27, 2004, as follows:

PART 5—COMPENSATION, PENSION, BURIAL, AND RELATED BENEFITS

Subpart B—Service Requirements for Veterans

1. The authority citation for subpart B continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Section 5.28 as proposed to be added at 69 FR 4837, January 30, 2004, is further amended by revising paragraph (k) to read as follows:

§ 5.28 Other individuals and groups designated as having performed active military service.

* * * * *

(k) *Insular Forces*—(1) *Philippine forces.* Service in certain Philippine forces constitutes active military service for purposes of certain benefits as specified in § 5.610.

(2) *Other insular forces.* Service in the Insular Force of the Navy, Samoan Native Guard, or Samoan Native Band of the Navy constitutes active military service for purposes of entitlement to pension, compensation, dependency and indemnity compensation, and burial benefits at the full-dollar rate.

* * * * *

Subpart E—Claims for Service Connection and Disability Compensation

3. The authority citation for subpart E continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

4. Section 5.264 as proposed to be added at 69 FR 44627, July 27, 2004, is further amended by revising paragraph (b) to read as follows:

§ 5.264 Diseases VA presumes are service connected in former prisoners of war.

* * * * *

(b) *Diseases presumed service connected following any period of internment.* VA will presume service connection for the following diseases if the criteria of paragraph (a) of this section are met:

Any of the anxiety disorders as listed in § 4.130, including post-traumatic stress disorder.

Atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure, and arrhythmia).

Dysthymic disorder (or depressive neurosis).

Organic residuals of frostbite, if it is determined that the veteran was interned in climatic conditions consistent with the occurrence of frostbite.

Post-traumatic osteoarthritis.

Psychosis.

Stroke and its complications.

* * * * *

5. Part 5 is further amended by adding subpart I to read as follows:

Subpart I—Benefits for Certain Filipino Veterans and Survivors

Sec.

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

Subpart I—Benefits for Certain Filipino Veterans and Survivors

§ 5.610 Eligibility for VA benefits based on Philippine service.

(a) *Old Philippine Scouts*—(1) *Included service.* Service in the Old Philippine Scouts (Scouts who enlisted prior to October 6, 1945) constitutes active military service for purposes of pension, compensation, dependency and indemnity compensation, and burial benefits.

(2) *Rate of payment.* Benefits are payable at the full-dollar rate.

(3) *Acceptable evidence of service in the Old Philippine Scouts.* Service must be established as specified in § 5.40.

(b) *New Philippine Scouts*—(1) *Included service.* All enlistments and reenlistments of New Philippine Scouts in the Regular Army between October 6, 1945, and June 30, 1947, inclusive, constitute active military service for purposes of compensation and dependency and indemnity compensation, and, in the case of deaths occurring on or after December 16, 2003, burial benefits.

(2) *Rate of payment.* Except as provided in §§ 5.613 and 5.617 benefits based on service described in paragraph (b)(1) of this section are payable at a rate of $0.50 for each dollar authorized under the law.

(3) *Excluded service.* Paragraph (b)(1) of this section does not apply to officers who were commissioned in connection with the administration of Pub. L. 79–190, 59 Stat. 538.

(4) *Acceptable evidence of service in the New Philippine Scouts.* Service must be established as specified in § 5.40.

(c) *Commonwealth Army of the Philippines*—(1) *Included service.* Service of members of the Commonwealth Army of the Philippines constitutes active military service for purposes of compensation, dependency and indemnity compensation, and burial allowance, from and after the dates and hours, respectively, when they were called into service of the Armed Forces of the United States by orders issued from time to time by the General Officer, U.S. Army, pursuant to the Military Order of the President of the United States dated July 26, 1941.

(2) *Rate of payment.* Except as provided in §§ 5.613 and 5.617 benefits based on service described in paragraph (c)(1) of this section are payable at a rate of $0.50 for each dollar authorized under the law.

(3) *Presumption of soundness.* Unless the record shows examination at the time of entrance into the Armed Forces of the United States, such persons are not entitled to the presumption of soundness. This also applies upon reentering the Armed Forces after a period of inactive service.

(4) *Acceptable evidence of service in the Commonwealth Army of the Philippines.* Service must be established as specified in § 5.40.

(d) *Guerrilla service*—(1) *Included service.* Persons who served as guerrillas under a commissioned officer of the United States Army, Navy, or Marine Corps, or under a commissioned officer of the Commonwealth Army of the Philippines recognized by and cooperating with the United States Forces are considered to have performed active military service for purposes of compensation, dependency and indemnity compensation, and burial allowance. Service as a guerrilla by a member of the Old Philippine Scouts or the Armed Forces of the United States is considered service in his or her regular status. (See paragraph (a) of this section.)

(2) *Rate of payment.* Except as provided in §§ 5.613 and 5.617, benefits based on service described in paragraph (d)(1) of this section are payable at a rate of $0.50 for each dollar authorized under the law.

(3) *Acceptable evidence of guerrilla service.* Service must be established as specified in § 5.40. The following certifications by a United States service department in accordance with § 5.40 will be accepted as establishing guerrilla service:

(i) Recognized guerrilla service;

(ii) Unrecognized guerrilla service under a recognized commissioned officer only if the person was a former member of the United States Armed Forces (including the Old Philippine Scouts), or the Commonwealth Army of the Philippines. This excludes civilians.

(4) *Unacceptable evidence of guerrilla service.* A certification of anti-Japanese activity will not be accepted as establishing guerrilla service.

(e) *Combined service.* Where a veteran who had Commonwealth Army of the Philippines or guerrilla service and also had other service, wartime or peacetime, in the Armed Forces of the United States, has disabilities which are compensable separately on a dollar and a $0.50 for each dollar authorized basis, and the disabilities are combined under the authority contained in 38 U.S.C. 1157, the evaluation for which dollars are payable will be first considered and the difference between this evaluation and the combined evaluation will be the basis for computing the amount payable at the rate of $0.50 for each dollar authorized.

(Authority: 38 U.S.C. 107)

Cross References: § 5.21, ''Service VA recognizes as active military service.'' § 5.28, ''Other individuals and groups designated as having performed active military service.'' § 5.39, ''Minimum active duty service requirement for VA benefits.'' § 5.40, ''Service records as evidence of service and character of discharge that qualify for VA benefits.''

§ 5.611 Philippine service: Determination of periods of active military service, including periods of active military service while in prisoner of war status.

(a) *Period of service.* For an Old Philippine Scout, a member of one of the regular components of the Commonwealth Army of the Philippines while serving with the Armed Forces of the United States, and a New Philippine Scout, the period of active military service will be from the date certified by the United States Armed Forces as the date of enlistment or the date of reporting for active duty, whichever is later, to the date of release from active duty, discharge, death, or in the case of a member of the Commonwealth Army of the Philippines, June 30, 1946, whichever is earlier. Release from active duty includes:

(1) Leaving one's organization in anticipation of, or due to, the capitulation.

(2) Escape from prisoner-of-war status.

(3) Parole by the Japanese.

(4) Beginning of missing-in-action status, except where factually shown that at that time he or she was with his or her unit or death is presumed to have occurred while carried in such status. However, where there is credible evidence that he or she was alive after commencement of his or her missing-in-action status, the presumption of death will not apply for Department of Veterans Affairs purposes.

(5) Capitulation on May 6, 1942, except that periods of recognized guerrilla service, unrecognized guerrilla service under a recognized commissioned officer, or periods of service in units which continued organized resistance against the Japanese prior to formal capitulation will be considered return to active duty for the period of such service.

(b) *Prisoner-of-war status.* Active military service of an Old Philippine Scout or a member of the Commonwealth Army of the Philippines serving with the Armed Forces of the United States will include a prisoner-of-war status immediately following a period of active duty, or a period of recognized guerrilla service or unrecognized guerrilla service under a recognized commissioned officer. In those cases where, following release from active duty as set forth in paragraph (a) of this section, the veteran is factually found by the Department of Veterans Affairs to have been injured or killed by the Japanese because of anti-Japanese activities or because of his or her former service in the Armed Forces of the United States, such injury or death may be held to have been incurred in active military service for Department of Veterans Affairs purposes. Such determinations shall be based on all available evidence, including United States service department reports, and consideration shall be given to the character and length of the veteran's former active military service in the Armed Forces of the United States.

(c) *Arrest.* A prisoner-of-war status based upon arrest during general zonification will not be sufficient of itself to bring a case within the definition of return to military control.

(d) *Period of guerrilla service.* The active service of a guerrilla will be the period certified by a United States service department.

(Authority: 38 U.S.C. 107)

Cross reference: § 5.40, ''Service records as evidence of service and character of discharge that qualify for VA benefits.''

§ 5.612 Overview of benefits available to Filipino veterans and their survivors.

(a) *General.* The following chart lists many of the benefits that VA may provide based on qualifying service in the Republic of the Philippines. The chart, itself, does not confer any substantive right to the benefit listed.

38 CFR PART 5—BENEFITS AVAILABLE TO FILIPINO VETERANS AND SURVIVORS

Benefit	Armed Forces of the U.S., including Old Philippine Scouts (§ 5.610(a))	New Philippine Scouts (§ 5.610(b))	Commonwealth Army of the Philippines/Guerrillas (§ 5.610(c) and (d))
(1) Disability Compensation	Yes—Full-Rate	Yes—Full-Rate if U.S. citizen or permanent resident alien and residing in U.S. Otherwise, Half-Rate	Yes—Full-Rate if U.S. citizen or permanent resident alien and residing in U.S. Otherwise, Half-Rate.
(2) Pension	Yes—Full-Rate	No	No.
(3) Clothing Allowance	Yes—Full-Rate	Yes—Half-Rate	Yes—Half Rate.
(4) DIC	Yes—Full-Rate	Yes—Full-Rate if U.S. citizen or permanent resident alien and residing in U.S. Otherwise, Half-Rate	Yes—Full-Rate if U.S. citizen or permanent resident alien and residing in U.S. Otherwise, Half-Rate.
(5) Parents' DIC	Yes—Full-Rate	Yes—Full-Rate if U.S. citizen or permanent resident alien and residing in U.S. Otherwise, Half-Rate	Yes—Full-Rate if U.S. citizen or permanent resident alien and residing in U.S. Otherwise, Half-Rate.
(6) Burial Benefits	Yes—Full-Rate	Yes—Full-Rate if veteran dies on or after 12/16/03 and was a U.S. citizen or permanent resident alien and residing in U.S. at time of death (in some cases). See 5.617 for specific requirements. Otherwise, Half-Rate if death occurred on or after 12/16/03. Not payable for death prior to 12/16/03	Yes—Full-Rate if veteran dies on or after 11/1/00 and was U.S. citizen or permanent resident alien and residing in U.S. at time of death (in some cases). See 5.617 for specific requirements. Otherwise, Half-Rate.

(b) *Other sections relevant to claims based on qualifying service in the Republic of the Philippines*—(1) Affidavits prepared in the Republic of the Philippines. *See* § 5.132.

(2) Child adopted under foreign law. *See* § 5.225.

(3) Dependents' educational assistance for a child based on the child's parent's service in the Commonwealth Army of the Philippines or as a New Philippine Scout as defined in § 5.610(b), (c), or (d). *See* § 5.586 of this part relating to certification of dependents' educational assistance.

(4) Forfeiture based on fraud or treason committed in the Philippine Islands. *See* §§ 5.676 and 5.677.

(Authority: 38 U.S.C. 501(a))

§ 5.613 Compensation at the full-dollar rate for certain Filipino veterans or their survivors residing in the United States.

(a) *Definitions.* For purposes of this section:

(1) *United States (U.S.)* means the states, territories, and possessions of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

(2) *Residing in the U.S.* means that an individual's principal, actual dwelling place is in the U.S. and that the individual meets the residency requirements of paragraph (c)(1) of this section.

(3) *Citizen of the U.S.* means any individual who acquires U.S. citizenship through birth in the territorial U.S., birth abroad as provided under title 8, United States Code, or through naturalization, and has not renounced his or her U.S. citizenship, or had such citizenship cancelled, revoked, or otherwise terminated.

(4) *Lawfully admitted for permanent residence* means that an individual has been, and continues to be, lawfully accorded the privilege of residing permanently in the U.S. as an immigrant by the U.S. Citizenship and Immigration Services under title 8, United States Code.

(b) *Eligibility requirements.* Compensation or dependency and indemnity compensation is payable at the full-dollar rate based on service described in § 5.610(b), (c), or (d) to a veteran or a veteran's survivor who is residing in the United States (U.S.) and is either:

(1) A citizen of the U.S., or

(2) An alien lawfully admitted for permanent residence in the U.S.

(c) *Evidence of eligibility for full-dollar rate benefits.* (1)(i) Evidence establishing that the veteran or the veteran's survivor is residing in the U.S. should identify the veteran's or veteran's survivor's name and relevant dates, and may include:

(A) A valid driver's license issued by the state of residence;

(B) Employment records, which may consist of pay stubs, W–2 forms, and certification of the filing of Federal, State, or local income tax returns;

(C) Residential leases, rent receipts, utility bills and receipts, or other relevant documents showing dates of utility service at a leased residence;

(D) Hospital or medical records showing medical treatment or hospitalization, and showing the name of the medical facility or treating physician;

(E) Property tax bills and receipts; and

(F) School records.

(ii) A Post Office box mailing address in the veteran's or veteran's survivor's name does not constitute evidence showing that the veteran or veteran's survivor is lawfully residing in the United States.

(2) A valid original or copy of one of the following documents is required to prove that the veteran or the veteran's survivor is a natural born citizen of the U.S.:

(i) A valid U.S. passport;

(ii) A birth certificate showing that he or she was born in the U.S.; or

(iii) A Report of Birth Abroad of a Citizen of the U.S. issued by a U.S. consulate.

(3) Only verification by the U.S. Citizenship and Immigration Services to VA that a veteran or a veteran's survivor is a naturalized citizen of the U.S., or a valid U.S. passport, will be sufficient proof of such status.

(4) Only verification by the U.S. Citizenship and Immigration Services to VA that a veteran or a veteran's survivor is an alien lawfully admitted for permanent residence in the U.S. will be sufficient proof of such status.

(d) *Continued eligibility.* (1) In order to continue receiving benefits at the full-dollar rate under this section, a veteran or a veteran's survivor must be physically present in the U.S. for at least 183 days of each calendar year in which he or she receives payments at the full-dollar rate, and may not be absent from the U.S. for more than 60 consecutive days at a time, unless good cause is shown. When a veteran's or veteran's survivor's absence from the U.S. exceeds one of those limits, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under the law, effective on the date determined under § 5.618, ''Filipino veterans and their survivors: Effective dates of reductions and discontinuances for benefits at the full-dollar rate.'' If such veteran or veteran's survivor returns to the U.S., VA will resume payments at the full-dollar rate, effective on the date determined under § 5.614, ''Filipino veterans and their survivors: Effective dates for benefits at the full-dollar rate.'' However, if a veteran or a veteran's survivor becomes eligible for full-dollar rate benefits for the first time on or after July 1 of any calendar year, the 183-day rule will not apply during that calendar year. VA will not consider a veteran or a veteran's survivor to have been absent from the U.S. if he or she left and returned to the U.S. on the same date.

(2) A veteran or a veteran's survivor receiving benefits at the full-dollar rate under this section must notify VA within 30 days of leaving the U.S., or within 30 days of losing either his or her U.S. citizenship or lawful permanent resident alien status. When a veteran or a veteran's survivor no longer meets the eligibility requirements of paragraph (b) of this section, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under the law, effective on the date determined under § 5.618. If such veteran or veteran's survivor regains his or her U.S. citizenship or lawful permanent resident alien status, VA will restore full-dollar rate benefits, effective on the date determined under § 5.614.

(3) When requested to do so by VA, a veteran or a veteran's survivor receiving benefits at the full-dollar rate under this section must verify that he or she continues to meet the residency and citizenship or permanent resident alien status requirements of paragraph (b) of this section. VA will advise the veteran or survivor at the time of the request that the verification must be received within 60 days or the rate of payment will be reduced. If VA does not receive the evidence within 60 days, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized, as provided in § 5.104, ''Certifying continuing eligibility to receive benefits.'' If VA subsequently receives the requested evidence of continued eligibility, it will resume payments at the full-dollar rate, effective on the date determined under § 5.614.

(4) A veteran or a veteran's survivor receiving benefits at the full-dollar rate under this section must promptly notify VA of any change in his or her address. If mail from VA to the veteran or survivor is returned to VA by the U.S. Postal Service, VA will make reasonable efforts to determine the correct mailing address. If VA is unable to determine the correct mailing address through reasonable efforts, VA will reduce benefit payments to the rate of $0.50 for each dollar authorized under law, effective on the date determined under § 5.618. If VA subsequently receives evidence of a valid U.S. mailing address, it will resume payments at the full-dollar rate, effective on the date determined under § 5.614.

(Authority: 38 U.S.C. 107, 501(a))

§ 5.614 Filipino veterans and their survivors: Effective dates for benefits at the full-dollar rate.

Public Laws 106–377 and 108–183, which provide disability compensation and dependency and indemnity compensation at full-dollar rates to certain Filipino veterans and their survivors, are considered liberalizing laws. As such, the provisions of § 5.152, ''Effective dates of awards of VA benefits based on a liberalizing change in law,'' apply when determining the effective date of an award. If the requirements of § 5.152 are not satisfied, then the effective date of an award of benefits at the full-dollar rate under § 5.613, ''Compensation at the full-dollar rate for certain Filipino veterans or their survivors residing in the United States,'' will be determined as follows:

(a) *Effective date of initial entitlement to the full-dollar rate.* The latest of the following:

(1) Date entitlement arose;

(2) Date on which the veteran or survivor first met the residency and citizenship or permanent resident alien status requirements in § 5.613, if VA receives evidence of this within one year of that date; or

(3) Effective date of service connection, provided VA receives evidence that the veteran or survivor meets the residency and citizenship or permanent resident alien status requirements in § 5.613 within one year of the date of notification of the decision establishing service connection.

(b) *Effective date of resumption of the full-dollar rate.* Depending on the reason for reduction to the rate of $0.50 for each dollar, the effective date for restored eligibility for the full-dollar rate will be:

(1) The date the beneficiary regains his or her U.S. citizenship or lawful permanent resident alien status as required in § 5.613;

(2) The date the veteran or survivor returned to the United States after an absence of more than 60 consecutive days;

(3) The first day of the calendar year following the year in which the veteran or survivor was absent from the United States for a total of 183 days or more, or the first day after that date that the veteran or survivor returns to the United States;

(4) In the case of resumption of the full-dollar rate under § 5.613(d)(3), the date the requested evidence of continued eligibility is received by VA; or

(5) In the case of resumption of the full-dollar rate under § 5.613(d)(4), the date VA receives evidence of a valid U.S. mailing address.

(c) *When payments at the full-dollar rate will begin after eligibility is restored.* In the case of a veteran or survivor whose eligibility is restored under § 5.613, VA will resume payments at the full-dollar rate, if otherwise in order, effective the first day of the month following the date established in paragraph (b) of this section. However, such increased payments will be retroactive no more than one year prior to the date on which VA receives evidence that he or she again met the requirements.

(Authority: 38 U.S.C. 107; Pub. L. 106–377 App. A, 114 Stat. 1441A–57; and Pub. L. 108–183, 117 Stat. 2657)

§ 5.615 Parents' dependency and indemnity compensation based on certain Philippine service.

(a) *Scope.* This regulation applies to claims for parents' dependency and indemnity compensation based on the following types of service, as described in § 5.610, ''Eligibility for VA benefits based on Philippine service.''

(1) Service in the Commonwealth Army of the Philippines;

(2) Service as a guerrilla; and

(3) Service as a New Philippine Scout.

(b) *Income limitations.* Dependency and indemnity compensation is not payable to a parent or parents whose annual income exceeds the limitations set forth in 38 U.S.C. 1315(b), (c), or (d). For parents' dependency and indemnity compensation, these income limitations will be at a rate of $0.50 for each dollar. However, if the beneficiary meets the requirements for the full-dollar rate in § 5.613, then these income limitations will be at the full-dollar rate.

(Authority: 38 U.S.C. 107; Pub. L. 108–183, 117 Stat. 2651)

Cross References: Eligibility requirements and payment rules for parents' DIC. *See* §§ 5.530 through 5.535.

§ 5.616 Hospitalization in the Philippines.

Hospitalization in the Philippines under 38 U.S.C. 1731, 1732, and 1733 does not qualify the deceased for burial benefits based on death while properly hospitalized by VA.

(Authority: 38 U.S.C. 107)

Cross References: Burial benefits. *See* §§ 5.630 through 5.654.

§ 5.617 Burial benefits at the full-dollar rate for certain Filipino veterans residing in the United States on the date of death.

(a) *Definitions.* For purposes of this section:

(1) *United States (U.S.)* means the states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) *Residing in the U.S.* means an individual's principal, actual dwelling place was in the U.S. When death occurs outside the U.S., VA will consider the deceased individual to have been residing in the U.S. on the date of death if the individual maintained his or her principal, actual dwelling place in the U.S. until his or her most recent departure from the U.S., and he or she had been physically absent from the U.S. less than 61 consecutive days when he or she died.

(3) *Citizen of the U.S.* means any individual who acquires U.S. citizenship through birth in the territorial U.S., birth abroad as provided under title 8, United States Code, or through naturalization, and has not renounced his or her U.S. citizenship, or had such citizenship cancelled, revoked, or otherwise terminated.

(4) *Lawfully admitted for permanent residence* means that the individual had been, and continued to be, lawfully accorded the privilege of residing permanently in the U.S. as an immigrant by the U.S. Citizenship and Immigration Services under title 8, United States Code, on the date of death.

(b) *Eligibility requirements.* VA will pay burial benefits under 38 U.S.C. chapter 23, at the full-dollar rate, based on service described in § 5.610(c) or (d), when an individual who performed such service dies after November 1, 2000, or based on service described in § 5.610(b) when an individual who performed such service dies after December 15, 2003, and was on the date of death:

(1) Residing in the U.S.; and was

(2) Either—

(i) A citizen of the U.S., or

(ii) An alien lawfully admitted for permanent residence in the U.S.; and was

(3) Either—

(i) Receiving compensation under 38 U.S.C. chapter 11; or

(ii) Meeting the disability, income, and net worth requirements of § 5.370, ''Eligibility and entitlement requirements for Improved Pension,'' and would have been eligible for pension if the veteran's service had been deemed to be active military service.

(c) *Evidence of eligibility.* (1)(i) Evidence establishing that the veteran was residing in the U.S. on the date of death should identify the veteran's name and relevant dates, and may include:

(A) A valid driver's license issued by the state of residence;

(B) Employment records, which may consist of pay stubs, W–2 forms, and certification of the filing of Federal, State, or local income tax returns;

(C) Residential leases, rent receipts, utility bills and receipts, or other relevant documents showing dates of utility service at a leased residence;

(D) Hospital or medical records showing medical treatment or hospitalization of the veteran or survivor, and showing the name of the medical facility or treating physician;

(E) Property tax bills and receipts; and

(F) School records.

(ii) A Post Office box mailing address in the veteran's name does not constitute evidence showing that the veteran was lawfully residing in the United States on the date of death.

(2) In a claim for full-dollar rate burial payments based on the deceased veteran having been a natural born citizen of the U.S., a valid original or copy of one of the following documents is required:

(i) A valid U.S. passport;

(ii) A birth certificate showing that he or she was born in the U.S.; or

(iii) A Report of Birth Abroad of a Citizen of the U.S. issued by a U.S. consulate.

(3) In a claim for full-dollar rate burial payments based on the deceased veteran having been a naturalized citizen of the U.S., only verification of that status by the U.S. Citizenship and Immigration Services to VA, or a valid U.S. passport, will be sufficient proof for purposes of eligibility for full-dollar rate benefits.

(4) In a claim for full-dollar rate burial payments based on the deceased veteran having been an alien lawfully admitted for permanent residence in the U.S., only verification of that status by the U.S. Citizenship and Immigration Services to VA will be sufficient proof for purposes of eligibility for full-dollar rate benefits.

(Authority: 38 U.S.C. 107, 501(a))

§ 5.618 Filipino veterans and their survivors: Effective dates of reductions and discontinuances for benefits at the full-dollar rate.

(a) *General rule.* VA will assign an effective date of a reduction or discontinuance of benefits payable to a Filipino veteran or survivor in accordance with 38 CFR 5.705, ''General effective dates for reduction or discontinuance of benefits.''

(b) *Discontinuance based on the withdrawal of recognition of service.* When a discontinuance is based on the withdrawal of recognition of service, the discontinuance will be effective the first day of the month that follows the month for which VA last paid benefits.

(c) *Reduction of payments from the full-dollar rate to the half-dollar rate.* The effective date of discontinuance of the full-dollar rate of payment under § 5.613 ''Compensation at the full-dollar rate for certain Filipino veterans or their survivors residing in the United States,'' and reduction to the $0.50 rate of payment will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be effective the day following the date of discontinuance of the greater benefit.

(1) If a veteran or survivor receiving benefits at the full-dollar rate under § 5.613 is physically absent from the U.S. for a total of 183 days or more during any calendar year, VA will reduce compensation to the rate of $0.50 for each dollar authorized under the law, effective on the 183rd day of absence from the U.S.

(2) If a veteran or survivor receiving benefits at the full-dollar rate under § 5.613 is physically absent from the U.S. for more than 60 consecutive days, VA will reduce compensation to the rate of $0.50 for each dollar authorized under the law, effective on the 61st day of the absence.

(3) If a veteran or survivor receiving benefits at the full-dollar rate under § 5.613 loses either U.S. citizenship or status as an alien lawfully admitted for permanent residence in the U.S., VA will reduce compensation to the rate of $0.50 for each dollar authorized under the law, effective on the day he or she no longer satisfies one of these criteria.

(4) In the case of a veteran or survivor receiving benefits at the full-dollar rate under § 5.613, if VA requests evidence of verification of continued eligibility under § 5.613, but does not receive such evidence within 60 days of such request, VA will reduce compensation to the rate of $0.50 for each dollar authorized under the law, effective as provided in § 5.104, ''Certifying continuing eligibility to receive benefits.''

(5) If mail to a veteran or survivor receiving benefits at the full-dollar rate under § 5.613 is returned to VA by the U.S. Postal Service, VA will make reasonable efforts to determine the correct mailing address. If VA is unable to determine the veteran's or survivor's correct address through reasonable efforts, VA will reduce compensation to the rate of $0.50 for each dollar authorized under law, effective the first

day of the month that follows the month for which VA last paid benefits.

Cross-Reference: 38 CFR 5.705 ''General effective dates for reduction or discontinuance of benefits.''

(Authority: 38 U.S.C. 107)

§§ 5.619—5.629 [Reserved]

[FR Doc. 06–5923 Filed 6–29–06; 8:45 am]
BILLING CODE 8320–01–P

Federal Register

Friday,

June 30, 2006

Part VI

Department of Labor

Employment and Training Administration

Employment Standards Administration

20 CFR Part 655

Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models; Labor Attestations Regarding H–1B1 Visas; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Standards Administration

20 CFR Part 655

RIN 1205–AB38

Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models; Labor Attestations Regarding H–1B1 Visas

AGENCIES: Employment and Training Administration and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (Department or DOL) is amending its regulations regarding temporary employment of foreign professionals to implement procedural requirements applicable to the H–1B1 visa category. The H–1B1 visa category permits the temporary entry of professionals in specialty occupations from countries that have entered into agreements with the United States as identified in section 214(g)(8)(A) of the Immigration and Nationality Act (INA). Congress created the H–1B1 visa category as part of its approval of the United States-Chile Free Trade Agreement and the United States-Singapore Free Trade Agreement. This Final Rule reflects the public comments received on the interim final rule that the Department published on November 23, 2004 at 69 FR 68222. As a result, the Department did not make any substantive changes; however, this Final Rule reflects one technical change as described in this Part. The Department made this technical change as a result of the recent regulation amendments to the H–1B and H–1B1 regulations that were published on December 5, 2005 at 70 FR 72556. The regulation published on December 5, 2005 generally requires employers to use web-based electronic filing of H–1B and H–1B1 application forms. The Department made the technical change to this Final Rule consistent with the previously published amendments.

DATES: This Final Rule is effective July 31, 2006.

FOR FURTHER INFORMATION CONTACT: Contact William Carlson, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C–4312, Washington, DC 20210; Telephone: (202) 693–3010 (this is not a toll-free number).

For information regarding the H–1B1 enforcement process in 20 CFR Part 655, subpart I, contact Diane Koplewski, Immigration Team Leader, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration (ESA), U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–3516, Washington, DC 20210; Telephone: (202) 693–0071 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On November 23, 2004, the Department published an interim final rule (IFR) in the **Federal Register** that extended the regulations regarding the temporary entry of foreign H–1B workers to the H–1B1 visa category. See 20 CFR part 655, subparts H and I. Congress created the H–1B1 visa category as part of its approval of the United States-Chile Free Trade Agreement and United States-Singapore Free Trade Agreement, which took effect January 1, 2004. *See* 8 U.S.C. 1101(a)(15)(H)(i)(b1), 1182(t), 1184(g)(8)(A), and 1184(i). Under the INA amendments that created the H–1B1 visa, the Department of Labor is required to implement the H–1B1 program in a manner similar to the H–1B program to allow for temporary admission of professionals to perform services in a specialty occupation or as fashion models of distinguished merit and ability. *See* 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184(c), (g), and (i). A detailed discussion of the statutory authority and the amendments to the H–1B regulations necessary to implement the H–1B1 visa appears in the preamble to the interim final rule at 69 FR 68222.

II. Comments Received on Interim Final Rule

The Department received comments on the interim final rule (IFR) from two commenter submissions. One commenter inquired whether visa numbers were still available for H–1B1 workers from Singapore. In response, the Department does not administer visa numbers. That responsibility is vested with the Department of State and Department of Homeland Security.

The second commenter submitted comments in two different e-mails on the same day. Many of these comments pertained to issues outside the scope of the IFR or that would require statutory amendments to implement. As a general matter, the Department's authority to regulate is limited to the responsibilities mandated by the statutory provisions. This Final Rule in particular is limited to extending the H–1B visa procedures for employers seeking temporary entry for nonimmigrant aliens in specialty occupations to H–1B1 visas under the Chile and Singapore Free Trade Agreements under the INA.

One such comment suggested that the Department require in-person interviews to address alleged fraud in the program. In response, the Department is unable to address this comment. Under the INA, the statute specifies that employers must file attestations with the Secretary and the Secretary must issue a certification within seven (7) days unless the attestation ''is incomplete or obviously inaccurate.'' *See* INA § 212(n) and (t); 8 U.S.C. 1182(n) and (t).

The commenter also expressed concerns that foreign workers are being allowed to take American jobs. In response, the Department notes that the statute does not require employers who seek to hire foreign workers on H–1B1 visas to demonstrate that there are no available U.S. workers or to test the labor market for U.S. workers as required under the permanent labor certification program, and in limited circumstances under the H–1B program. *Compare* INA § 212(t) *with* INA § 212(a)(5)A and § 212(n); 8 U.S.C. 1182(a)(5)(A), (n) and (t).

The commenter also suggested that the Department establish substantial filing and processing fees for employers who submit H–1B and H–1B1 applications. Although imposition of user fees for filing and processing H–1B1 employer applications could be implemented under the current statute, this issue was not addressed by the interim final rule. Therefore, the Department has concluded that such a significant step would require the Department to publish a proposed rule with a request for comments. Further, the Department does not intend to propose such a fee for the H–1B1 program at this time.

The commenter also questioned whether the text described as on page 7 of an 18 page document ''meets the requirements of the plain [E]nglish [sic] law.'' The Department notes that the interim final rule that was published in the **Federal Register** is a 9-page document. Therefore, the Department is unable to address this comment because the text at issue cannot be identified. However, the Department has concluded that the interim final rule was written in plain language and was consistent with all the legal requirements of the Administrative Procedure Act and the implementing statutes for the H–1B and H–1B1 programs.

Further, the commenter opined that the names and phones numbers of all employers that apply for H–1B1 visas should be listed on the Internet. Although this comment is outside the scope of the interim final rule, the Department notes that it posts information regarding labor condition applications filed on behalf of H–1B and H–1B1 nonimmigrants on the Internet as required by the INA. See INA §§ 212(n)(G)(2)(ii) and 212(t)(2)(B); 8 U.S.C. 1182(n)(G)(2)(ii) and 1182(t)(2)(B). The Web site provides a list of information categorized by employer and occupational classification, which identifies the attested wage rate, number of aliens sought, period of intended employment and date of need. Interested parties may find this information posted at *http://www.flcdatacenter.com.*

Finally, the commenter stated that there should be an extension of time for the public to comment on the interim final rule. In response, the Department does not find that extending of comment period of the interim final rule is warranted in this situation. The Department only received a small number of comments, most of which were not within the scope of the interim final rule. In addition, the Department did not receive any other comments requesting an extension of the comment period.

III. Technical Change to the Rule

The Department made a technical amendment to the first sentence of § 655.700(d)(1) of this final rule, consistent with the 2005 final rule amending H–1B and H–1B1. See 70 FR 72556. The Department published the 2005 final rule that amended the regulations for H–1B and H–1B1 after it published the interim final rule for this regulation. As a result, the Department made a technical amendment to the first sentence in paragraph (d)(1) in § 655.700 to remove the inconsistent language. Accordingly, the interim final rule is adopted as a final rule below with one change.

IV. Administrative Information

Executive Order 12866—Regulatory Planning and Review: We have determined that this final rule is not an ''economically significant regulatory action'' within the meaning of Executive Order 12866. The procedures for filing a labor attestation under the new H–1B1 visa category on behalf of nonimmigrant professionals from Chile and Singapore will not have an economic impact of $100 million or more. Employers seeking to employ H–1B1 nonimmigrant professionals will continue to use the same procedures and forms presently required for the H–1B nonimmigrant professionals program, and H–1B1 visas will be subject to annual numerical limits. Although this Final Rule is not economically significant as defined by Executive Order 12866, the Office of Management and Budget (OMB) reviewed this Final Rule as a significant rule. This Final Rule is significant because it implements a new program and must be closely coordinated with other Federal agencies that are also responsible for implementing the H–1B1 program, such as the Departments of State and of Homeland Security.

Regulatory Flexibility Analysis: We have notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act (RFA) at 5 U.S.C. 605(b), that this Final Rule will not have a significant economic impact on a substantial number of small entities. The factual basis for that certification follows.

This rule, which is procedural in nature, implements statutory provisions that narrowly extend the scope of the Department of Labor's existing H–1B program to include similar labor attestation filing requirements for the temporary entry of Chilean and Singaporean professionals under the H–1B1 program. The regulatory change will affect only those employers seeking nonimmigrant H–1B1 professionals in specialty occupations from Chile or Singapore for temporary employment in the United States. Employers seeking to hire these H–1B1 nonimmigrant professionals will use the same procedures and forms presently required for H–1B nonimmigrant professionals. In addition, H–1B1 visas will be subject to annual numerical limits.

Based on past H–1B1 filing data of fiscal year 2004 (FY 2004), the Department estimates that in the upcoming year employers will file approximately 349 attestations with the Department under the H–1B1 program. According to the definition of small business under the Small Business Administration Act, the Department has determined that a majority of employers filing in FY 2004 are not categorized as small businesses. Under the Small Business Administration Act, a small business is one that ''is independently owned and operated and which is not dominant in its field of operation.'' Further, the definition varies from industry to industry to properly reflect industry size differences.

The Department determined its size standard analysis based on the regulations at 13 CFR part 121 that describe the size standards. Although some employers will file multiple attestations in a year, the Department does not anticipate a significant expansion in filing in this program because the H–1B1 visa category is subject to statutory annual numerical limits (1,400 from Chile and 5,400 from Singapore). The Department further relied on the FY 2004 data of the major industries that apply for temporary visas under the H–1B1 program to form its analysis.

The Department determined that the following represent the predominant industries that use the H–1B1 program: (1) Healthcare and Social Assistance industry (attestations filed for Medical Residents, Chiropractors, Physical Therapists, Acupuncturists, Dentists, Physicians, Veterinarians, Physiatrists, Mental Health Counselors, and Medical Lab Technicians); (2) Educational industry (attestations filed for Teachers, Professors, and Tutors); (3) Finance and Insurance industry (attestations filed for Accountants, Business Analysts, Financial Analysts and Investor Analysts); and (4) Professional, Scientific and Technological Industry (attestations filed for Computer Programmers, Technicians, Information and Support Specialists, Software Engineers, and Systems and Program Analysts). The Department has reviewed the data from each of these industries as described below to determine that there is no significant impact on small businesses.

In the United States, there are 560,083 Healthcare and Social Assistance small businesses. In FY 2004, 45 attestations were filed with the Department for positions in the Healthcare and Social Assistance industry. Using this data, we estimate that the number of different (or non-duplicated) employers who will file the expected 45 applications with the Department represents approximately 0.008% of all Healthcare and Social Assistance small businesses.

In the United States, there are 65,933 Educational small businesses. In FY 2004, 29 attestations were filed with the Department for positions in the Education industry. Using this data, we estimate that the number of different (or non-duplicated) employers who will file the expected 29 applications with the Department represents approximately 0.044% of all Educational small businesses.

In the United States, there are 259,846 Finance and Insurance small businesses. In FY 2004, 18 attestations were filed with the Department for positions in the

Finance and Insurance industry. Using this data, we estimate that the number of different (or non-duplicated) employers who will file the expected 18 applications with the Department represents approximately 0.007% of all Finance and Insurance small businesses.

In the United States, there are 708,000 Professional, Scientific and Technological small businesses. In FY 2004, 62 attestations were filed with the Department for positions in the Professional, Scientific and Technological industry. Using this data, we estimate the number of different (or non-duplicated) employers who will file the expected 62 applications with the Department represents approximately 0.009% of all Professional, Scientific and Technological small businesses.

There are additional reasons why the Department of Labor does not believe that this rule will have a significant economic impact on small businesses. First, the Department does not require employers to submit a filing fee for the H–1B1 program, consistent with past practice. Therefore, under this Final Rule, an employer will continue to submit applications to the Department at no cost. Second, the Department estimates that it takes less than thirty minutes to complete the application form. Given that the Department did not add additional fields to the OMB approved forms (ETA 9035E or ETA 9035), no additional time is required to prepare and submit the forms. Therefore, under this Final Rule, an employer will spend the same amount of time preparing and submitting the Form ETA 9035E or Form ETA 9035 for the H–1B1 program as the employer would for application under the H–1B program. In sum, the attestation and filing activities under this Final Rule are no different from those required under the existing H–1B program, and this Final Rule establishes no additional economic burden on small entities.

Unfunded Mandates Reform Act of 1995: This Final Rule will not 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, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996: This Final Rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The standards for determining whether a rule is a major rule as defined by section 804 of SBREFA are similar to those used to determine whether a rule is an ''economically significant regulatory action'' within the meaning of Executive Order 12866. Because we certified that this Final Rule is not an economically significant rule under Executive Order 12866, we certify that it also is not a major rule under SBREFA. Therefore, this rule will not result in an annual effect on the economy of $100 million or more; cause a major increase in costs or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 13132—Federalism: This Final Rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, we have determined that this Final Rule does not have sufficient federalism implications to warrant the preparation of a summary impact statement.

Assessment of Federal Regulations and Policies on Families: This Final Rule does not affect family well-being.

Paperwork Reduction Act: Forms and information collection requirements related to the Department's H–1B and H–1B1 programs under 20 CFR Part 655, subpart H, are currently approved under OMB control number 1205–0310. This Final Rule does not include a substantive or material modification of that collection of information. Under this Final Rule, employers filing labor attestations regarding H–1B1 nonimmigrants will use the same forms and follow the same procedures as employers seeking entry for H–1B nonimmigrants. This Final Rule permits the use of existing H–1B paperwork forms and filing procedures to include nationals of Chile and Singapore.

Catalog of Federal Domestic Assistance Number: This program is listed in the *Catalogue of Federal Domestic Assistance* at Number 17.252, ''Attestations by Employers Using Non-Immigrant Aliens in Specialty Occupations.''

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Chile, Employment, Forest and forest products, Health professions, Immigration, Labor, Longshore work, Migrant labor, Penalties, Reporting requirements, Singapore, Students, Wages.

■ Accordingly, the interim final rule amending 20 CFR part 655, which was published at 69 FR 68222 on November 23, 2004, is adopted as a Final Rule with the following change:

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

■ 1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1182(m), (n), and (t), 1184, 1188, and 1288(c) and (d); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 323, Pub. L. 103–206, 107 Stat. 2149; Title IV, Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–95, 113 Stat. 1312 (8 U.S.C. 1182 note); and 8 CFR 213.2(h)(4)(i).

Section 655.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b1), 1182(n), 1182(t), and 1184; 29 U.S.C. 49 *et seq.*; sec 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note); and Title IV, Pub. L. 105–277, 112 Stat. 2681.

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c), 1182(m), and 1184; and 29 U.S.C. 49 *et seq.*

■ 2. Section 655.700 is amended by revising the first sentence in paragraph (d)(1) to read as follows:

§ 655.700 What statutory provisions govern the employment of H–1B and H–1B1 nonimmigrants and how do employers apply for an H–1B or H–1B1 visa?

* * * * *

(d) * * *

(1) *Exclusions.* The following sections and portions of sections in this subpart and in subpart I of this part do not apply to H–1B1 nonimmigrants but apply only to H–1B nonimmigrants: Sections 655.700(a), (b), (c)(1) and (c)(2); 655.705(b) and (c); 655.710(b); 655.730(d)(5) and (e)(3); 655.736; 655.737; 655.738; 655.739;

655.760(a)(8), (9) and (10); and 655.805(a)(7), (8) and (9). * * *

* * * * *

Signed at Washington, DC, this 24th day of May 2006.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

Alfred B. Robinson, Jr.,

Acting Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 06–5740 Filed 6–29–06; 8:45 am]

BILLING CODE 4510–30–P

Reader Aids

Federal Register

Vol. 71, No. 126

Friday, June 30, 2006

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**

Presidential Documents

Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**

Other Services

Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.infonara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JUNE

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

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.

RULES GOING INTO EFFECT JUNE 30, 2006

ENVIRONMENTAL PROTECTION AGENCY

Air programs:
- Fuel and fuel additives—
  - Highway diesel and nonroad diesel regulations; technical amendments; published 5-1-06

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs and biological products:
- Prescription drug products; labeling requirements; published 1-24-06

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:
- North Carolina; published 6-26-06

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Portland Captain of Port Zone, OR; published 5-31-06
- Syracuse Inner Harbor, NY; published 6-27-06

STATE DEPARTMENT

Visas; nonimmigrant documentation:
- Consular offices; nonimmigrant visa issuances and refusals; review guidance; published 6-30-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Boeing; published 5-26-06
- Bombardier; published 5-26-06
- Empresa Brasileira de Aeronautica, S.A. (EMBRAER); published 5-26-06

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
- Hydraulic and electric brake systems—
  - Vehicles over 10,000 pounds; minimum performance requirements, etc.; published 6-30-05

RULES GOING INTO EFFECT JULY 1, 2006

AGRICULTURE DEPARTMENT

Forest Service

Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):
- Fish and wildlife regulations; subsistance taking; published 6-30-06

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Northeast multispecies; published 5-22-06

FEDERAL RESERVE SYSTEM

Collection and availability of checks and other items by Federal Reserve banks and funds transfers through Fedwire (Regulations J and CC):
- Remotely created checks; definition and presentment warranties transfer and creation; published 11-28-05

Electronic fund transfers (Regulation E):
- Financial institutions compliance requirements; official staff commentary; published 1-10-06

Truth in savings (Regulation DD):
- Bounced-check or courtesy overdraft protection; published 5-24-05

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:
- Inpatient psychiatric facilities prospective payment system (2007 RY); update; published 5-9-06
  - Correction; published 6-30-06
- Long-term care hospitals; prospective payment system (2007 RY); annual payment rate updates, policy changes, and clarification; published 5-12-06

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Detroit Captain of Port Zone, MI; published 6-30-06
- Lake Erie, Fairview, PA; published 6-30-06
- Onset Harbor, Onset, MA; published 6-30-06
- Seneca River, Baldwinsville, NY; published 6-26-06
- St. Lawrence River, Ogdensburg, NY; published 6-30-06

Regattas and marine parades:
- Pepsi Americas' Sail 2006; tall ships parade and race; published 6-7-06

INTERIOR DEPARTMENT

Fish and Wildlife Service

Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):
- Fish and wildlife regulations; subsistence taking; published 6-30-06

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright office and procedures:
- Special services and Licensing Division services; fees adjustment; published 6-1-06

PENSION BENEFIT GUARANTY CORPORATION

Premium declarations; electronic filing requirement; published 6-1-06

Single-employer plans:
- Allocation of assets—
  - Interest assumptions for valuing and paying benefits; published 6-15-06

RULES GOING INTO EFFECT JULY 2, 2006

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Buffalo Captain of the Port Zone, NY; published 6-30-06
- St. Lawrence River, Clayton, NY; published 6-26-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Export programs:
- Commodities procurement for foreign donation; Open for comments until further notice; published 12-16-05 [FR E5-07460]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
- Hazard analysis and critical control point (HACCP) system—
  - Ingredients of potential public health concern; proper use; comments due by 7-7-06; published 5-8-06 [FR E6-06743]

COMMERCE DEPARTMENT

Freedom of Information Act; implementation; comments due by 7-3-06; published 6-1-06 [FR E6-08479]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:
- Status review—
  - North American green sturgeon; southern distinct population; comments due by 7-5-06; published 4-7-06 [FR 06-03326]

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Gulf of Mexico reef fish; comments due by 7-3-06; published 5-18-06 [FR E6-07587]
- Northeastern United States fisheries—
  - Northeast multispecies; comments due by 7-6-06; published 6-21-06 [FR 06-05537]

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:
- Fee revisions (2007 FY); comments due by 7-5-06; published 6-5-06 [FR E6-08682]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:

Alternative work practice to detect leaks from equipment; comments due by 7-5-06; published 6-7-06 [FR E6-08813]

Air programs:

Fuels and fuel additives—

Downstream oxygenate blending and pipeline interface; refiner and importer quality assurance requirements; comments due by 7-3-06; published 6-2-06 [FR 06-05050]

Downstream oxygenate blending and pipeline interface; refiner and importer quality assurance requirements; comments due by 7-3-06; published 6-2-06 [FR 06-05051]

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 7-5-06; published 6-5-06 [FR E6-08661]

Ohio; comments due by 7-3-06; published 6-1-06 [FR 06-05013]

Pesticide programs:

Tolerance reassessment decisions—

Inert ingredients; comments due by 7-3-06; published 5-3-06 [FR 06-04154]

Pesticides; emergency exemptions, etc.:

Dimethenamid-p; comments due by 7-3-06; published 5-3-06 [FR 06-04161]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Azoxystrobin; comments due by 7-3-06; published 5-3-06 [FR 06-04157]

Boscalid; comments due by 7-3-06; published 5-3-06 [FR 06-04158]

Ethylene glycol monomethyl ether and methylene blue; comments due by 7-3-06; published 5-3-06 [FR E6-06671]

Flumioxazin; comments due by 7-3-06; published 5-3-06 [FR 06-04159]

Fomesafen; comments due by 7-3-06; published 5-3-06 [FR 06-04160]

Glufosinate ammonium; comments due by 7-3-06; published 5-3-06 [FR 06-04162]

Inert ingredient with insufficient data for reassessment; tolerance exemption revocation; comments due by 7-7-06; published 6-7-06 [FR E6-08826]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Individuals with hearing and speech disabilities—

Telecommunications relay services and speech-to-speech services; misuse of internet protocol and video relay services; comments due by 7-3-06; published 6-1-06 [FR E6-08489]

Radio stations; table of assignments:

New York; comments due by 7-3-06; published 5-31-06 [FR E6-08378]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:

Inpatient rehabilitation facility prospective payment system (2007 FY); comments due by 7-7-06; published 5-15-06 [FR 06-04409]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Color additives:

Mica-based pearlescent pigments; comments due by 7-3-06; published 6-2-06 [FR E6-08575]

Medical devices:

General and plastic surgery devices—

Topical oxygen chamber for extremities; reclassification; comments due by 7-5-06; published 4-6-06 [FR E6-04962]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Louisiana; comments due by 7-3-06; published 5-4-06 [FR E6-06738]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Port Valdez and Valdez Narrows, Valdez, AK; comments due by 7-3-06; published 6-2-06 [FR E6-08544]

Transportation Worker Identification Credential Program; maritime sector implementation:

Commercial driver's license hazardous materials endorsement; comments due by 7-6-06; published 5-22-06 [FR 06-04508]

Merchant mariner qualification credentials consolidation; comments due by 7-6-06; published 5-22-06 [FR 06-04509]

HOMELAND SECURITY DEPARTMENT

Transportation Security Administration

Transportation Worker Identification Credential Program; maritime sector implementation:

Commercial driver's license hazardous materials endorsement; comments due by 7-6-06; published 5-22-06 [FR 06-04508]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

Spikedace and loach minnow; comments due by 7-6-06; published 6-6-06 [FR E6-08645]

Willowy monardella; comments due by 7-3-06; published 6-1-06 [FR E6-08459]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

West Virginia; comments due by 7-3-06; published 6-2-06 [FR E6-08620]

NUCLEAR REGULATORY COMMISSION

National Source Tracking System; manufacture, transfer, receipt, or disposal of nationally tracked sealed sources; establishment; comments due by 7-3-06; published 6-13-06 [FR E6-09179]

SENTENCING COMMISSION, UNITED STATES

United States Sentencing Commission

TRANSPORTATION DEPARTMENT

Air carrier control:

Fitness review policies; comments due by 7-5-06; published 5-5-06 [FR 06-04227]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Turbojet operators; landing performance assessments

Correction; comments due by 7-3-06; published 6-16-06 [FR 06-05449]

Airworthiness directives:

Boeing; comments due by 7-3-06; published 6-7-06 [FR E6-08823]

Eurocopter Canada Ltd.; comments due by 7-3-06; published 5-2-06 [FR E6-06589]

Airworthiness Directives:

Eurocopter France; comments due by 7-3-06; published 5-2-06 [FR 06-04107]

Airworthiness directives:

Eurocopter France; comments due by 7-3-06; published 5-3-06 [FR 06-04108]

McDonnell Douglas; comments due by 7-3-06; published 5-17-06 [FR E6-07476]

Rolls-Royce Deutschland Ltd & Co.; comments due by 7-3-06; published 5-4-06 [FR E6-06737]

Sikorsky; comments due by 7-3-06; published 5-2-06 [FR E6-06586]

Class E airspace; comments due by 7-7-06; published 6-7-06 [FR 06-05183]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle theft prevention standards:

Passenger motor vehicle theft data (2004 CY); comments due by 7-3-06; published 5-2-06 [FR 06-04137]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Designated Roth accounts

Hearing; comments due by 7-5-06; published 6-8-06 [FR E6-08885]

TREASURY DEPARTMENT

Alcohol and Tobacco Tax and Trade Bureau

Alcohol; viticultural area designations:

Green Valley of Russian River Valley, Sonoma County, CA; name change; comments due by

7-3-06; published 5-2-06 [FR E6-06538]

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. 1445/P.L. 109–237
To designate the facility of the United States Postal Service located at 520 Colorado Avenue in Arriba, Colorado, as the "William H. Emery Post Office". (June 23, 2006; 120 Stat. 506)
Last List June 19, 2006

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.